

**CHAP. 852.**—An Act To reduce and equalize taxation, provide revenue, and for other purposes.

May 29, 1928.  
[H. R. 1.]  
[Public, No. 562.]

*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 1928":

Revenue Act of 1928.

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**TITLE I—INCOME TAX****INCOME TAX****SUBTITLE A—INTRODUCTORY PROVISIONS**

Introductory provisions.

**SEC. 1. APPLICATION OF TITLE.**

Application of title.

The provisions of this title shall apply only to the taxable year 1928 and succeeding taxable years. Income, war-profits, and excess-profits taxes for taxable years preceding the taxable year 1928 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 Titles III, IV, and V of this Act or by legislation enacted subsequent to this Act.

To 1928, and succeeding years.  
Previous years not affected.

Exceptions.

**SEC. 2. CROSS REFERENCES.**

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.

Merely for convenience.

**SEC. 3. CLASSIFICATION OF PROVISIONS.**

Classification of provisions.  
Designation.

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.**

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:

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(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.

Citizens deriving large part of income from United States possessions, p. 851.

(h) China Trade Act corporations,—Supplement K.

China Trade Act corporations, p. 851.

**SUBTITLE B—GENERAL PROVISIONS**

General provisions.

**Part I—Rates of Tax**

Rates of tax.

**SEC. 11. NORMAL TAX ON INDIVIDUALS.**

Normal tax on individuals.  
Rate on net income.

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

(a) 1½ per centum of the first \$4,000 of the amount of the net income in excess of the credits against net income provided in section 25;

(b) 3 per centum of the next \$4,000 of such excess amount; and

(c) 5 per centum of the remainder of such excess amount.

INCOME TAX  
Surtax on individ-  
uals.

## SEC. 12. SURTAX ON INDIVIDUALS.

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

Rates.

Upon a net income of \$10,000 there shall be no surtax; upon net incomes in excess of \$10,000 and not in excess of \$14,000, 1 per centum of such excess.

\$40 upon net incomes of \$14,000; and upon net incomes in excess of \$14,000 and not in excess of \$16,000, 2 per centum in addition of such excess.

\$80 upon net incomes of \$16,000; and upon net incomes in excess of \$16,000 and not in excess of \$18,000, 3 per centum in addition of such excess.

\$140 upon net incomes of \$18,000; and upon net incomes in excess of \$18,000 and not in excess of \$20,000, 4 per centum in addition of such excess.

\$220 upon net incomes of \$20,000; and upon net incomes in excess of \$20,000 and not in excess of \$22,000, 5 per centum in addition of such excess.

\$320 upon net incomes of \$22,000; and upon net incomes in excess of \$22,000 and not in excess of \$24,000, 6 per centum in addition of such excess.

\$440 upon net incomes of \$24,000; and upon net incomes in excess of \$24,000 and not in excess of \$28,000, 7 per centum in addition of such excess.

\$720 upon net incomes of \$28,000; and upon net incomes in excess of \$28,000 and not in excess of \$32,000, 8 per centum in addition of such excess.

\$1,040 upon net incomes of \$32,000; and upon net incomes in excess of \$32,000 and not in excess of \$36,000, 9 per centum in addition of such excess.

\$1,400 upon net incomes of \$36,000; and upon net incomes in excess of \$36,000 and not in excess of \$40,000, 10 per centum in addition of such excess.

\$1,800 upon net incomes of \$40,000; and upon net incomes in excess of \$40,000 and not in excess of \$44,000, 11 per centum in addition of such excess.

\$2,240 upon net incomes of \$44,000; and upon net incomes in excess of \$44,000 and not in excess of \$48,000, 12 per centum in addition of such excess.

\$2,720 upon net incomes of \$48,000; and upon net incomes in excess of \$48,000 and not in excess of \$52,000, 13 per centum in addition of such excess.

\$3,240 upon net incomes of \$52,000; and upon net incomes in excess of \$52,000 and not in excess of \$56,000, 14 per centum in addition of such excess.

\$3,800 upon net incomes of \$56,000; and upon net incomes in excess of \$56,000 and not in excess of \$60,000, 15 per centum in addition of such excess.

\$4,400 upon net incomes of \$60,000; and upon net incomes in excess of \$60,000 and not in excess of \$64,000, 16 per centum in addition of such excess.

\$5,040 upon net incomes of \$64,000; and upon net incomes in excess of \$64,000 and not in excess of \$70,000, 17 per centum in addition of such excess.

\$6,060 upon net incomes of \$70,000; and upon net incomes in excess of \$70,000 and not in excess of \$80,000, 18 per centum in addition of such excess.

\$7,860 upon net incomes of \$80,000; and upon net incomes in excess of \$80,000 and not in excess of \$100,000, 19 per centum in addition of such excess.

\$11,660 upon net incomes of \$100,000; and upon net incomes in excess of \$100,000, in addition 20 per centum of such excess.

(b) **Sale of mines and oil or gas wells.**—For limitation of surtax attributable to sale of mines and oil or gas wells, see section 102.

(c) **Capital net gains and losses.**—For rate and computation of tax in lieu of normal and surtax in case of net incomes of not less than \$30,000, approximately, or in case of net incomes, excluding items of capital gain, capital loss, and capital deductions, of not less than \$30,000, approximately, see section 101.

(d) **Evasion of surtaxes by incorporation.**—For tax on corporations which accumulate surplus to evade surtax on stockholders, see section 104.

## INCOME TAX

Sale of mines, etc.  
Post, p. 812.

Capital net gains and losses.  
Post, p. 811.

Evasion by incorporation.  
Post, p. 814.

## 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 12 per centum of the amount of the net income in excess of the credits against net income provided in section 26.

(b) **Exempt corporations.**—For corporations exempt from tax, see section 103.

(c) **Improper accumulation of surplus.**—For tax on corporations which accumulate surplus to evade surtax on stockholders, see section 104.

Tax on corporations.  
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## SEC. 14. TAXABLE PERIOD EMBRACING YEARS WITH DIFFERENT LAWS.

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

Period embracing years with different laws.

Computing tax.  
Post, 815.

## Part II—Computation of Net Income

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.

Net income.  
Meaning of.

## SEC. 22. GROSS INCOME.

Gross income.  
General definition.

(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.

(b) **Exclusions from gross income.**—The following items shall not be included in gross income and shall be exempt from taxation under this title:

Items exempt from taxation.

(1) **LIFE INSURANCE.**—Amounts received under a life insurance contract paid by reason of the death of the insured, whether in a single sum or in installments (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);

Life insurance policies.

(2) **ANNUITIES, ETC.**—Amounts received (other than amounts paid by reason of the death of the insured and interest payments

Amounts from annuities.

## INCOME TAX

Transfers for value.	on such amounts) under a life insurance, endowment, or annuity 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. 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;
Value of gifts, etc.	(3) GIFTS, BEQUESTS, AND DEVISES.—The value of property acquired by gift, bequest, devise, or inheritance (but the income from such property shall be included in gross income);
Interest on State, etc., bonds.	(4) TAX-FREE INTEREST.—Interest upon (A) the obligations of a State, Territory, or any political subdivision thereof, or the District of Columbia; or (B) securities issued under the provisions of the Federal Farm Loan Act, or under the provisions of such Act as amended; or (C) the obligations of the United States or its possessions. Every person owning any of the obligations or securities enumerated in clause (A), (B), or (C) shall, in the return required by this title, submit a statement showing the number and amount of such obligations and securities owned by him and the income received therefrom, in such form and with such information as the Commissioner may require. In the case of obligations of the United States issued after September 1, 1917 (other than postal savings certificates of deposit), the interest shall be exempt only if and to the extent provided in the respective Acts authorizing the issue thereof as amended and supplemented, and shall be excluded from gross income only if and to the extent it is wholly exempt to the taxpayer from income taxes;
Farm loan bonds.	
Federal, etc., obligations.	
Statement required in returns.	
Limitation on Liberty bonds, etc.	
Payments for personal injuries or sickness.	(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;
Amounts received as World War compensation payments, or pensions.	(6) PENSIONS AND WORLD WAR COMPENSATION PAYMENTS.—Amounts received as compensation, family allotments and allowances under the provisions of the War Risk Insurance and the Vocational Rehabilitation Acts or the World War Veterans' Act, 1924, or as pensions from the United States for service of the beneficiary or another in the military or naval forces of the United States in time of war, or as a State pension for services rendered by the beneficiary or another for which the State is paying a pension;
Dividends, etc., from domestic building associations.	(7) BUILDING AND LOAN ASSOCIATIONS.—The amount received by an individual as dividends or interest from domestic building and loan associations, substantially all the business of which is confined to making loans to members, but the amount excluded from gross income under this paragraph in any taxable year shall not exceed \$300;
Limit.	(8) MINISTERS.—The rental value of a dwelling house and appurtenances thereof furnished to a minister of the gospel as part of his compensation;
Rent of ministers' dwelling.	(9) MISCELLANEOUS ITEMS.—The following items, to the extent provided in section 116:
Miscellaneous items.	Earned income from sources without the United States;
Post, p. 823.	Salaries of certain Territorial employees;
	The income of foreign governments;



Income of States, municipalities and other political subdivisions;

Receipts of ship owners' mutual protection and indemnity associations;

Dividends from China Trade Act corporations.

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

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

(e) **Determination of gain or loss.**—In the case of a sale or other disposition of property, the gain or loss shall be computed as provided in sections 111, 112, and 113.

(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.

## INCOME TAX

Inventories to determine income may be taken.

Distributions by corporations.  
*Post*, p. 822.

Computation of gain or loss on sale, etc., of property.  
*Post*, pp. 815-822.

Sources within and without United States.  
*Post*, p. 826.

## 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 or securities (other than obligations of the United States issued after September 24, 1917, and originally subscribed for by the taxpayer) the interest upon which is wholly exempt from taxation under this title.

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

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

(2) so much of the income, war-profits, and excess-profits taxes imposed by the authority of any foreign country or possession of the United States as is allowed as a credit against the tax under section 131; and

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

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

(d) **Taxes of shareholder paid by corporation.**—The deduction for taxes allowed by subsection (c) shall be allowed to a corporation in the case of taxes imposed upon a shareholder of the corporation upon his interest as shareholder which are paid by the corporation

Deductions from gross income.

Items specified.

Business expenses.

Travel, etc., included.

Interest on debts.  
Exception.

Taxes paid.

Exceptions.

*Post*, p. 829.

Accrual of estate, etc.  
Limitations.

Taxes of shareholder paid by the corporation.

INCOME TAX	without reimbursement from the shareholder, but in such cases no deduction shall be allowed the shareholder for the amount of such taxes.
Losses by individuals.	(e) <b>Losses by individuals.</b> —In the case of an individual, losses sustained during the taxable year and not compensated for by insurance or otherwise—
Business.	(1) if incurred in trade or business; or
Not connected with trade or business.	(2) if incurred in any transaction entered into for profit, though not connected with the trade or business; or
Casualty losses not connected with business.	(3) of property not connected with the trade or business, if the loss arises from fires, storms, shipwreck, or other casualty, or from theft.
Losses by corporations.	(f) <b>Losses by corporations.</b> —In the case of a corporation, losses sustained during the taxable year and not compensated for by insurance or otherwise.
Basis for determining loss. <i>Post</i> , p. 818.	(g) <b>Basis for determining loss.</b> —The basis for determining the amount of deduction for losses sustained, to be allowed under subsection (e) or (f), shall be the same as is provided in section 113 for determining the gain or loss from the sale or other disposition of property.
Disallowance of loss on sale of stock.	(h) <b>Loss on sale of stock or securities.</b> —For disallowance of loss deduction in the case of sales of stock or securities where within thirty days before or after the date of the sale the taxpayer has acquired substantially identical property, see section 118.
<i>Post</i> , p. 826.	(i) <b>Net losses.</b> —The special deduction for net losses of prior years, to the extent provided in section 117.
Losses for prior years. <i>Post</i> , p. 825.	(j) <b>Bad debts.</b> —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 to be charged off in part.
Worthless debts.	(k) <b>Depreciation.</b> —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.
Exhaustion, etc., of business property.	(l) <b>Depletion.</b> —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 the case of leases the deduction 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 in case of oil and gas wells, see section 114(b)(3).)
Real estate in life tenancy.	(m) <b>Basis for depreciation and depletion.</b> —The basis upon which depletion, exhaustion, wear and tear, and obsolescence are to be
Property in trust.	
Mines, oil and gas wells, timber, etc. Reasonable allowance for depletion, etc.	
In leases.	
Held in life tenancy.	
Property in trust.	
Oil and gas wells. <i>Post</i> , p. 821.	
Basis for depletion, etc.	

allowed in respect of any property shall be as provided in section 114.

(n) 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) any 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;

(3) the special fund for vocational rehabilitation authorized by section 7 of the Vocational Rehabilitation Act;

(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.)

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

(p) Dividends received by corporations.—In the case of a corporation, the amount received as dividends—

(1) from a domestic corporation, or

(2) from any foreign corporation when it is shown to the satisfaction of the Commissioner that more than 50 per centum of the gross income of such foreign corporation for the three-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the foreign corporation has been in existence) was derived from sources within the United States as determined under section 119.

INCOME TAX  
Post, p. 821.

Gifts.

For public uses.

Corporations, community chests, religious, scientific, etc., organizations.

Vocational rehabilitation.  
Vol. 41, p. 737.

War veterans' organizations, etc.

Fraternal lodges, etc.  
Conditions.

Limit.

Unlimited deductions.  
Post, p. 828.

On casual sale of real property, reserve for future liabilities under contract, allowed.

Dividends received by corporations.

From a domestic corporation.

From a foreign corporation, if more than 50 per cent derived from United States sources.

Post, p. 826.

INCOME TAX  
Dividends from  
China Trade Act cor-  
porations, etc., ex-  
cepted.  
*Post*, p. 850.

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.

Amount transferred  
to a pension trust in  
excess of contributions.

(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.

Items not deductible.

#### SEC. 24. ITEMS NOT DEDUCTIBLE.

Objects specified.

(a) **General rule.**—In computing net income no deduction shall in any case be allowed in respect of—

Personal, etc., ex-  
penses.  
Property improve-  
ments.

(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;

Restoring property.

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

Life insurance for  
employees, etc.

(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.

Deductions on in-  
come from life interests,  
etc., by gifts, bequests,  
or inheritance.

(b) **Holders of life or terminable interest.**—Amounts paid under the laws of any State, Territory, District of Columbia, possession of the United States, or foreign country as income to the holder of a life or terminable interest acquired by gift, bequest, or inheritance shall not be reduced or diminished by any deduction for shrinkage (by whatever name called) in the value of such interest due to the lapse of time, nor by any deduction allowed by this Act (except the deductions provided for in subsections (k) and (l) 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.

*Ante*, p. 800.

Tax-free covenant  
bonds.  
*Post*, p. 834.

(c) **Tax withheld on tax-free covenant bonds.**—For tax withheld on tax-free covenant bonds, see section 144(a) (4).

Credits allowed indi-  
viduals.  
Against net income.

#### SEC. 25. CREDITS OF INDIVIDUAL AGAINST NET INCOME.

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

Dividends.  
From domestic cor-  
poration.  
Foreign corporation,  
with more than 50 per  
cent of income from  
United States sources.

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

(1) from a domestic corporation, or

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

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

INCOME TAX

*Post*, p. 826.

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

From China trade Act corporation, etc., excepted.  
*Post*, p. 850.

(b) **Interest on United States obligations.**—The amount received as interest upon obligations of the United States which is included in gross income under section 22.

Interest on Federal securities.

(c) **Personal exemption.**—In the case of a single person, a personal exemption of \$1,500; or in the case of the head of a family or a married person living with husband or wife, a personal exemption of \$3,500. A husband and wife living together shall receive but one personal exemption. The amount of such personal exemption shall be \$3,500. If such husband and wife make separate returns, the personal exemption may be taken by either or divided between them.

Personal exemption.

Husband and wife living together.

Separate returns.

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

Credit for dependents.

(e) **Change of status.**—

(1) The credit for dependents shall be determined by the status of the taxpayer on the last day of his taxable year.

Status of taxpayer for personal credit.

(2) The personal exemption allowed by subsection (c) of this section shall, in case the status of the taxpayer changes during his taxable year, be the sum of an amount which bears the same ratio to \$1,500 as the number of months during which the taxpayer was single bears to twelve months, plus an amount which bears the same ratio to \$3,500 as the number of months during which the taxpayer was a married person living with husband or wife or was the head of a family bears to twelve months. For the purposes of this paragraph 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.

Personal exemption on change of taxable year, computed.

(3) In the case of an individual who dies during the taxable year, the personal exemption and the credit for dependents shall be determined by his status at the time of his death, and in such case full credits shall be allowed to the surviving spouse, if any, according to his or her status at the close of the taxable year.

Allowance in case of death in taxable year.

## SEC. 26. CREDITS OF CORPORATION AGAINST NET INCOME.

Credits allowed corporations.

For the purpose only of the tax imposed by section 13 there shall be allowed the following credits:

Designation of.  
*Ante*, p. 797.

(a) The amount received as interest upon obligations of the United States which is included in gross income under section 22; and

Interest from Federal obligations.

(b) In the case of a domestic corporation the net income of which is \$25,000 or less, a specific credit of \$3,000; but if the net income is more than \$25,000 the tax imposed by section 13 shall not exceed the tax which would be payable if the \$3,000 credit were allowed, plus the amount of the net income in excess of \$25,000.

Specific money credit to domestic.

INCOME TAX  
Credits against tax.

### Part III—Credits Against Tax

Earned income.

#### SEC. 31. EARNED INCOME CREDIT.

Definitions.

"Earned income"  
means wages, etc., for  
personal services.

(a) Definitions.—For the purposes of this section—

(1) "Earned income" means wages, salaries, professional fees, and other amounts received as compensation for personal services actually rendered, but does not include that part of the compensation derived by the taxpayer for personal services rendered by him to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered. In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income producing factors, a reasonable allowance as compensation for the personal services actually rendered by the taxpayer, not in excess of 20 per centum of his share of the net profits of such trade or business, shall be considered as earned income.

Allowance for per-  
sonal services if com-  
bined with capital in  
business.

"Earned income de-  
ductions" allowed for  
computing net income.

(2) "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.

"Earned net in-  
come," excess over de-  
ductions.

(3) "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 \$5,000, his entire net income shall be considered to be earned net income, and if his net income is more than \$5,000, his earned net income shall not be considered to be less than \$5,000. In no case shall the earned net income be considered to be more than \$30,000.

Maximum.

Individual allowed  
credit for normal tax for  
earned income.

(b) Allowance of credit.—In the case of an individual the tax shall be credited with 25 per centum of the amount of tax which would be payable if his earned net income constituted his entire net income; but in no case shall the credit allowed under this subsection exceed 25 per centum of his normal tax plus 25 per centum of the surtax which would be payable if his earned net income constituted his entire net income. This credit shall be in addition to all other credits against the tax.

Limitations.

Addition to all other  
credits.

Taxes of foreign coun-  
tries, etc.

#### SEC. 32. TAXES OF FOREIGN COUNTRIES AND POSSESSIONS OF UNITED STATES.

Extent of credit for.

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.

Post, p. 829.

Taxes withheld at  
source.

#### SEC. 33. TAXES WITHHELD AT SOURCE.

Credit for.  
Post, p. 833.

The amount of tax withheld at the source under section 144 shall be allowed as a credit against the tax.

Erroneous payments.

#### SEC. 34. ERRONEOUS PAYMENTS.

Credit allowed.

Post, p. 861.

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

Credit for year be-  
ginning in 1927 and  
ending in 1928.  
Post, p. 830.

(b) Fiscal year ending in 1928.—For credit against the tax of amounts of tax paid for a fiscal year beginning in 1927 and ending in 1928, see section 132.

## Part IV—Accounting Periods and Methods of Accounting

INCOME TAX  
Accounting periods  
and methods.

### SEC. 41. GENERAL RULE.

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).)

Net income computed on basis of annual accounting period.

If no accounting period, on calendar year.

Inventories.  
*Ante*, p. 799.  
Gross income.

### 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.

Items for taxable year in which received.

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

Deductions and credits.

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.

For taxable year in which "paid or accrued" or "paid or incurred."

### SEC. 44. INSTALLMENT BASIS.

Installment basis.

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

Dealers in personal property may make returns on, of payments actually received.

(b) **Sales of realty and casual sales of personalty.**—In the case (1) of a casual sale or other casual disposition of personal property (other than property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year), for a price exceeding \$1,000, or (2) of a sale or other disposition of real property, if in either case the initial payments do not exceed 40 per centum of the selling price, 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.

Returns of income from casual sale of personalty or of realty.

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

Computation of income on change to installment basis.

INCOME TAX  
Recognition of gain  
or loss on disposition of  
installment obligations.

Basis computed.

Allocation of income  
and deductions.

Provisions if same  
interests control two  
or more businesses.

Change of accounting  
period.

Net income com-  
puted on basis of new  
period.

Returns for less than  
a year.

Basis for determin-  
ing, when accounting  
periods change.

Income to be based  
on period of separate  
return.

Computation of tax-  
able income.

(d) Gain or loss upon disposition of installment obligations.—If an installment obligation is satisfied at other than its face value or distributed, transmitted, sold, or otherwise disposed of, gain or loss shall result to the extent of the difference between the basis of the obligation and (1) in the case of satisfaction at other than face value or a sale or exchange—the amount realized, or (2) in case of a distribution, transmission, or disposition otherwise than by sale or exchange—the fair market value of the obligation at the time of such distribution, transmission, or disposition. 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.

#### SEC. 45. ALLOCATION OF INCOME AND DEDUCTIONS.

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

#### SEC. 46. CHANGE OF ACCOUNTING PERIOD.

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

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

(a) Returns for short period resulting from change of accounting period.—If a taxpayer, with the approval of the Commissioner, changes the basis of computing net income from fiscal year to calendar year a separate return shall be made for the period between the close of the last fiscal year for which return was made and the following December 31. If the change is from calendar year to fiscal year, a separate return shall be made for the period between the close of the last calendar year for which return was made and the date designated as the close of the fiscal year. If the change is from one fiscal year to another fiscal year a separate return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year.

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

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



on such annual basis as the number of months in such period is of twelve months.

(d) **Capital net gains and losses—earned income.**—The Commissioner with the approval of the Secretary shall by regulations prescribe the method of applying the provisions of subsections (b) and (c) (relating to computing income on the basis of a short period, and placing such income on an annual basis) to cases where the taxpayer makes a separate return under subsection (a) on account of a change in the accounting period, and it appears that for the period for which the return is so made he has derived a capital net gain, or sustained a capital net loss, or received earned income.

(e) **Reduction of credits against net income.**—In the case of a return made for a fractional part of a year, except a return made under subsection (a), on account of a change in the accounting period, the personal exemption and credit for dependents, and the specific credit for corporations, 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 147.

#### SEC. 48. DEFINITIONS.

When used in this title—

(a) **Taxable year.**—“Taxable year” means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed under this Part. “Taxable year” includes, in the case of a return made for a fractional part of a year under the provisions of this title or under regulations prescribed by the Commissioner with the approval of the Secretary, the period for which such return is made. The first taxable year, to be called the taxable year 1928, shall be the calendar year 1928 or any fiscal year ending during the calendar year 1928.

(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.

### 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 \$1,500 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 \$3,500 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.

#### INCOME TAX

Application of capital gain or loss, or earned income.

Reduction of personal credits for fractions of a year.

Closing taxable year.  
*Post*, p. 836.

Definitions.

Meaning of terms.

“Taxable year.”

First taxable year, calendar year 1928.

“Fiscal year.”

“Paid or incurred” and “paid or accrued.”

Returns and payment.

Individual returns.

Sworn statement of gross income, deductions, and credits.

Net income \$1,500 or over, if single, etc.

Net income \$3,500, if married, and living with husband or wife.

Gross income \$5,000, or over.

INCOME TAX  
Husband and wife  
living together.

Separate.

Joint.

By agent, etc.

Fiduciaries.  
*Post*, p. 833.

Corporation returns.

Specific requirements  
for making.

Receivers, trustees,  
etc.

Collection of tax.

Consolidated returns.  
*Post*, pp. 831, 832.

Time and place for  
filing returns.

Time designated.

Extension granted on  
application.

Limit.

By individuals to  
collector of the district.

At Baltimore Md.

Corporations to col-  
lector of district where  
principal office located.

At Baltimore Md.

Records and special  
returns.

Required of taxpayer.

(b) **Husband and wife.**—If a husband and wife living together have an aggregate net income for the taxable year of \$3,500 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 143.

## SEC. 52. CORPORATION RETURNS.

(a) **Requirement.**—Every corporation subject to taxation under this title shall make a return, stating specifically the items of its gross income and the deductions and credits allowed by this title. The return shall be sworn to by the president, vice president, or other principal officer and by the treasurer or assistant treasurer. In cases where receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations, such receivers, trustees, or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns made by receivers, trustees, or assignees shall be collected in the same manner as if collected from the corporations of whose business or property they have custody and control.

(b) **Consolidated returns.**—For provision as to consolidated returns of affiliated corporations, see sections 141 and 142.

## SEC. 53. TIME AND PLACE FOR FILING RETURNS.

(a) **Time for filing.**—

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

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

(b) **To whom return made.**—

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

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

## SEC. 54. RECORDS AND SPECIAL RETURNS.

(a) **By taxpayer.**—Every person liable to any tax imposed by this title or for the collection thereof, shall keep such records, render

under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

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

(c) **Information at the source.**—For requirement of statements and returns by one person to assist in determining the tax liability of another person, see sections 148 to 151.

## SEC. 55. PUBLICITY OF RETURNS.

Returns made under this title shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926.

## SEC. 56. PAYMENT OF TAX.

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

(b) **Installment payments.**—The taxpayer may elect to pay the tax in four equal installments, in which case the first installment shall be paid on the date prescribed for the payment of the tax by the taxpayer, the second installment shall be paid on the fifteenth day of the third month, the third installment on the fifteenth day of the sixth month, and the fourth installment on the fifteenth day of the ninth month, after such date. If any installment is not paid on or before the date fixed for its payment, the whole amount of the tax unpaid shall be paid upon notice and demand from the collector.

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

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

(e) **Advance payment in case of jeopardy.**—For advance payment in case of jeopardy, see section 147.

(f) **Tax withheld at source.**—For requirement of withholding tax at the source in the case of nonresident aliens and foreign corporations, and in the case of so-called "tax-free covenant bonds," see sections 144 and 145.

(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, stating the amount paid and the particular account for which such payment was made; and whenever any debtor pays taxes on account of payments made or to be made by him to separate creditors the collector shall, if

### INCOME TAX

Special statements.

Information at the source.  
*Post*, pp. 836, 837.

Publicity of returns.

Inspection of, as in Revenue Act of 1926.

*Vol. 44 p. 51.*

Payment of tax.

Time designated.

Allowed in four installments.

Whole amount on default.

Extension allowed on request.

Payment on expiration.

Prior to prescribed date.

Jeopardy payments.  
*Post*, p. 836.

Tax withheld at source.

*Post*, pp. 833-835.

Fractions of a cent disregarded.

Receipts on request.

INCOME TAX  
Evidence of tax paid.

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

Surrender to creditor  
as a payment on debt.

Examination of re-  
turn and determination  
of tax.

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

To be made as soon  
as practicable.

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

Additions to tax and  
penalties.

**SEC. 58. ADDITIONS TO TAX AND PENALTIES.**

Negligences, etc., pp.  
857, 860.

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

Criminal penalties, p.  
835.

(b) For criminal penalties for nonpayment of tax or failure to file return therefor, see section 146.

Administrative pro-  
ceedings.

**SEC. 59. ADMINISTRATIVE PROCEEDINGS.**

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

Deficiencies, pp. 852-  
857.

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

Additions, pp. 858, 859.

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

Transferees and fidu-  
ciaries, pp. 860, 861.

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

Overpayments, pp.  
861, 862.

(d) Supplement O, relating to overpayments.

Miscellaneous provi-  
sions.

**Part VI—Miscellaneous Provisions**

Laws made applica-  
ble.

**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.

Administrative pro-  
visions, etc., extended  
to.

Rules and regula-  
tions.

**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.

To be published.

Taxes in lieu of 1926  
Act.  
Table.

**SEC. 63. TAXES IN LIEU OF TAXES UNDER 1926 ACT.**

The taxes imposed by this title shall be in lieu of the corresponding taxes imposed by Title II of the Revenue Act of 1926, in accordance with the following table:

Vol. 44, p. 21.  
  
Vol. 44, p. 39.  
Vol. 44, pp. 47, 48.  
Vol. 44, p. 34.  
Vol. 44, p. 32.  
Vol. 44, p. 19.

Taxes under this Title	Taxes under 1926 Act
Secs. 11 and 211	in lieu of Sec. 210
Sec. 12	in lieu of Sec. 211
Sec. 13	in lieu of Sec. 230
Secs. 201 and 204	in lieu of Secs. 243 and 246
Sec. 104	in lieu of Sec. 220
Supp. E	in lieu of Sec. 219
Sec. 101	in lieu of Sec. 208

**SEC. 64. SHORT TITLE.**

This title may be cited as the "Income Tax Act of 1928."

INCOME TAX  
Short title.  
"Income Tax Act of  
1928."  
Effective date.

**SEC. 65. EFFECTIVE DATE OF TITLE.**

This title shall take effect as of January 1, 1928, except that sections 146 and 151, and this section, shall take effect on the enactment of this Act.

January 1, 1928.  
Exceptions.  
*Post*, pp. 835, 838.

**SUBTITLE C—SUPPLEMENTAL PROVISIONS**

Supplemental provi-  
sion.

**Supplement A—Rates of Tax**

Rates of tax.

[Supplementary to Subtitle B, Part I]

**SEC. 101. CAPITAL NET GAINS AND LOSSES.**

Capital net gains and  
losses.

(a) Tax in case of capital net gain.—In the case of any taxpayer, other than a corporation, who for any taxable year derives a capital net gain (as hereinafter defined in this section), there shall, at the election of the taxpayer, be levied, collected, and paid, in lieu of all other taxes imposed by this title, a tax determined as follows: a partial tax shall first be computed upon the basis of the ordinary net income at the rates and in the manner as if this section had not been enacted and the total tax shall be this amount plus 12½ per centum of the capital net gain.

Computation of tax  
of net gain.

(b) Tax in case of capital net loss.—In the case of any taxpayer, other than a corporation, who for any taxable year sustains a capital net loss (as hereinafter defined in this section), there shall be levied, collected, and paid, in lieu of all other taxes imposed by this title, a tax determined as follows: a partial tax shall first be computed upon the basis of the ordinary net income at the rates and in the manner as if this section had not been enacted, and the total tax shall be this amount minus 12½ per centum of the capital net loss; but in no case shall the tax of a taxpayer who has sustained a capital net loss be less than the tax computed without regard to the provisions of this section.

Computation of tax  
of net loss.

(c) Definitions.—For the purposes of this title—

Meaning of terms.

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

"Capital gain."

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

"Capital loss."

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

"Capital deduc-  
tions."

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

"Ordinary deduc-  
tions."

(5) "Capital net gain" means the excess of the total amount of capital gain over the sum of (A) the capital deductions and capital losses, plus (B) the amount, if any, by which the ordinary deductions exceed the gross income computed without including capital gains.

"Capital net gain."

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

"Capital net loss."

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

"Ordinary net in-  
come."

(8) "Capital assets" means property held by the taxpayer for more than two years (whether or not connected with his

"Capital assets."

INCOME TAX  
Property not in-  
cluded.

Property received on  
an exchange.

*Post*, p. 818.

Period of property  
holding.

*Post*, p. 818.

Stock received on re-  
organization distribu-  
tion.

*Post*, p. 818.  
Vol. 44, p. 13.

Collection and pay-  
ment as other taxes.

Sales of mines and  
oil or gas wells.  
Tax on selling price.

*Ante*, p. 797.

Limitation.  
*Ante*, p. 811.

Exemptions from tax  
on corporations.  
Designated organiza-  
tions.

Labor, agricultural,  
etc.  
Mutual savings  
banks.

Fraternal beneficiary  
societies, lodges, etc.

Domestic building  
and loan associations;  
cooperative banks.

trade or business), but does not include stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale in the course of his trade or business. For the purposes of this definition—

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

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

(C) In determining the period for which the taxpayer has held stock or securities received upon a distribution where no gain is recognized to the distributee under the provisions of section 112(g) of this title or under the provisions of section 203(c) of the Revenue Act of 1924 or 1926, there shall be included the period for which he held the stock or securities in the distributing corporation prior to the receipt of the stock or securities upon such distribution.

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

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

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

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

#### SEC. 103. EXEMPTIONS FROM TAX ON CORPORATIONS.

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

- (1) Labor, agricultural, or horticultural organizations;
- (2) Mutual savings banks not having a capital stock represented by shares;
- (3) Fraternal beneficiary societies, orders, or associations, (A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system; and (B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents;
- (4) Domestic building and loan associations substantially all the business of which is confined to making loans to members; and cooperative banks without capital stock organized and operated for mutual purposes and without profit;

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

INCOME TAX  
Mutual cemetery  
companies.

(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;

Corporations, com-  
munity chests, etc., for  
religious, scientific, pur-  
poses, etc.

(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;

Business leagues, etc.

(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;

Civic leagues, em-  
ployees' associations,  
etc.

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

Pleasure clubs.

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

Local life insurance,  
mutual ditch, etc.,  
companies.

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

Farmers' mutual  
casualty insurance  
companies.

(12) Farmers', fruit growers', or like associations organized and operated on a cooperative basis (a) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing expenses, on the basis of either the quantity or the value of the products furnished by them, or (b) for the purpose of purchasing supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses. Exemption shall not be denied any such association because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 per centum per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the 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

Cooperative associa-  
tions of farmers, etc.,  
for marketing their  
products.

Purchasing supplies  
and equipment for  
members.

Capital stock associa-  
tions restricted.

INCOME TAX  
Limitation on mar-  
keting products of non-  
members.

Organization by ex-  
empt associations for  
financing crop opera-  
tions of members.

Restriction as to divi-  
dend rate of stock, etc.

Reserve allowed.

As trustees for ex-  
empted organizations.

Federal land banks,  
etc.  
Vol. 39, p. 362.

Voluntary employ-  
ees' beneficiary associa-  
tions for life, accident,  
etc., benefits.

Teachers' retirement  
fund associations.

Accumulation of sur-  
plus to evade surtaxes.

Tax on income of cor-  
porations accumulating  
gains, etc., to avoid sur-  
tax on its shareholders.

Addition to corpora-  
tion tax.  
*Ante*, p. 797.

law or a reasonable reserve for any necessary purpose. Such an association may market the products of nonmembers in an amount the value of which does not exceed the value of the products marketed for members, and may purchase supplies and equipment for nonmembers in an amount the value of which does not exceed the value of the supplies and equipment purchased for members, provided the value of the purchases made for persons who are neither members nor producers does not exceed 15 per centum of the value of all its purchases;

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

(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. 104. ACCUMULATION OF SURPLUS TO EVADE SURTAXES.

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



(b) The fact that any corporation is a mere holding or investment company, or that the gains or profits are permitted to accumulate beyond the reasonable needs of the business, shall be prima facie evidence of a purpose to escape the surtax.

INCOME TAX  
Evidence of purpose  
of evasion.

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

Meaning of "net income" as used.  
*Ante*, pp. 797, 801.

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

Additional tax not applicable if distributive share included in income of shareholders.

Subsequent distributions.

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

Taxable period embracing years with different laws.

If it is necessary to compute the tax for a period beginning in one calendar year (hereinafter in this section called "first calendar year") and ending in the following calendar year (hereinafter in this section called "second calendar year") and the law applicable to the second calendar year is different from the law applicable to the first calendar year, then the tax under this title for the period ending during the second calendar year shall be the sum of: (1) the same proportion of a tax for the entire period, determined under the law applicable to the first calendar year and at the rates for such year, which the portion of such period falling within the first calendar year is of the entire period; and (2) the same proportion of a tax for the entire period, determined under the law applicable to the second calendar year and at the rates for such year, which the portion of such period falling within the second calendar year is of the entire period.

Computation of tax for period beginning in one calendar year and ending in the following.

### Supplement B—Computation of Net Income

Computation of net income.

[Supplementary to Subtitle B, Part II]

#### SEC. 111. DETERMINATION OF AMOUNT OF GAIN OR LOSS.

Gain or loss.

(a) Computation of gain or loss.—Except as hereinafter provided in this section, the gain from the sale or other disposition of property shall be the excess of the amount realized therefrom over the basis provided in section 113, and the loss shall be the excess of such basis over the amount realized.

Basis of determining, on disposal of property.

*Post*, p. 818.

(b) Adjustment of basis.—In computing the amount of gain or loss under subsection (a)—

Computation.

(1) Proper adjustment shall be made for any expenditure, receipt, loss, or other item, properly chargeable to capital account, and

Adjustment of capital loss.

(2) The basis shall be diminished by the amount of the deductions for exhaustion, wear and tear, obsolescence, amortization, and depletion which have since the acquisition of the property been allowable in respect of such property under this Act or prior income tax laws; but in no case shall the amount of the diminution in respect of depletion exceed a depletion deduc-

Deduction for exhaustion, etc., of property.

Limitation.

INCOME TAX  
Post, p. 821.  
If acquired before  
March 1, 1913.

In case of stock.

From sale, etc., of  
property.

On sale or exchange.

*Infra.*  
Installment pay-  
ments taxable.

Gain or loss from  
sales or exchanges.  
Entire amount recog-  
nized.

Exceptions.  
No gain or loss.  
On exchanges for  
similar uses.

For similar stock in  
same corporation.

Stock received on re-  
organization.

Property for stock of  
party to reorganization.

Transfers for stock of  
corporation under same  
control.

tion computed without reference to discovery value under section 114(b)(2) or to percentage depletion under section 114(b)(3). In addition, if the property was acquired before March 1, 1913, the basis (if other than the fair market value as of March 1, 1913) shall be diminished in the amount of exhaustion, wear and tear, obsolescence, and depletion actually sustained before such date, and

(3) In the case of stock the basis shall be diminished by the amount of distributions previously made in respect of such stock, to the extent provided under the law applicable to the year in which the distribution was made.

(c) 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.

(d) 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.

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

## SEC. 112. RECOGNITION OF GAIN OR LOSS.

(a) General rule.—Upon the sale or exchange of property the entire amount of the gain or loss, determined under section 111, shall be recognized, except as 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 February 28, 1913. The remainder, if any, of the gain recognized under paragraph (1) shall be taxed as a gain from the exchange of property.

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

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

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

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

INCOME TAX  
Limitation.

Gain from exchanges not solely in kind. Recognized if property received additional to that on which none recognized.

Reorganization distribution construed as a taxable dividend.

Reorganization with property and other stock received.

No gain if distributed on reorganization.

Gain recognized if not distributed.

No loss if property received other than that on which gain or loss recognized, etc.

Involuntary conversions. No gain or loss, if involuntarily converted into similar property, etc.

Gain recognized on part not used.

## INCOME TAX

No gain recognized if additional stock received on reorganization, and holding not surrendered.

Stock distributed on reorganization not construed as earnings, etc.

Reorganization.

Corporation acts constituting.

Corporation included as "a party to a reorganization."

Ownership of stock constituting "control."

Basis for determining gain or loss.  
On cost value on sales acquired after February 28, 1913.

Exceptions.  
Inventory value.

Gifts after December 31, 1920.

Ascertainment.

Or fair market value when acquired by donor, etc.

(g) **Distribution of stock on reorganization.**—If there is distributed, in pursuance of a plan of reorganization, to a shareholder in a corporation a party to the reorganization, stock or securities in such corporation or in another corporation a party to the reorganization, without the surrender by such shareholder of stock or securities in such a corporation, no gain to the distributee from the receipt of such stock or securities shall be recognized.

(h) **Same—effect on future distributions.**—The distribution, in pursuance of a plan of reorganization, by or on behalf of a corporation a party to the reorganization, of its stock or securities or stock or securities in a corporation a party to the reorganization, shall not be considered a distribution of earnings or profits within the meaning of section 115(b) for the purpose of determining the taxability of subsequent distributions by the corporation.

(i) **Definition of reorganization.**—As used in this section and sections 113 and 115—

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

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

(j) **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.

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

(a) **Property acquired after February 28, 1913.**—The basis for determining the gain or loss from the sale or other disposition of property acquired after February 28, 1913, 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) **GIFT AFTER DECEMBER 31, 1920.**—If the property was acquired by gift after December 31, 1920, the basis shall be the same as it would be in the hands of the donor or the last preceding owner by whom it was not acquired by gift. If the facts necessary to determine such basis 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 shall be the fair market value of such property as found by the Commissioner as of the date or approximate date at which, according to the best information that the Commissioner is able to obtain, such property was acquired by such donor or last preceding owner;

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

INCOME TAX  
Trust property acquired after December 31, 1920, as in hands of grantor.

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

Gifts or trusts before December 31, 1920, fair market value.

Under power of appointment.

Vol. 42, p. 279; Vol. 43, p. 305; Vol. 44, p. 71.

(5) **PROPERTY TRANSMITTED AT DEATH.**—If personal property was acquired by specific bequest, or if real property was acquired by general or specific devise or by intestacy, the basis shall be the fair market value of the property at the time of the death of the decedent. If the property was acquired by the decedent's estate from the decedent, the basis in the hands of the estate shall be the fair market value of the property at the time of the death of the decedent. In all other cases if the property was acquired either by will or by intestacy, the basis shall be the fair market value of the property at the time of the distribution to the taxpayer. 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;

Property acquired by bequests, devises, etc.

Transfers in trust with right of revocation.

(6) **TAX-FREE EXCHANGES GENERALLY.**—If the property was acquired 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;

Acquired on exchange, etc.

Partly by exchange, and partly by other property.

Stock issued as consideration excepted.

(7) **TRANSFERS TO CORPORATION WHERE CONTROL OF PROPERTY REMAINS IN SAME PERSONS.**—If the property was acquired after December 31, 1917, by a corporation in connection with a reorganization, and immediately after the transfer an interest or control in such property of 80 per centum or more remained

Property other than stock acquired by same corporation after December 31, 1917.

## INCOME TAX

Stock issues excepted.

Acquired after December 31, 1920, on reorganization and same party still in control.

Stock, etc., distributed on reorganization after December 31, 1923.

Acquired by involuntary conversion.

Wash sales, of property acquired for stock disposed of, on which no loss allowed.

*Post*, p. 826.  
Vol. 44, pp. 26, 42.

Property acquired during affiliation.

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) **SAME—CORPORATION CONTROLLED BY TRANSFEROR.**—If the property was acquired after December 31, 1920, by a corporation 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), then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made;

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

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

(11) **WASH SALES OF STOCK.**—If substantially identical property was acquired after December 31, 1920, in place of stock or securities which were sold or disposed of and in respect of which loss was not allowed as a deduction under section 118 of this Act, or under section 214(a)(5) or 234(a)(4) of the Revenue Act of 1921, the Revenue Act of 1924, or the Revenue Act of 1926, the basis in the case of the property so acquired shall be the basis in the case of the stock or securities so sold or disposed of, except that if the repurchase price was in excess of the sale price such basis shall be increased in the amount of the difference, or if the repurchase price was less than the sale price such basis shall be decreased in the amount of the difference;

(12) **PROPERTY ACQUIRED DURING AFFILIATION.**—In the case of property acquired by a corporation, during a period of affiliation, from a corporation with which it was affiliated, the basis of such property, after such period of affiliation, shall be determined, in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, without regard to inter-company transactions in respect of which gain

or loss was not recognized. For the purposes of this paragraph, the term "period of affiliation" means the period during which such corporations were affiliated (determined in accordance with the law applicable thereto) but does not include any taxable year beginning on or after January 1, 1922, unless a consolidated return was made, nor any taxable year after the taxable year 1928. The basis in case of property acquired by a corporation during any period, in the taxable year 1929 or any subsequent taxable year, in respect of which a consolidated return is made by such corporation under section 141 of this Act, shall be determined in accordance with regulations prescribed under section 141(b).

INCOME TAX  
Period of affiliation  
determined.

Basis in subsequent  
years.

(b) **Property acquired before March 1, 1913.**—The basis for determining the gain or loss from the sale or other disposition of property acquired before March 1, 1913, shall be:

Property acquired  
before March 1, 1913.  
Gain or loss.

(1) the cost of such property (or, in the case of such property as is described in subsection (a) (1), (4), (5), or (12) of this section, the basis as therein provided), or

Based on cost.

(2) the fair market value of such property as of March 1, 1913,

Fair market value.

whichever is greater. 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.

Whichever greater.

#### SEC. 114. BASIS FOR DEPRECIATION AND DEPLETION.

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 same as is provided in section 113 for the purpose of determining the gain or loss upon the sale or other disposition of such property.

Depreciation.  
Same as upon sale,  
etc.  
*Ante*, p. 818.

(b) **Basis for depletion.**—

Depletion.  
Allowance same as  
for sale, etc.

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

Exceptions.

(2) **DISCOVERY VALUE IN CASE OF MINES.**—In the case of mines discovered by the taxpayer after February 28, 1913, the basis for depletion shall be the fair market value of the property at the date of discovery or within thirty days thereafter, if such mines were not acquired as the result of purchase of a proven tract or lease, and if the fair market value of the property is materially disproportionate to the cost. The depletion allowance 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 be less than it would be if computed without reference to discovery value. Discoveries shall include minerals in commercial quantities contained within a vein or deposit discovered in an existing mine or mining tract by the taxpayer after February 28, 1913, if the vein or deposit thus discovered was not merely the uninterrupted extension of a continuing commercial vein or deposit already known to exist, and if the discovered minerals are of sufficient value and quantity that they could be separately mined and marketed at a profit.

Mines discovered by  
taxpayer after Feb-  
ruary 28, 1913, fair  
market value.

Maximum depletion  
allowance.

Minerals included.

(3) **PERCENTAGE DEPLETION FOR OIL AND GAS WELLS.**—In the case of oil and gas wells the allowance for depletion shall be 27½ per centum of the gross income from the property during the taxable year. Such allowance shall not exceed 50 per centum of

Oil and gas allowance.

Maximum.

## INCOME TAX

the net income of the taxpayer (computed without allowance for depletion) from the property, except that in no case shall the depletion allowance be less than it would be if computed without reference to this paragraph.

Distributions by corporations.

From earnings, etc., after February 28, 1913, deemed dividends.

To insurance reserve excepted.

Sources.

Accumulations, etc., before March 1, 1913, tax free.

Condition.

Distribution in liquidation a payment for stock.

Determination of gain or loss to distributee.  
Partial liquidation distribution.

Distributions not from increase of value before March 1, 1913, nor out of earnings or profits.

Depletion reserves of mines.

Exemption of distributees of previously taxable earnings of personal service corporations.

Vol. 42, p. 245, Vol. 44, p. 32.

Stock dividends not taxable.

Redemption of stock.  
Proceeds of, treated as taxable dividends.

## SEC. 115. DISTRIBUTIONS BY CORPORATIONS.

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

(b) **Source of distributions.**—For the purposes of this Act every distribution is made out of earnings or profits to the extent thereof, and from the most recently accumulated earnings or profits. Any earnings or profits accumulated, or increase in value of property accrued, before March 1, 1913, may be distributed exempt from tax, after the earnings and profits accumulated after February 28, 1913, have been distributed, but any such tax-free distribution shall be applied against and reduce the 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. In the case of amounts distributed in partial liquidation (other than a distribution within the provisions of section 112(h) 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 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. The provisions of this subsection shall also apply to distributions from depletion reserves based on the discovery value of mines.

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

(f) **Stock dividends.**—A stock dividend shall not be subject to tax.

(g) **Redemption of stock.**—If a corporation cancels or redeems its stock (whether or not such stock was issued as a stock dividend) at such time and in such manner as to make the distribution and cancellation or redemption in whole or in part essentially equivalent to the distribution of a taxable dividend, the amount so distributed in redemption or cancellation of the stock, to the extent



that it represents a distribution of earnings or profits accumulated after February 28, 1913, shall be treated as a taxable dividend. In the case of the cancellation or redemption of stock not issued as a stock dividend this subsection shall apply only if the cancellation or redemption is made after January 1, 1926.

(h) **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 if such amounts constitute earned income as defined in section 31; 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, etc.**—Income derived from any public utility or the exercise of any essential governmental function and accruing to any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, or income accruing to the Government of any possession of the United States, or any political subdivision thereof.

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

(1) If by the terms of such contract the tax imposed by this title is to be paid out of the proceeds from the operation of such public utility, prior to any division of such proceeds between the person and the State, Territory, political subdivision, or the District of Columbia, and if, but for the imposition of the tax imposed by this title, a part of such proceeds for the taxable year would accrue directly to or for the use of such State, Territory, political subdivision, or the District of Columbia, then a tax upon the net income from the operation of such public utility shall be levied, assessed, collected, and paid in the manner and at the rates prescribed in this title, but there shall be refunded to such State, Territory, political subdivision, or the District of Columbia (under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary) an amount

#### INCOME TAX

Stock canceled after January 1, 1926.

Meaning of “amounts distributed in partial liquidation.”

Exclusions from gross income.

Additional items exempt from taxation.

Earned income of nonresident citizens, from sources outside United States.

Teachers in Alaska and Hawaii.

Federal compensation excepted.

Income of foreign governments from investments in United States, etc.

Income of States, etc., from public utilities.

If under prior contracts for operation thereof.

Tax levied on proceeds prior to division thereof with State, etc.

Refund to States, etc.

## INCOME TAX

If no part accruing to State, etc., the net income of persons taxable.

Bridges to be acquired by State, etc.

Tax levied on operation proceeds, prior to division thereof.

Refund to State, etc.

Restriction.

If no part accruing to State, etc., the net income from operation taxable.

Dividends to Chinese residents from China Trade corporations.

Receipts of shipowners' mutual associations.

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 this Act, is to acquire a bridge—

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

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

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

(g) Shipowners' protection and indemnity associations.—The receipts of shipowners' mutual protection and indemnity associations not organized for profit, and no part of the net earnings of which inures to the benefit of any private shareholder; but such corporations shall be subject as other persons to the tax upon their net income from interest, dividends, and rents.

## SEC. 117. NET LOSSES.

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

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

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

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

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

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

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

(b) Net loss as a deduction.—If, for any taxable year, it appears upon the production of evidence satisfactory to the Commissioner that any taxpayer has sustained a net loss, the amount thereof shall be allowed as a deduction in computing the net income of the taxpayer for the succeeding taxable year (hereinafter in this section called "second year"), and if such net loss is in excess of such net income (computed without such deduction), the amount of such excess shall be allowed as a deduction in computing the net income for the next succeeding taxable year (hereinafter in this section called "third year"); the deduction in all cases to be made under regulations prescribed by the Commissioner with the approval of the Secretary.

(c) Capital net gain or loss in second year.—

(1) CAPITAL NET LOSS.—If in the second year the taxpayer (other than a corporation) sustains a capital net loss, the deduction allowed by subsection (b) of this section shall first be applied as a deduction in computing the ordinary net income for such year. If the deduction is in excess of the ordinary net income (computed without such deduction) then the amount of such excess shall be allowed as a deduction in computing net income for the third year.

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

(d) Capital net gain or loss in third year.—If any portion of a net loss is allowed as a deduction in computing net income for the third year, under the provisions of either subsection (b) or (c)

INCOME TAX  
Net losses.

Determined by excess of deductions over gross income.

Exceptions.  
Losses not connected with business.

Capital losses, of other than a corporation.

Depletion.

*Ante*, p. 821.

On corporation dividends not allowed.  
*Ante*, p. 801.

Interest included in gross income.

*Ante*, p. 799.

Net loss for prior year not allowed.

Net loss to be deducted from tax for succeeding taxable years.

Capital gain or loss.

Application if capital loss sustained in second year.

Application to capital gain for second year.

Application to third year.

## INCOME TAX

Application to net loss for 1926 or 1927.

Fiscal years. Returns, if period begins in first calendar year and ends in second.

Proportion for different rates.

Loss on sale of stock or securities.

Restriction on claim for, if taxpayer has acquired substantially identical property within 30 days.

*Ante*, p. 800.

Allowance to corporations, etc. *Ante*, p. 800.

Acquisition in part only.

Income from sources within United States.

Items treated as such.

Interest on bonds, etc., of residents.

Exceptions. Paid persons not in business in United States.

If less than 20 per cent from United States sources.

of this section and the taxpayer (other than a corporation) has in such year a capital net gain or a capital net loss, then the method of allowing such deduction in such third year shall be the same as provided in subsection (c).

(e) Net loss for 1926 or 1927.—If for the taxable year 1926 or 1927 a taxpayer sustained a net loss within the provisions of the Revenue Act of 1926, the amount of such net loss shall be allowed as a deduction in computing net income for the two succeeding taxable years to the same extent and in the same manner as a net loss sustained for one taxable year is, under this Act, allowed as a deduction for the two succeeding taxable years.

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

## SEC. 118. LOSS ON SALE OF STOCK OR SECURITIES.

In the case of any loss claimed to have been sustained in any sale or other disposition of shares of stock or securities where it appears that within thirty days before or after the date of such sale or other disposition the taxpayer has acquired (otherwise than by bequest or inheritance) or has entered into a contract or option to acquire substantially identical property, and the property so acquired is held by the taxpayer for any period after such sale or other disposition, no deduction for the loss shall be allowed under section 23(e) (2) of this title; 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. If such acquisition or the contract or option to acquire is to the extent of part only of substantially identical property, then only a proportionate part of the loss shall be disallowed.

## 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 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

## INCOME TAX

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

From foreign bank acceptances.

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

Dividends.

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

From domestic corporations.  
Exceptions.  
Post, p. 850.

(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;

From foreign corporations.  
Exception.

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

Personal services in 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

Rentals, royalties, etc., from United States sources.

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

Real estate sales.

(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.

Deductions therefrom of designated expenses, etc., constitute net income from United States sources.

(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:

Gross income from without United States.

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

Other interest.

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

Other dividends.

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

Labor, etc., without 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

Rentals, royalties, etc., without United States.

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

Real estate sales without United States.

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Deductions there-  
from of designated ex-  
penses, etc., consti-  
tute net income from  
sources without United  
States.

Apportionment of  
items within and with-  
out United States.

From United States  
sources.

Derived partly with-  
in and partly without.

Determination  
of United States in-  
come.

From transportation  
and other services.

Sales of personal  
property within and  
without.

Purchase and sale of  
personal property.

Exceptions.

Synonymous mean-  
ing of words.

Charitable, etc., con-  
tributions.

Unlimited deduction  
allowed if, exceed 90  
per cent of net income.  
*Anne*, p. 301.

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

(e) Income from sources partly within and partly without United States.—Items of gross income, expenses, losses and deductions, other than those specified in subsections (a) and (c) of this section, shall be allocated or apportioned to sources within or without the United States, under rules and regulations prescribed by the Commissioner with the approval of the Secretary. Where items of gross income are separately allocated to sources within the United States, there shall be deducted (for the purpose of computing the net income therefrom) the expenses, losses and other deductions properly apportioned or allocated thereto and a ratable part of other expenses, losses or other deductions which can not definitely be allocated to some item or class of gross income. The remainder, if any, shall be included in full as net income from sources within the United States. In the case of gross income derived from sources partly within and partly without the United States, the net income may first be computed by deducting the expenses, losses or other deductions apportioned or allocated thereto and a ratable part of any expenses, losses or other deductions which can not definitely be allocated to some items or class of gross income; and the portion of such net income attributable to sources within the United States may be determined by processes or formulas of general apportionment prescribed by the Commissioner with the approval of the Secretary. Gains, profits and income from—

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

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

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

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

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

In the case of an individual if in the taxable year and in each of the ten preceding taxable years the amount of the contributions or gifts described in section 23(n) plus the amount of income, war-profits, or excess-profits taxes paid during such year in respect of

preceding taxable years, exceeds 90 per centum of the taxpayer's net income for each such year, as computed without the benefit of section 23(n), then the 15 per centum limit imposed by such section shall not be applicable.

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### Supplement C—Credits Against Tax

Credits against tax.

[Supplementary to Subtitle B, Part III]

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

Taxes of foreign countries, and United States possessions.

(a) Allowance of credit.—The tax imposed by this title shall be credited with:

Allowances.

(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

To citizens and domestic corporations, of taxes to foreign countries.

(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

Residents, to United States possessions.

(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

Alien residents, to foreign countries allowing similar credit.

(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.

Partnerships, or trust beneficiaries, to foreign countries.

(b) Limit on credit.—In no case shall the amount of credit taken under this section exceed the same proportion of the tax (computed on the basis of the taxpayer's net income without the deduction of any income, war-profits, or excess-profits tax any part of which may be allowed to him as a credit by this section), against which such credit is taken, which the taxpayer's net income (computed without the deduction of any such income, war-profits, or excess-profits tax) from sources without the United States bears to his entire net income (computed without such deduction) for the same taxable year.

Limitation of credits.

(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.

Adjustments if tax paid differ from credits claimed.

If tax accrued but not paid.

Bond required.

INCOME TAX Credits for foreign taxes may be taken in the year accrued.	(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.
On same basis for subsequent years.	(e) Proof of credits.—These credits shall be allowed only if the taxpayer furnishes evidence satisfactory to the Commissioner showing the amount of income derived from sources without the United States, and all other information necessary for the verification and computation of such credits.
Evidence required of foreign income.	(f) Taxes of foreign subsidiary.—For the purposes of this section a domestic corporation which owns a majority of the voting stock of a foreign corporation from which it receives dividends (not deductible under section 23(p)) in any taxable year shall be deemed to have paid the same proportion of any income, war-profits, or excess-profits taxes paid by such foreign corporation to any foreign country or to any possession of the United States, upon or with respect to the accumulated profits of such foreign corporation from which such dividends were paid, which the amount of such dividends bears to the amount of such accumulated profits: <i>Provided</i> , That the credit allowed to any domestic corporation under this subsection shall in no case exceed the same proportion of the taxes against which it is credited, 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.
Taxes of foreign subsidiary.	(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.
Proportion of foreign tax on dividends received deemed to have been been paid.	
Proviso. Limit on credit allowed.	SEC. 132. PAYMENTS UNDER 1926 ACT. Any amount paid before or after the enactment of this Act on account of the tax imposed for a fiscal year beginning in 1927 and ending in 1928 by Title II of the Revenue Act of 1926 shall be credited toward the payment of the tax imposed for such fiscal year by this Act, and if the amount so paid exceeds the amount of such tax imposed by this Act, the excess shall be credited or refunded in accordance with the provisions of section 322.
Meaning of "accumulated profits."	
Determination of, by Commissioner.	
Accounting period for foreign corporations.	
Corporations treated as foreign.	
In United States possessions. <i>Post</i> , p. 850.	
China Trade Act corporations. <i>Post</i> , p. 851.	
Payments under 1926 Act.	
Credit or refund for.	
<i>Post</i> , p. 861.	



**Supplement D—Returns and Payment of Tax**INCOME TAX  
Returns and pay-  
ment of tax.

[Supplementary to Subtitle B, Part V]

**SEC. 141. CONSOLIDATED RETURNS OF CORPORATIONS—1929 AND  
SUBSEQUENT TAXABLE YEARS.**Consolidated returns,  
1929, and subsequent  
years.

(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 1929 or any subsequent 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) 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.

Affiliated corpora-  
tions may make, in lieu  
of separate.Consent of all mem-  
bers.

(b) **Regulations.**—The Commissioner, with the approval of the Secretary, shall prescribe such regulations as he may deem necessary in order that the tax liability of an 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.

Regulations to deter-  
mine 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) prescribed prior to the date on which such return is made. Only one specific credit, computed as provided in section 26(b), shall be allowed in computing the tax.

Computation of as-  
sessments.Only one specific  
credit.  
*Ante*, p. 803.

(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—

Corporations deemed  
affiliated.

(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

Stock ownership of  
members.

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

Of parent corpora-  
tion.

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

Nonvoting stock not  
included.

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

Applicable only for  
domestic corporations.  
Insurance companies  
not included.

(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.

China trade corpora-  
tions not affiliated.

(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.

Corporations in  
United States posses-  
sions deemed foreign.  
*Post*, p. 850.

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Subsidiary of domestic corporation formed to comply with foreign law, deemed domestic.

Application of suspension of statute of limitation.

*Post*, pp. 852, 857.

Allocation of income and deductions.  
*Ante*, p. 866.

Consolidated returns, 1928.

Affiliated corporations may make, or separate.  
Vol. 44, p. 46.

Computation of proportionate assessments.

Only one specific credit.  
*Ante*, p. 893.

Corporations deemed affiliated.

China trade corporations deemed not affiliated.

Corporations in United States possessions, deemed foreign.

Application of suspension of statute of limitations.  
*Post*, pp. 852, 857.

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

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

(j) **Allocation of income and deductions.**—For allocation of income and deductions of related trades or businesses, see section 45.

## SEC. 142. CONSOLIDATED RETURNS OF CORPORATIONS—TAXABLE YEAR 1928.

(a) **Consolidated returns permitted.**—Corporations which are affiliated within the meaning of this section may, for the taxable year 1928, make separate returns or, under regulations prescribed by the Commissioner with the approval of the Secretary, make a consolidated return of net income for the purpose of this title, in which case the taxes thereunder shall be computed and determined upon the basis of such return. If return for the taxable year 1927 was made upon either of such bases, return for the taxable year 1928 shall be upon the same basis unless permission to change the basis is granted by the Commissioner.

(b) **Computation and payment of tax.**—In any case in which a tax is assessed upon the basis of a consolidated return, the total tax shall be computed in the first instance as a unit and shall then be assessed upon the respective affiliated corporations in such proportions as may be agreed upon among them, or, in the absence of any such agreement, then on the basis of the net income properly assignable to each. There shall be allowed in computing the income tax only one specific credit computed as provided in section 26(b).  
(c) **Definition of affiliation.**—For the purpose of this section two or more domestic corporations shall be deemed to be affiliated (1) if one corporation owns at least 95 per centum of the stock of the other or others, or (2) if at least 95 per centum of the stock of two or more corporations is owned by the same interests. As used in this subsection the term "stock" does not include nonvoting stock which is limited and preferred as to dividends.

(d) **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.

(e) **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.

(f) **Suspension of running of statute of limitations.**—If a notice under section 272(a) in respect of a deficiency for the taxable year 1928 is mailed to a corporation, the suspension of the running of the statute of limitations, provided in section 277, shall apply in the case of corporations with which such corporation made a consolidated return for such taxable year.

(g) Allocation of income and deductions.—For allocation of income and deductions of related trades or businesses, see section 45.

INCOME TAX  
Allocation of income  
and deductions.  
*Ante*, p. 806.  
Fiduciary returns.

#### SEC. 143. 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—

Sworn statement of  
income, etc., of benefi-  
ciaries.

(1) Every individual having a net income for the taxable year of \$1,500 or over, if single, or if married and not living with husband or wife;

With net income of  
\$1,500 or over, and sin-  
gle, etc.

(2) Every individual having a net income for the taxable year of \$3,500 or over, if married and living with husband or wife;

Married, etc., with  
\$3,500 or over.

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

Gross income of  
\$5,000 or over.

(4) Every estate or trust the net income of which for the taxable year is \$1,500 or over;

Estates or trusts of  
\$1,500 net income 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

Gross income of  
\$5,000 or over.

(6) Every estate or trust of which any beneficiary is a non-resident alien.

Nonresident alien  
beneficiaries.

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

By joint fiduciaries.

(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.

Oath required.

Subject to provisions  
applicable to individ-  
uals.

#### SEC. 144. WITHHOLDING OF TAX AT SOURCE.

(a) Tax-free covenant bonds.—

Withholding tax at  
source.

(1) REQUIREMENT OF WITHHOLDING.—In any case where bonds, mortgages, or deeds of trust, or other similar obligations of a corporation 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, after the date of the enactment of this Act, be at the following rates: (A) 5 per centum in the case of a nonresident alien individual, or of

Tax-free covenant  
bonds.

By corporations  
agreeing to pay interest  
free from tax, etc.

Tax to be withheld.

*Provisos.*  
Rates to be withheld.

From nonresident  
alien individuals, etc.

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From foreign corporations.  
Other individuals, etc.  
Of unknown owners.

Exception on notice of credit withheld by individual.

Nonresident alien individual.  
*Post*, p. 848.

Lower rate on notice of income not exceeding \$4,000.

Restriction on obligor and obligee.

Normal tax of nonresident aliens payable at source.

Exceptions.  
*Ante*, p. 802.

*Post*, p. 848.

*Proviso*.  
Interest of unknown owners included.

Returns, etc., by withholding agent required.

*Ante*, p. 809.

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) 12 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 5 per centum.

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

(3) **WITHHOLDING AT LOWER RATE.**—Such deduction and withholding shall be at the rate of  $1\frac{1}{2}$  per centum instead of at the rate of 2 per centum in the case of a citizen or resident entitled to receive such interest if he files with the withholding agent on or before February 1 a signed notice in writing that his net income in excess of the credits against net income provided in section 25 does not exceed \$4,000.

(4) **INCOME OF OBLIGOR AND OBLIGEE.**—The obligor shall not be allowed a deduction for the payment of the tax imposed by this title, or any other tax paid pursuant to the tax-free covenant clause, nor shall such tax be included in the gross income of the obligee.

(b) **Nonresident aliens.**—All persons, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the United States, having the control, receipt, custody, disposal, or payment of interest (except interest on deposits with persons carrying on the banking business paid to persons not engaged in business in the United States and not having an office or place of business therein), rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income, of any nonresident alien individual, or of any partnership not engaged in trade or business within the United States and not having any office or place of business therein and composed in whole or in part of nonresident aliens, (other than income received as dividends of the class allowed as a credit by section 25(a)) shall (except in the cases provided for in subsection (a) of this section and except as otherwise provided in regulations prescribed by the Commissioner under section 215) deduct and withhold from such annual or periodical gains, profits, and income a tax equal to 5 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. 145. 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 144 a tax equal to 13½ per centum thereof in respect of all payments of income made before the enactment of this Act, and equal to 12 per centum thereof in respect of all payments of income made after the enactment of this Act, 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. 146. PENALTIES.

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

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

(c) The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partner-

#### INCOME TAX

Returns by recipient of tax withheld.

Tax paid by recipient not recollectible.

Refunds and credits to withholding agent.

Post, p. 861.

Payment at source.

By foreign corporations not in business in United States.

Ante, p. 834.

Rates.

Proviso.  
Rate when interest granted free of tax.

Penalties.

For willful failure to pay tax, make returns, etc.

Punishment for.

For willful failure to collect tax, evading payment, etc.

Punishment for.

"Person" liable for acts.

## INCOME TAX

Closing of taxable year.

Tax in jeopardy. Immediate payment demanded if Commissioner finds acts of taxpayer prejudice collection.

Notice to be given of finding, demand, etc.

Finding of Commissioner, presumption of intent.

Bond accepted if taxpayer not in default.

Condition of acceptances.

Enforcement proceedings suspended on approval of bond.

Discretionary waiving of requirements as to citizens.

Aliens must furnish tax-paid certificate before going abroad.

Additional tax for violations hereof.

Information at source.

Persons making fixed payments to others of \$1,500 or more, to render returns thereof.

ship, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

## SEC. 147. 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. 148. INFORMATION AT SOURCE.

(a) Payments of \$1,500 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 149(a) or 150), of \$1,500 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.

INCOME TAX  
Exceptions.  
*Infra.*

(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.

Regardless of  
amounts.  
Interest on corpora-  
tion bonds, etc.  
Collecting foreign  
coupons, etc.

(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.

Names and addresses  
of recipients.

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

Not applicable to  
Federal securities.

#### SEC. 149. 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.

Information by cor-  
porations.

To make specific re-  
turns of dividend pay-  
ments.

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

Detailed statement of  
profits, etc., declared as  
dividends.

(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.

Accumulated gains  
and profits and names  
of persons entitled  
thereto if distributed.

#### SEC. 150. 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

Returns of brokers.

Sworn returns of all  
business transactions to  
be made.

## INCOME TAX

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.

Collection of foreign items.

Licenses required for collecting foreign coupons, dividends, etc.

Punishment for collecting, without a license.

**SEC. 151. 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.

Estates and trusts.

**Supplement E—Estates and Trusts**

Imposition of tax.

Income of, taxed.

Trust accumulations.

Periodically distributed.

Received during administration.

For discretionary distribution.

Payment by fiduciary.  
Exceptions.  
*Post*, p. 840.

*Ante*, p. 833.

Net incomes

Computed as of individuals.

Exceptions.

Deduction without limitation of gifts, etc., under will or trust.

Additional deductions for current distributions by fiduciary.

**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 143.

**SEC. 162. NET INCOME.**

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

(a) There shall be allowed as a deduction (in lieu of the deduction for charitable, etc., contributions authorized by section 23(n)) any part of the gross income, without limitation, which pursuant to the terms of the will or deed creating the trust, is during the taxable year paid or permanently set aside for the purposes and in the manner specified in section 23(n), 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.

## INCOME TAX

## Limitation.

Additional deduction for payment made or credited to beneficiaries.

Included in income of beneficiary.

## SEC. 163. CREDITS AGAINST NET INCOME.

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

(b) Credits of beneficiary.—If any part of the income of an estate or trust is included in computing the net income of any legatee, heir, or beneficiary, such legatee, heir, or beneficiary shall, for the purpose of the normal tax, be allowed as credits against net income, in addition to the credits allowed to him under section 25, his proportionate share of such amounts of dividends and interest specified in section 25(a) and (b) as are, under this Supplement, required to be included in computing his net income. Any remaining portion of such amounts specified in section 25(a) and (b) shall, for the purpose of the normal tax, be allowed as credits to the estate or trust.

Credits against net income.

Normal tax personal exemptions allowed to heirs, etc.

*Ante*, p. 806.

*Ante*, p. 805.

Credits allowed beneficiaries in computing income.

Credits allowed 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 ending within his taxable year.

Different taxable years.

Computation, if taxable year of estate or trust and beneficiary differ.

## 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 contributed to such fund by the employer and all earnings of such fund shall be taxed to the distributee in the year in which distributed or made available to him. Such distributees shall for the purpose of the normal tax be allowed as credits against net income such part of the amount so distributed or made available as represents the items of dividends and interest specified in section 25(a) and (b).

Employees' trusts.

Profit-sharing trusts, etc., for employees not taxed.

Distributees taxed on amount received.

Credits allowed.

*Ante*, pp. 805, 806.

INCOME TAX  
Revocable trusts.  
Income from, in-  
cluded in that of grant-  
or.

**SEC. 166. REVOCABLE TRUSTS.**

Where the grantor of a trust has, at any time during the taxable year, either alone or in conjunction with any person not a beneficiary of the trust, the power to revest in himself title to any part of the corpus of the trust, then the income of such part of the trust for such taxable year shall be included in computing the net income of the grantor.

Income for benefit of  
grantor.  
Distribution of, from  
trust, included in his  
income.

**SEC. 167. INCOME FOR BENEFIT OF GRANTOR.**

Where any part of the income of a trust may, in the discretion of the grantor of the trust, either alone or in conjunction with any person not a beneficiary of the trust, be distributed to the grantor or be held or accumulated for future distribution to him, or where any part of the income of a trust is or 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(n), relating to the so-called "charitable contribution" deduction), such part of the income of the trust shall be included in computing the net income of the grantor.

*Ante*, p. 801.

Capital net gains and  
losses.  
Determination of,  
and to be separately  
shown in returns.

**SEC. 168. CAPITAL NET GAINS AND LOSSES.**

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

*Ante*, p. 811.

Net losses.

**SEC. 169. NET LOSSES.**

Allowance of special  
deduction for.  
*Ante*, p. 825.

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

Taxes of foreign coun-  
tries.

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

Allowance against tax  
of beneficiary.

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.

*Ante*, p. 829.

Partnerships.

**Supplement F—Partnerships**

Not taxable.

**SEC. 181. PARTNERSHIP NOT TAXABLE.**

Partners taxed as in-  
dividuals.

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

Tax of partners.

**SEC. 182. TAX OF PARTNERS.**

Distributive share in-  
cluded in net income.

(a) General rule.—There shall be included in computing the net income of each partner his distributive share, whether distributed or not, of the net income of the partnership for the taxable year. If the taxable year of a partner is different from that of the partnership, the amount so included shall be based upon the income of the partnership for any taxable year of the partnership ending within his taxable year.

(b) Partnership year embracing calendar years with different laws.—If a fiscal year of a partnership begins in one calendar year and ends in another calendar year, and the law applicable to the second calendar year is different from the law applicable to the first calendar year, then

INCOME TAX  
Partnership year embracing calendar with different laws.

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

Rates for year in which fiscal year begins.

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

In which fiscal year ends.

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

Computation of rates.

#### SEC. 183. COMPUTATION OF PARTNERSHIP INCOME.

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

Partnership income.  
Computed same as individual.  
Charitable deduction not allowed.  
*Ante*, p. 801.

#### 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 of dividends and interest specified in section 25(a) and (b) as are received by the partnership.

Credits against net income.  
Additional, from partnership exemptions.

*Ante*, pp. 805, 806.

#### SEC. 185. EARNED INCOME.

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

Earned income.  
Determination of partner's.

#### SEC. 186. CAPITAL NET GAINS AND LOSSES.

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

Capital net gains and losses.

Application of, to income of partners.

*Ante*, p. 811.

INCOME TAX  
Net losses.  
Deduction for, al-  
lowed partners.  
*Ante*, 825.

**SEC. 187. NET LOSSES.**

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

Foreign taxes, etc.

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

Credit for, allowed  
partners.

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.

*Ante*, p. 829.

Partnership returns.

**SEC. 189. PARTNERSHIP RETURNS.**

Sworn statement of  
gross income, etc.

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.

Insurance companies.

**Supplement G—Insurance Companies**

Tax on life insurance  
companies.

**SEC. 201. TAX ON LIFE INSURANCE COMPANIES.**

Meaning of term.

(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.

Tax on net incomes;

(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:

*Ante*, p. 797.

Domestic life.

(1) In the case of a domestic life insurance company, 12 per centum of its net income;

Foreign life.

(2) In the case of a foreign life insurance company, 12 per centum of its net income from sources within the United States.

Gross income.

**SEC. 202. GROSS INCOME OF LIFE INSURANCE COMPANIES.**

Sources of.

(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.

Application of “re-  
serve fund required by  
law”, to assessment  
companies.

(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.

Net income.

**SEC. 203. NET INCOME OF LIFE INSURANCE COMPANIES.**

Deductions from  
gross income.

(a) **General rule.**—In the case of a life insurance company the term “net income” means the gross income less—

Exempt interest.

(1) **TAX-FREE INTEREST.**—The amount of interest received during the taxable year which under section 22(b) is exempt from taxation under this title;

(2) **RESERVE FUNDS.**—An amount equal to the excess, if any, over the deduction specified in paragraph (1) of this subsection, of 4 per centum of the mean of the reserve funds required by law and held at the beginning and end of the taxable year, plus (in case of 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) 4 per centum of the mean of such reserve funds (not required by law) held at the beginning and end of the taxable year, as the Commissioner finds to be necessary for the protection of the holders of such policies only;

INCOME TAX  
Reserve funds for  
weekly payment as-  
sessments.

(3) **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 organized under the China Trade Act, 1922, or (B) from any foreign corporation when it is shown to the satisfaction of the Commissioner that more than 50 per centum of the gross income of such foreign corporation for the three-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the foreign corporation has been in existence) was derived from sources within the United States as determined under section 119;

Dividends from do-  
mestic corporations.

From foreign.

*Ante*, p. 827.

(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;

Percentage of reserves  
for deferred dividends.

(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;

Investment expenses.

*Proviso.*  
Limitation.

(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;

Real estate taxes.

Exceptions.

If taxes paid on inter-  
est of shareholder.

(7) **DEPRECIATION.**—A reasonable allowance for the exhaustion, wear and tear of property, including a reasonable allowance for obsolescence;

Exhaustion of prop-  
erty.

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

Interest on debts.  
Exception.

(9) **SPECIFIC EXEMPTION.**—In the case of a domestic life insurance company, the net income of which (computed without the benefit of this paragraph) is \$25,000 or less, the sum of \$3,000;

Specific money  
credits.

## INCOME TAX

but if the net income is more than \$25,000 the tax imposed by section 201 shall not exceed the tax which would be payable if the \$3,000 credit were allowed, plus the amount of the net income in excess of \$25,000.

Rental value of real estate.  
Deductions limited.

(b) **Rental value of real estate.**—No deduction shall be made under subsection (a) (6) and (7) of this section on account of any real estate owned and occupied in whole or in part by a life insurance company unless there is included in the return of gross income the rental value of the space so occupied. Such rental value shall be not less than a sum which in addition to any rents received from other tenants shall provide a net income (after deducting taxes, depreciation, and all other expenses) at the rate of 4 per centum per annum of the book value at the end of the taxable year of the real estate so owned or occupied.

Foreign life insurance companies.  
Computation of net income on business in United States.

(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.

Insurance companies other than life or mutual.

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

Tax imposed.  
*Ante*, p. 797.

(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:

Domestic companies.

(1) In the case of such a domestic insurance company, 12 per centum of its net income;

Foreign companies.

(2) In the case of such a foreign insurance company, 12 per centum of its net income from sources within the United States.

Meaning of terms.

(b) **Definition of income, etc.**—In the case of an insurance company subject to the tax imposed by this section—

"Gross income."

(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;

"Net income."

(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.

"Investment income."

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

Sources of.

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;

"Underwriting income."

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

"Premiums earned."

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

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

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

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

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

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

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

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

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

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

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

(5) Losses sustained during the taxable year from the sale or other disposition of property;

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

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

(8) The amount of interest earned during the taxable year which under section 22(b)(4) is exempt from taxation under this title, and the amount of interest allowed as a credit under section 26;

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

(10) In the case of such a domestic insurance company, the net income of which (computed without the benefit of this paragraph) is \$25,000 or less, the sum of \$3,000; but if the net income is more than \$25,000 the tax imposed by this section shall not exceed the tax which would be payable if the \$3,000 credit were allowed, plus the amount of the net income in excess of \$25,000.

(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.

INCOME TAX  
Computation of.

"Losses incurred."

Computation of.

"Expenses incurred."

Computation of.

Net income.  
Deductions allowed.

Business expenses.  
*Ante*, pp. 799, 800.

Interest.  
Taxes.  
Losses.

Losses from sales.

Worthless debts.

Dividends from corporations.

Exempt interest.

Exhaustion, etc., of property.

Specific money credit to domestic company.

Foreign corporations.  
Deductions for United States business.  
*Post*, p. 849.

INCOME TAX  
No duplication.

Net losses.

Allowance of special  
deduction for.  
*Ante*, pp. 825, 842, 844.

Foreign taxes, etc.

Credit for, allowed  
domestic insurance  
companies.  
*Ante*, pp. 842, 844.

Gross income.

Determination of, re-  
stricted.

*Ante*, p. 826.

Mutual insurance  
companies other than  
life.

Taxable, as other  
corporations.

Gross income in-  
cludes premiums less  
reinsurance.

Additional de-  
ductions.

Addition to reserve  
funds.

Policy and annuity  
contracts.

Mutual marine com-  
panies.  
Repayments to pol-  
icyholders, etc.

Companies other  
than life or marine.  
Premium deposits re-  
turned, etc.

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

#### SEC. 205. NET LOSSES.

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

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

The amount of income, war-profits, and excess-profits taxes imposed by foreign countries or possessions of the United States shall be allowed as a credit against the tax of a domestic insurance company subject to the tax imposed by section 201 or 204, to the extent provided in the case of a domestic corporation in section 131, and in such cases "net income" as used in that section means the net income as defined in this Supplement.

#### SEC. 207. COMPUTATION OF GROSS INCOME.

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

#### SEC. 208. 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

INCOME TAX  
Nonresident alien individuals.

## SEC. 211. NORMAL TAX.

Normal tax.

(a) **General rule.**—In the case of a nonresident alien individual who is not a resident of a contiguous country, the normal tax shall be 5 per centum of the amount of the net income in excess of the credits against net income allowed to such individual.

Rate.  
*Ante*, p. 795.

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

Residents in contiguous countries.

(1)  $1\frac{1}{2}$  per centum of the amount by which the part of the net income attributable to wages, salaries, professional fees, or other amounts received as compensation for personal services actually performed in the United States, exceeds the personal exemption and credit for dependents; but the amount taxable at such  $1\frac{1}{2}$  per centum rate shall not exceed \$4,000;

Compensation for personal services in United States.

(2) 3 per centum of the amount by which such part of the net income exceeds the sum of (A) the personal exemption and credit for dependents, plus (B) \$4,000; but the amount taxable at such 3 per centum rate shall not exceed \$4,000; and

Maximum.

Additional, if exceeding family credits and \$4,000.

(3) 5 per centum of the amount of the net income in excess of the sum of (A) the amount taxed under paragraphs (1) and (2) of this subsection plus (B) the total credits against net income allowed to such individual.

If in excess thereof.

(c) **In lieu of normal tax under section 11.**—The tax imposed by this section shall be in lieu of the normal tax imposed by section 11.

In lieu of other tax.  
*Ante*, p. 795.

## SEC. 212. GROSS INCOME.

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.

Includes only United States sources.

(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.

Earnings from foreign ships, etc., exempt from taxation.

## SEC. 213. DEDUCTIONS.

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.

Allowed only if connected with income from United States sources.

(b) **Losses.**—

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.

Not connected with trade or business.

(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

Casualty losses not connected with business.

## INCOME TAX

Charitable, etc., contribution allowed only to domestic corporations, etc.

connected with income from sources within the United States, but only if the loss is of property within the United States.

(c) Charitable, etc., contributions.—The so-called “charitable contribution” deduction allowed by section 23(n) 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.

Credits against net income.

**SEC. 214. CREDITS AGAINST NET INCOME.**

Personal exemption.

*Ante*, p. 803.  
For dependents, if of contiguous country.

In the case of a nonresident alien individual the personal exemption allowed by section 25(c) of this title shall be only \$1,500. The credit for dependents allowed by section 25(d) shall not be allowed in the case of a nonresident alien individual unless he is a resident of a contiguous country. These credits shall be determined by the status of the taxpayer on the last day of the taxable year, except that in case of death the rule provided in section 25(e) (3) shall be applied.

Allowance of deductions and credits.

By filing return of his total income from United States sources, etc.

**SEC. 215. 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.

Personal exemption, credits, etc., by filing claim with withholding agent.

*Ante*, p. 847

(b) Tax withheld at source.—The benefit of the personal exemption and credit for dependents, and of the reduced rate of tax provided for in section 211(b), may, in the discretion of the Commissioner and under regulations prescribed by him with the approval of the Secretary, be received by a nonresident alien individual entitled thereto, by filing a claim therefor with the withholding agent.

Credits against tax.

**SEC. 216. CREDITS AGAINST TAX.**

No allowance for, of foreign governments.

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.

*Ante*, p. 829.

Returns.

**SEC. 217. RETURNS.**

Time for filing.

*Ante*, p. 808.

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.

Payment of tax.

**SEC. 218. PAYMENT OF TAX.**

Time designated.

*Ante*, p. 809.

(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.

Withholding at source.

*Ante*, p. 833.

(b) Withholding at source.—For withholding at source of tax on income of nonresident aliens, see section 144.

**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.

INCOME TAX  
Foreign corporations.

Gross income.

Only from United States sources.

Exemption of ships under foreign flag.

Conditions.

**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.

Deductions.

Allowed only on income from United States sources.

Apportionment.

*Ante*, p. 826.

**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.

Allowance of deductions and credits.

Benefit of, only by filing return of all income from United States sources.

**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.

Credits against tax.

No allowance for, of foreign governments.

*Ante*, p. 829.

**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.

Returns.

Time for filing.

*Ante*, p. 808.

**SEC. 236. PAYMENT OF TAX.**

(a) Time of payment.—In the case of a foreign corporation 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 144.

Payment of tax.

Time designated.

*Ante*, p. 809.

**SEC. 237. FOREIGN INSURANCE COMPANIES.**

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

Withholding tax at source.

*Ante*, p. 833.

Foreign insurance companies.

Special provisions.

*Ante*, p. 842.

INCOME TAX  
Affiliation.  
Not applicable to  
foreign corporations.

**SEC. 238. AFFILIATION.**

A foreign corporation shall not be deemed to be affiliated with any other corporation within the meaning of section 141 or 142.

Possessions of the  
United States.

**Supplement J—Possessions of the United States**

Income from sources  
within.

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

Gross income of citi-  
zens, etc., deemed  
sources within 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—

If 80 per cent derived  
from United States pos-  
sessions sources.

(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

If corporation de-  
rived 50 per cent from  
business therein.

(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

If citizen derived 50  
per cent from active  
business therein.

(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.

All amounts received  
in United States in-  
cluded in gross income.

(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.

Virgin Islands not  
included.

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

Deductions.

(d) Deductions.—

Citizens allowed  
same benefits as non-  
resident aliens.  
*Ante*, p. 847.

(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.

Domestic corpora-  
tion.  
*Ante*, p. 849.

(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.

Credits against net  
income.  
Personal exemption  
to citizens limited.  
*Ante*, p. 803.

(e) Credits against net income.—

(1) CITIZENS.—A citizen of the United States entitled to the benefits of this section shall be allowed a personal exemption of only \$1,500 and shall not be allowed the credit for dependents provided in section 25(d). The personal exemption shall be determined by the status of the taxpayer on the last day of the taxable year, except that in case of death the rule provided in section 25(e) (3) shall be applied.

Domestic corpora-  
tions not allowed spe-  
cific credit.  
*Ante*, p. 803.

(2) A domestic corporation entitled to the benefits of this section shall not be allowed the specific credit of \$3,000 provided in section 26.

Allowance of deduc-  
tions by filing return of  
total income.

(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 or 142.

## 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 credits 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

#### INCOME TAX

Credits against tax.  
No allowance for, of  
foreign governments.  
*Ante*, p. 829.

Affiliation.  
Not applicable to cor-  
porations hereof.  
*Ante*, pp. 831, 832.

Citizens of posses-  
sions of United States.  
Nonresidents of  
United States taxable  
only on income from  
United States sources.

Virgin Islands.  
Payment of taxes in,  
not affected.  
Vol. 42, p. 123.

China Trade Act cor-  
porations.

Credit against net in-  
come.

Allowance only for  
proportion of income  
from China sources  
bears to shares of resi-  
dents in China.

*Ante*, p. 803.

*Ante*, p. 826.

*Proviso*.  
Limitation.  
*Ante*, p. 797.

Condition.

Credit subject to spe-  
cial dividend to resi-  
dents of China, etc.

Additional to all  
other payments.

**INCOME TAX**  
Dividends in proportion to stock owned.

(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.

Ownership of stock defined.

(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.

Meaning of "China."  
Vol. 42, p. 856.

(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.

Credits against tax.

#### **SEC. 262. CREDITS AGAINST THE TAX.**

No allowance for, of foreign governments.  
*Ante*, p. 829.

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.

Affiliation.

#### **SEC. 263. AFFILIATION.**

Not applicable to corporations hereof.

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 or 142.

*Ante*, pp. 831, 832.

Income of shareholders.

#### **SEC. 264. INCOME OF SHAREHOLDERS.**

Exclusion from gross income.  
*Ante*, p. 824.

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

Assessment and collection of deficiencies.

### **Supplement L—Assessment and Collection of Deficiencies**

Definition of deficiency.  
Meaning of term.

#### **SEC. 271. DEFINITION OF DEFICIENCY.**

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

The amount the tax imposed exceeds return by taxpayer.

(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

Amount of tax exceeding previous assessment.

(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.

Procedure in general.

#### **SEC. 272. PROCEDURE IN GENERAL.**

Notice of deficiency to taxpayer.

(a) **Petition to Board of Tax Appeals.**—If in the case of any taxpayer, the Commissioner determines that there is a deficiency in respect of the tax imposed by this title, the Commissioner is authorized to send notice of such deficiency to the taxpayer by registered mail. Within 60 days after such notice is mailed (not counting Sunday as the sixtieth day), the taxpayer may file a petition with the Board of Tax Appeals for a redetermination of the deficiency.

Petition to Board of Tax Appeals for redetermination.

No assessment of a deficiency in respect of the tax imposed by this title and no distraint or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the taxpayer, nor until the expiration of such 60-day 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.

INCOME TAX  
No assessment, etc., until notice has been mailed or appeal filed.

Injunction by court procedure allowed.

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

Exceptions to restrictions.

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

Waivers.  
*Infra.*

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

Errors.  
*Infra.*

(3) Section 273, relating to jeopardy assessments;

Jeopardy assessments, p. 854.

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

Bankruptcy, p. 856.

(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.

Assessment, etc., of deficiency.  
Vol. 44, p. 109.

(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.

Collection of deficiency found by Board.

Disallowed amount not collectible.

(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.

Payment on demand if petition not filed.

(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.

Waiver of restrictions by taxpayer.

(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.

Increase of deficiency after notice mailed.

(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

Condition.

Restriction hereafter on determining deficiency after notice by Commissioner, etc.

Exceptions.

Post, p. 854.

Mathematical error not considered a notice of deficiency.

INCOME TAX	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.
Effect of.	
Post, p. 862.	
Jurisdiction over other taxable years.	(g) <b>Jurisdiction over other taxable years.</b> —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.
Limitation.	
Date of final decision of Board.	(h) <b>Final decisions of Board.</b> —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.
Vol. 44, p. 110.	
Prorating of deficiency to installments.	(i) <b>Prorating of deficiency to installments.</b> —If the taxpayer has elected to pay the tax in installments and a deficiency has been assessed, the deficiency shall be prorated to the four installments. Except as provided in section 273 (relating to jeopardy assessments), that part of the deficiency so prorated to any installment the date for payment of which has not arrived, shall be collected at the same time as and as part of such installment. That part of the deficiency so prorated to any installment the date for payment of which has arrived, shall be paid upon notice and demand from the collector.
Infra.	
Extension for payment allowed, to avoid undue hardship to taxpayer.	(j) <b>Extension of time for payment of deficiencies.</b> —Where it is shown to the satisfaction of the Commissioner that the payment of a deficiency upon the date prescribed for the payment thereof will result in undue hardship to the taxpayer the Commissioner, with the approval of the Secretary (except where the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax), may grant an extension for the payment of such deficiency or any part thereof for a period not in excess of eighteen months, and, in exceptional cases, for a further period not in excess of twelve months. If an extension is granted, the Commissioner may require the taxpayer to furnish a bond in such amount, not exceeding double the amount of the deficiency, and with such sureties, as the Commissioner deems necessary, conditioned upon the payment of the deficiency in accordance with the terms of the extension.
Bond required.	
Address for notice of deficiency.	(k) <b>Address for notice of deficiency.</b> —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.
Jeopardy assessments.	<b>SEC. 273. JEOPARDY ASSESSMENTS.</b>
Deficiency immediately assessed, etc., if jeopardized by delay.	(a) <b>Authority for making.</b> —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.

INCOME TAX  
Notice to be mailed.

(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.

Amount assessable  
before decision of  
Board.

Board to redeter-  
mine, on notice.

(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.

Amount assessable  
after decision of Board.

(e) **Expiration of right to assess.**—A jeopardy assessment may not be made after the decision of the Board has become final or after the taxpayer has filed a petition for review of the decision of the Board.

Not allowed after  
final decision of Board,  
etc.

(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.

Stay of collection  
upon filing bond.

Conditions.

(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.

Further conditions,  
if bond given before  
filing petition.

(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.

Stay of collection of  
part covered by bond.

Effect of waiver of  
stay, etc.

(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

Collection of unpaid  
amounts when decision  
of Board final.

INCOME TAX  
Credit or refund.  
*Post*, p. 861.

Collection of greater  
assessment.

No other abatement  
claim to be filed.

Bankruptcy and re-  
ceiverships.

Immediate assess-  
ment of tax deficiency  
in bankruptcy and  
receivership cases.

Adjudication of claim  
by court.

Collection of claims  
allowed in court pro-  
ceedings.

Time extension may  
be had.

Period of limitation  
on assessment and col-  
lection.

*Post*, p. 857.

Periods designated.  
Income tax to be  
assessed in two years.

Income received dur-  
ing life of decedent, in  
one year on request of  
executor, etc.

Application to re-  
quest by a corporation.

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. 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 297 in the case of a deficiency in a tax imposed by this title.

#### SEC. 275. PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION.

Except as provided in section 276—

(a) **General rule.**—The amount of income taxes imposed by this title shall be assessed within two years after the return was filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period.

(b) **Request for prompt assessment.**—In the case of income received during the lifetime of a decedent, or by his estate during the period of administration, or by a corporation, the tax shall be assessed, and any proceeding in court without assessment for the collection of such tax shall be begun, within one year after written request therefor (filed after the return is made) by the executor, administrator, or other fiduciary representing the estate of such decedent, or by the corporation, but not after the expiration of two years after the return was filed. This subsection shall not apply in the case of a corporation unless—

(1) Such written request notifies the Commissioner that the corporation contemplates dissolution at or before the expiration of such year; and

(2) The dissolution is in good faith begun before the expiration of such year; and

(3) The dissolution is completed.

(c) 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.

INCOME TAX

Corporation making no return, tax assessed in four years, after returns of shareholders.

#### SEC. 276. SAME—EXCEPTIONS.

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.

Assessment, etc., in case of fraud, or of no return.

(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.

At any time with written consent of Commissioner and taxpayer.

(c) Collection after assessment.—Where the assessment of any income tax imposed by this title has been made within the period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court, but only if begun (1) within six years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the taxpayer before the expiration of such six-year period. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Collection of income tax by distraint, etc.

Time limit.

Extension.

#### SEC. 277. SUSPENSION OF RUNNING OF STATUTE.

Statute of limitations.

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 60 days thereafter.

Suspension of running of, during period of prohibition of assessment, etc.

*Ante*, p. 852.

Until decision of Board, etc.

### Supplement M—Interest and Additions to the Tax

Interest and addition 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.

Failure to file return.

Additional tax imposed on.

Exception, if failure not willful neglect.

Collection, etc.

In lieu of former addition.  
Vol. 44, p. 112.

INCOME TAX  
Interest in deficiencies.  
Assessment and rate.

## SEC. 292. INTEREST ON DEFICIENCIES.

Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the collector, and shall be collected as a part of the tax, at the rate of 6 per centum per annum from the date prescribed for the payment of the tax (or, if the tax is paid in installments, from the date prescribed for the payment of the first installment) to the date the deficiency is assessed, or, in the case of a waiver under section 272(d), to the thirtieth day after the filing of such waiver or to the date the deficiency is assessed whichever is the earlier.

Additions to tax in case of deficiency.

## SEC. 293. ADDITIONS TO THE TAX IN CASE OF DEFICIENCY.

If due to negligence.  
Rate.

(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.

If due to fraud, etc.  
Rate.

(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.

Vol. 44, p. 112.

Additions in case of nonpayment.

## SEC. 294. ADDITIONS TO THE TAX IN CASE OF NONPAYMENT.

### (a) Tax shown on return.—

Interest prescribed if tax not paid when due.

(1) **GENERAL RULE.**—Where the amount determined by the taxpayer as the tax imposed by this title, or any installment thereof, or any part of such amount or installment, is not paid on or before the date prescribed for its payment, there shall be collected as a part of the tax, interest upon such unpaid amount at the rate of 1 per centum a month from the date prescribed for its payment until it is paid.

If tax and interest not paid in full, when extension granted.

(2) **IF EXTENSION GRANTED.**—Where an extension of time for payment of the amount so determined as the tax by the taxpayer, or any installment thereof, has been granted, and the amount the time for payment of which has been extended, and the interest thereon determined under section 295, is not paid in full prior to the expiration of the period of the extension, then, in lieu of the interest provided for in paragraph (1) of this subsection, interest at the rate of 1 per centum a month shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid.

Interest, if deficiency, etc., not paid on notice and demand.

(b) **Deficiency.**—Where a deficiency, or any interest or additional amounts assessed in connection therewith under section 292, or under section 293, or any addition to the tax in case of delinquency provided for in section 291, is not paid in full within ten days from the date of notice and demand from the collector, there shall be collected as part of the tax, interest upon the unpaid amount at the rate of 1 per centum a month from the date of such notice and demand until it is paid. If any part of a deficiency prorated to any unpaid installment under section 272(i) is not paid in full on or before the date prescribed for the payment of such installment, there shall be collected as part of the tax interest upon the unpaid amount at the rate of 1 per centum a month from such date until it is paid.

Nonpayment of prorated installments.  
*Ante*, p. 854.

(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.

INCOME TAX  
Interest rate payable  
by fiduciaries.

(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.

Not applicable to  
amount covered by  
jeopardy bond.  
*Ante*, p. 855.

#### SEC. 295. TIME EXTENDED FOR PAYMENT OF TAX SHOWN ON RETURN.

Time extended for  
payment of tax shown  
on return.

If the time for payment of the amount determined as the tax by the taxpayer, or any installment thereof, is extended under the authority of section 56(c), there shall be collected as a part of such amount, interest thereon at the rate of 6 per centum per annum from the date when such payment should have been made if no extension had been granted, until the expiration of the period of the extension.

Interest to be col-  
lected.

#### 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.

Time extended for  
payment of deficiency.

Interest for period of  
extension.

Additional, if not  
paid.

#### SEC. 297. INTEREST IN CASE OF JEOPARDY ASSESSMENTS.

In the case of the amount collected under section 273(i) there shall be collected at the same time as such amount, and as a part of the tax, interest at the rate of 6 per centum per annum upon such amount from the date of the jeopardy notice and demand to the date of notice and demand under section 273(i), or, in the case of the amount collected in excess of the amount of the jeopardy assessment, interest as provided in section 292. If the amount included in the notice and demand from the collector under section 273(i) is not paid in full within ten days after such notice and demand, then there shall be collected, as part of the tax, interest upon the unpaid amount at the rate of 1 per centum a month (or, for any period the estate of the taxpayer is held by a fiduciary appointed by any court of competent jurisdiction or by will, at the rate of 6 per centum per annum) from the date of such notice and demand until it is paid.

Interest on jeopardy  
assessments.

Rate of, on amount  
collected.  
*Ante*, p. 855.

Additional, if  
amount of deficiency  
not paid in full.

#### 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.

Bankruptcy and re-  
ceiverships.

Interest, if not paid  
on demand.  
*Ante*, p. 856.

INCOME TAX  
Removal of property.

# **SEC. 299. REMOVAL OF PROPERTY OR DEPARTURE FROM UNITED STATES.**

Additions to tax for,  
etc.  
*Ante*, p. 836.

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 147.

Claims against transferees and fiduciaries.

## **Supplement N—Claims against Transferees and Fiduciaries**

Transferred assets.

# **SEC. 311. TRANSFERRED ASSETS.**

Method of collection of tax similar to deficiency.

(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):

Transferees.

(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.

Fiduciaries.  
R. S., sec. 3467, p. 687.

(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.

Determination of amount.

Any such liability may be either as to the amount of tax shown on the return or as to any deficiency in tax.

Limitation periods.

(b) **Period of limitation.**—The period of limitation for assessment of any such liability of a transferee or fiduciary shall be as follows:

One year after taxpayer's assessment.

(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;

Transferee of a transferee, within one year after period of first transferee.

(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;—

One year after court proceedings.

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.

Fiduciary, one year after liability arises.

(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.

Provision for death of taxpayer or terminated corporation.

(c) **Period for assessment against taxpayer.**—For the purposes of this section, if the taxpayer is deceased, or in the case of a corporation, has terminated its existence, the period of limitation for assessment against the taxpayer shall be the period that would be in effect had the death or termination of existence not occurred.

Suspension of running of statute of limitation, after notice mailed, etc.  
*Ante*, p. 852.

(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.**—No such credit or refund shall be allowed or made after two years from the time the tax was paid, unless before the expiration of such period a claim therefor is filed by the taxpayer.

INCOME TAX

Until decision of Board, etc.

Address for notice of liability.

Meaning of "transferee."

Notice of fiduciary relationship.

Powers, etc., of taxpayer transferred to fiduciary on notice to Commissioner.

Powers assumed by fiduciary of transferee.

Manner of notice.

Overpayments.

Of installment.

Credit, if installment payment exceeds correct amount.

Credit or refund for amount already paid.

*Infra.*

Refunds and credits.

Credit against tax then due.

Period of limitation.

INCOME TAX  
Amount of credit or  
refund limited.

Restriction on credit  
or refund if deficiency  
notice mailed taxpayer  
and petition filed with  
Board.

Exceptions.

Overpayments de-  
cided by Board.

Excess collected.

Collection after stat-  
utory limitation.

Decision by Board of  
overpayment.

Limitation.

Refund or credit of  
tax withheld at source.  
*Ante*, p. 833.

Miscellaneous taxes.

Estate tax.

Nonresident de-  
cedents.

Limit on deductions  
from gross estate of,  
repealed.  
Vol. 44, p. 73, amend-  
ed.

Application to deaths  
hereafter.

Statute of limita-  
tions.  
Vol. 44, p. 77, amend-  
ed.

Suspension of, during  
period of prohibition of  
assessment, etc.

Vol. 44, p. 75.

(2) **LIMIT ON AMOUNT OF CREDIT OR REFUND.**—The amount of the credit or refund shall not exceed the portion of the tax paid during the two years immediately preceding the filing of the claim, or if no claim was filed, then during the two 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 paid more than two 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 144(f).

## TITLE II—MISCELLANEOUS TAXES

### Part I—Estate Tax

#### SEC. 401. DEDUCTIONS IN CASE OF NONRESIDENT DECEDENTS.

(a) Section 303(b)(1) of the Revenue Act of 1926 (relating to deductions from the gross estate of a nonresident decedent) is amended by striking out: “, but in no case shall the amount so deducted exceed 10 per centum of the value of that part of his gross estate which at the time of his death is situated in the United States.”

(b) Subsection (a) of this section shall apply in the case of nonresident decedents dying after the enactment of this Act.

#### SEC. 402. SUSPENSION OF RUNNING OF STATUTE OF LIMITATIONS.

(a) Section 310(b) of the Revenue Act of 1926 is amended to read as follows:

“(b) The running of the statute of limitations provided in this section or in section 311 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 subdivision (a) of section 308) be suspended for the period during which the Commissioner is prohibited from making the assessment or



beginning distraint or a proceeding in court (and in any event, if a proceeding in respect of the deficiency is placed on the docket of the Board, until the decision of the Board becomes final), and for 60 days thereafter."

(b) Subsection (a) of this section shall apply in all cases where the period of limitation has not expired prior to the enactment of this Act.

## ESTATE TAX

Until decision of Board, etc.

Applicable to present cases.

Transferee cases.

Vol. 44, p. 81, amended.

Suspension of running of statute, during prohibition of assessment, etc.

Until decision of Board, etc.

Applicable to present cases.

## SEC. 403. SAME—TRANSFEREE CASES.

(a) Section 316(c) of the Revenue Act of 1926 is amended to read as follows:

"(c) The running of the statute of limitations upon the assessment of the liability of a transferee or fiduciary shall, after the mailing of the notice under subdivision (a) of section 308 to the transferee or fiduciary, be suspended for the period during which the Commissioner is prohibited from making the assessment in respect of the liability of the transferee or fiduciary (and in any event, if a proceeding in respect of the liability is placed on the docket of the Board, until the decision of the Board becomes final), and for 60 days thereafter."

(b) Subsection (a) of this section shall apply in all cases where the period of limitation has not expired prior to the enactment of this Act.

Gift tax, etc.

Provisions revived.  
Vol. 23, p. 315.

Vol. 44, p. 86.

## SEC. 404. CREDIT OF GIFT TAX.

Section 322 of the Revenue Act of 1924 (relating to the credit of gift tax against estate tax where the amount of the gift is required to be included in the gross estate of the decedent) is revived as of January 1, 1926 (the effective date of its repeal by the Revenue Act of 1926). Such section shall also be applied in the case of the estate tax imposed by Title III of the Revenue Act of 1926, in the same manner and to the same extent as in the case of the estate tax imposed by Title III of the Revenue Act of 1924.

## Part II—Tax on Admissions and Dues

## TAX ON ADMISSIONS AND DUES

## SEC. 411. ADMISSIONS TAX.

Admissions tax.

Vol. 44, p. 91, amended.

Rates.

(a) The first two paragraphs of section 500 of the Revenue Act of 1926 are amended to read as follows:

"Sec. 500. (a) There shall be levied, assessed, collected, and paid—

"(1) A tax of 1 cent for each 10 cents or fraction thereof of the amount paid for admission to any place, including admission by season ticket or subscription, to be paid by the person paying for such admission; except that in case the amount paid for admission is \$3 or less, no tax shall be imposed, and except that in case of admission to a prize fight, or boxing, sparring, or other pugilistic match or exhibition, for which the amount paid for admission is \$5 or more, the tax shall be 25 per centum of such amount: *Provided*, That an equivalent tax shall be collected on all free or complimentary tickets or admissions to such prize fight, or boxing, sparring, or other pugilistic match or exhibition and the tax shall be on the amount for which a similar seat or box is sold at the said match or exhibition. Amounts paid for admission by season ticket or subscription shall be exempt only if the amount which would be charged to the holder or subscriber for a single admission is \$3 or less;".

No tax if admission \$3 or less.  
For prize fights, etc.

*Proviso.*  
Equivalent for complimentary tickets, etc.

Season tickets.

(b) Subsection (a) of this section shall take effect on the expiration of thirty days after the enactment of this Act.

Effective in 30 days.

TAX ON ADMISSIONS  
AND DUESSales by brokers.  
Vol. 44, p. 91, amend-  
ed.Additional, on sales  
at advanced prices at  
other than theater  
ticket offices.

Effective in 30 days.

Club dues tax.

Vol. 44, p. 92, amend-  
ed.

Rates.

Membership dues.

Initiation fees.

Payment by mem-  
bers.Fraternal lodges, etc.,  
exempt.Life membership pay-  
ments.Terms "dues" and  
"initiation fees" con-  
strued.

Effective in 30 days.

Returns.

"Monthly returns"  
struck out, and "re-  
turns" in lieu.  
Vol. 44, p. 93, amend-  
ed.**SEC. 412. TAX ON SALE OF TICKETS BY BROKERS.**

(a) Paragraph (2) of subdivision (a) of section 500 of the Revenue Act of 1926 is amended to read as follows:

"(2) Upon tickets or cards of admission to theaters, operas, and other places of amusement, sold at news stands, hotels, and places other than the ticket offices of such theaters, operas, or other places of amusement, at not to exceed 75 cents in excess of the sum of the established price therefor at such ticket offices plus the amount of any tax imposed under paragraph (1), a tax equivalent to 5 per centum of the amount of such excess; and if sold for more than 75 cents in excess of the sum of such established price plus the amount of any tax imposed under paragraph (1), a tax equivalent to 50 per centum of the whole amount of such excess, such taxes to be returned and paid, in the manner and subject to the interest provided in section 502, by the person selling such tickets;"

(b) Subsection (a) of this section shall take effect on the expiration of thirty days after the enactment of this Act.

**SEC. 413. CLUB DUES TAX.**

(a) Section 501 of the Revenue Act of 1926 is amended to read as follows:

"SEC. 501. (a) There shall be levied, assessed, collected, and paid a tax equivalent to 10 per centum of any amount paid—

"(1) As dues or membership fees to any social, athletic, or sporting club or organization, if the dues or fees of an active resident annual member are in excess of \$25 per year; or

"(2) As initiation fees to such a club or organization, if such fees amount to more than \$10, or if the dues or membership fees, not including initiation fees, of an active resident annual member are in excess of \$25 per year.

"(b) Such taxes shall be paid by the person paying such dues or fees.

"(c) There shall be exempted from the provisions of this section all amounts paid as dues or fees to a fraternal society, order, or association, operating under the lodge system, or to any local fraternal organization among the students of a college or university. In the case of life memberships a life member shall pay annually, at the time for the payment of dues by active resident annual members, a tax equivalent to the tax upon the amount paid by such a member for dues or membership fees other than assessments, but shall pay no tax upon the amount paid for life membership.

"(d) As used in this section, the term 'dues' includes any assessment irrespective of the purpose for which made; and the term 'initiation fees', includes any payment, contribution, or loan required as a condition precedent to membership, whether or not any such payment, contribution, or loan is evidenced by a certificate of interest or indebtedness or share of stock, and irrespective of the person or organization to whom paid, contributed, or loaned."

(b) Subsection (a) of this section shall take effect on the expiration of thirty days after the enactment of this Act.

**SEC. 414. RETURNS OF ADMISSIONS AND DUES TAX.**

(a) Section 502(a) of the Revenue Act of 1926 is amended by striking out "monthly returns" and inserting in lieu thereof "returns".

(b) Section 502(b) of such Act is amended by striking out "monthly return" and inserting in lieu thereof "return".

## PART III—EXCISE TAXES

## EXCISE TAXES

## SEC. 421. AUTOMOBILE TAX.

Section 600(1) of the Revenue Act of 1926 is repealed.

Automobile tax.

Repealed.  
Vol. 44, p. 93, repealed.

## SEC. 422. REFUND OF AUTOMOBILE TAX TO MANUFACTURER, PRODUCER, OR IMPORTER.

Refund of automobile tax.

(a) Where prior to the date of the enactment of this Act any article subject to the tax imposed by section 600(1) of the Revenue Act of 1926 has been sold by the manufacturer, producer, or importer, and is on such date held by a dealer and intended for sale, there shall be refunded to the manufacturer, producer, or importer the amount of the tax, or if the tax has not been paid, the tax shall be abated.

Refund or abatement on prior sale by manufacturer, etc., to dealer, and held for sale.

(b) As used in this section the term "dealer" includes a wholesaler, jobber, or distributor. For the purposes of this section, an article shall be considered as "held by a dealer" if title thereto has passed to such dealer (whether or not delivery to him has been made), and if for purposes of consumption title to such article or possession thereof has not at any time been transferred to any person other than a dealer.

Terms construed, "dealer."

"Held by dealer."

(c) Under regulations prescribed by the Commissioner, with the approval of the Secretary, the refund provided by this section (1) may be applied as a credit against the tax shown by subsequent returns of the manufacturer, producer, or importer, and (2) may be made to the dealer instead of to the manufacturer, producer, or importer, if the manufacturer, producer, or importer waives any claim for the amount so to be refunded.

Application of refund.

(d) When the refund, credit, or abatement provided for in this section has been allowed to the manufacturer, producer, or importer, he shall remit to the dealer to whom was sold the article in respect of which the refund, credit, or abatement was allowed, so much of that amount of the tax corresponding to the refund, credit, or abatement, as was paid or agreed to be paid by the dealer. Upon the failure of the manufacturer, producer, or importer to make such remission he shall be liable to the dealer for damages in the amount of three times the amount thereof, and the court shall include in any judgment in favor of the dealer in any suit for the recovery of such damages, costs of the suit and a reasonable attorney's fee to be fixed by the court.

Manufacturer, etc., to remit refund, etc., to dealer.

Treble damages for failure.

## SEC. 423. REFUND OF AUTOMOBILE TAX TO VENDEE.

Refund to vendee.

(a) If (1) any person has, prior to January 1, 1928, made a bona fide contract with any other person for the sale or lease, after the enactment of this Act, of any article in respect of which a tax is imposed by section 600(1) of the Revenue Act of 1926, and (2) the contract price includes the amount of the tax imposed by such section, and (3) such contract does not permit the deduction from the amount to be paid thereunder of the whole of the tax imposed by such section, then the vendor or lessor shall refund so much of the amount of such tax as is not so permitted to be deducted from the contract price.

Contract for sale. Vendor to refund tax to vendee if price included in contract, and deduction not permitted thereby.

(b) Any refund by the vendor or lessor under subsection (a) shall be made at the time the sale or lease is consummated. Upon the failure of the vendor or lessor so to refund, he shall be liable to the vendee or lessee for damages in the amount of three times the amount of such refund, and the court shall include in any judgment in favor of the vendee or lessee in any suit for the recovery of such damages, costs of the suit and a reasonable attorney's fee to be fixed by the court.

Refund at time of sale. Treble damages on failure.

## EXCISE TAXES

Refund of automobile accessories tax.  
None to be made on tax imposed.

Vol. 43, p. 322; Vol. 42, p. 291; Vol. 40, p. 1112.

Exceptions.

Judgment of court.

If in excess of proper amount.

On bond for repayment by manufacturer, etc., of refund not distributed to dealer.

Refunding tax on automobile accessories, repealed.

*Ante*, pp. 30, 169, repealed.

Cigar packages.

R. S., sec. 3392, p. 666, amended.

Packages required.

Vol. 44, p. 88, amended.

Punishment for violations.

*Provisos.*  
Retail sales from boxes.

Number allowed each employee without stamps.

## SEC. 424. REFUND OF AUTOMOBILE ACCESSORIES TAX.

(a) No refund shall be made of any amount paid by or collected from any manufacturer, producer, or importer in respect of the tax imposed by subdivision (3) of section 600 of the Revenue Act of 1924, or subdivision (3) of section 900 of the Revenue Act of 1921 or of the Revenue Act of 1918, unless either—

(1) Pursuant to a judgment of a court in an action duly begun prior to April 30, 1928; or

(2) It is established to the satisfaction of the Commissioner that such amount was in excess of the amount properly payable upon the sale or lease of an article subject to tax, or that such amount was not collected, directly or indirectly, from the purchaser or lessee, or that such amount, although collected from the purchaser or lessee, was returned to him; or

(3) The Commissioner certifies to the proper disbursing officer that such manufacturer, producer, or importer has filed with the Commissioner, under regulations prescribed by the Commissioner with the approval of the Secretary, a bond in such sum and with such sureties as the Commissioner deems necessary, conditioned upon the immediate repayment to the United States of such portion of the amount refunded as is not distributed by such manufacturer, producer, or importer, within six months after the date of the payment of the refund, to the persons who purchased for purposes of consumption (whether from such manufacturer, producer, importer, or from any other person) the articles in respect of which the refund is made, as evidenced by the affidavits (in such form and containing such statements as the Commissioner may prescribe) of such purchasers, and that such bond, in the case of a claim allowed after February 28, 1927, was filed before the allowance of the claim by the Commissioner.

(b) The second proviso under the heading "Internal Revenue" in section 1 of the First Deficiency Act, fiscal year 1928, and the second proviso of the fourth paragraph under the heading "Internal Revenue Service" in section 1 of the Treasury and Post Office Appropriation Act for the fiscal year 1929, are repealed.

## SEC. 425. CIGAR PACKAGES.

(a) Section 3392 of the Revised Statutes, as amended, is amended to read as follows:

"SEC. 3392. All cigars weighing more than three pounds per thousand shall be packed in boxes not before used for that purpose containing, respectively, three, five, seven, ten, twelve, thirteen, twenty, twenty-five, fifty, one hundred, two hundred, two hundred and fifty, or five hundred cigars each; and every person who sells, or offers for sale, or delivers, or offers to deliver, any cigars in any other form than in new boxes as above described, or who packs in any box any cigars in excess of or less than the number provided by law to be put in each box, respectively, or who falsely brands any box, or affixes a stamp on any box denoting a less amount of tax than that required by law, shall be fined for each offense not more than \$1,000 and be imprisoned not more than two years: *Provided*, That nothing in this section shall be construed as preventing the sale of cigars at retail by retail dealers from boxes packed, stamped, and branded in the manner prescribed by law: *Provided further*, That each employee of a manufacturer of cigars shall be permitted to use, for personal consumption and for experimental purposes, not to exceed twenty-one cigars per week without the manufacturer of cigars being required to pack the same in boxes or to stamp or pay any internal-

revenue tax thereon, such exemption to be allowed under such rules and regulations as the Secretary of the Treasury may prescribe."

(b) This section shall take effect on the expiration of thirty days after the enactment of this Act.

Effective in 30 days.

## PART IV—SPECIAL TAXES

### SPECIAL TAXES

#### SEC. 431. TAX ON USE OF FOREIGN BUILT BOATS.

Foreign-built boats.

Section 702 of the Revenue Act of 1926 (imposing a tax on the use of certain foreign-built boats) is repealed, to take effect July 1, 1928.

Tax on, repealed.  
Vol. 44, p. 95, repealed.

#### SEC. 432. TAX ON NARCOTICS.

The fourth paragraph of section 1 of the Act entitled "An Act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes," approved December 17, 1914, as amended, is amended to read as follows, effective July 1, 1928:

Tax on narcotics.  
Vol. 44, p. 96, amended.

"Importers, manufacturers, producers, or compounders, \$24 a year; wholesale dealers, \$12 a year; retail dealers, \$3 a year; physicians, dentists, veterinary surgeons, and other practitioners lawfully entitled to distribute, dispense, give away, or administer any of the aforesaid drugs to patients upon whom they in the course of their professional practice are in attendance, shall pay \$1 each year or fraction thereof during which they engage in any of such activities."

Rates.

Fraction of a year.

## PART V—STAMP TAXES

### STAMP TAXES

#### SEC. 441. INSTRUMENTS OF AGRICULTURAL COOPERATIVE ASSOCIATIONS EXEMPT.

Agricultural cooperative associations.

Section 801 of the Revenue Act of 1926 is amended by striking out the period at the end thereof and inserting a semicolon and the following: "or stocks and bonds and other certificates of indebtedness issued by any farmers' or fruit growers' or like associations organized and operated on a cooperative basis for the purposes, and subject to the conditions, prescribed in paragraph (12) of section 231."

Stamp exemptions.  
Vol. 44, p. 99, amended.  
Stocks, etc., of agricultural cooperative associations.

Vol. 44, p. 40.

#### SEC. 442. TAX ON STEAMSHIP TICKETS.

Steamship tickets.

(a) Subdivision 5 of Schedule A of Title VIII of the Revenue Act of 1926 is amended to read as follows:

Vol. 44, p. 103, amended.

"5. Passage ticket, one way or round trip, for each passenger, sold or issued in the United States for passage by any vessel to a port or place not in the United States, Canada, Mexico, or Cuba, if costing not exceeding \$30, \$1; costing more than \$30 and not exceeding \$60, \$3; costing more than \$60, \$5. This subdivision shall not apply to passage tickets costing \$10 or less."

Foreign passage tickets.

Cuba, added.

Exemption.

(b) Subsection (a) of this section shall take effect on the expiration of thirty days after the enactment of this Act.

Effective in 30 days.

#### SEC. 443. SALE OF STAMPS AT POST OFFICES.

Sale of stamps at post offices.

Title VIII of the Revenue Act of 1926 is amended by adding after section 807 a new section to read as follows:

Vol. 44, p. 106, amended.

"SEC. 808. The Commissioner shall furnish to the Postmaster General without prepayment a suitable quantity of adhesive stamps to be distributed to and kept on sale by the various postmasters in the

To be kept on sales at cities of over 25,000 inhabitants.

STAMP TAXES  
Bond and account-  
ability.

Monthly transfer of  
collections.

United States in cities of over 25,000 inhabitants. The Postmaster General may require each such postmaster to give additional or increased bond as postmaster for the value of the stamps so furnished, and each such postmaster shall deposit the receipts from the sale of such stamps to the credit of and render accounts to the Postmaster General at such times and in such form as he may by regulations prescribe. The Postmaster General shall at least once monthly transfer all collections from this source to the Treasury as internal-revenue collections."

#### LIQUOR TAXES

### PART VI—LIQUOR TAXES

Tax on still wines.

#### SEC. 451. TAX ON STILL WINES.

Former law.  
Vol. 40, p. 1110, amend-  
ed.

(a) So much of section 611 of the Revenue Act of 1918 as reads as follows:

"On wines containing not more than 14 per centum of absolute alcohol, 16 cents per wine gallon, the per centum of alcohol taxable under this section to be reckoned by volume and not by weight;

"On wines containing more than 14 per centum and not exceeding 21 per centum of absolute alcohol, 40 cents per wine gallon;

"On wines containing more than 21 per centum and not exceeding 24 per centum of absolute alcohol, \$1 per wine gallon;"

is amended to read as follows:

New rates.

"On wines containing not more than 14 per centum of absolute alcohol, 4 cents per wine gallon, the per centum of alcohol taxable under this section to be reckoned by volume and not by weight;

"On wines containing more than 14 per centum and not exceeding 21 per centum of absolute alcohol, 10 cents per wine gallon;

"On wines containing more than 21 per centum and not exceeding 24 per centum of absolute alcohol, 25 cents per wine gallon;"

(b) Such section is further amended by adding at the end thereof two new paragraphs to read as follows:

Tax free, if for vinegar  
or dealcoholized wines.

"Any such wines may, under such regulations as the Secretary may prescribe, be sold or removed tax free for the manufacture of vinegar, or for the production of dealcoholized wines containing less than one-half of 1 per centum of alcohol by volume.

Dealcoholized with  
less than one-half of 1  
per cent, not taxed.

"The taxes imposed by this section shall not apply to dealcoholized wines containing less than one-half of 1 per centum of alcohol by volume."

In effect in 30 days.

(c) Subsections (a) and (b) of this section shall take effect on the expiration of thirty days after the enactment of this Act.

Grape brandy.

#### SEC. 452. TAX ON GRAPE BRANDY USED IN FORTIFYING.

Reduction of tax on.  
Vol. 40, p. 1110,  
amended.

(a) Section 612 of the Revenue Act of 1918 (imposing tax on grape brandy or wine spirits used for the fortification of wines) is amended by striking out "60 cents per proof gallon" and inserting in lieu thereof "10 cents per proof gallon" and by adding at the end of the first proviso a colon and the following: "*Provided further*, That when such wines are sold or removed for the manufacture of vinegar, or the production of dealcoholized wines containing less than one-half of 1 per centum of alcohol by volume, the tax on such grape brandy or wine spirits under this section, shall, under such regulations as the Secretary may prescribe, be abated or refunded."

Proviso.  
Tax exemption if  
used for vinegar, etc.

Effective in 30 days.

(b) Subsection (a) of this section shall take effect on the expiration of thirty days after the enactment of this Act.

Cereal beverages.

#### SEC. 453. TAX ON CEREAL BEVERAGES.

Tax repealed in 30  
days.  
Vol. 44, p. 105, re-  
pealed.

Section 903 of the Revenue Act of 1926 is repealed, to take effect on the expiration of thirty days after the enactment of this Act.

## TITLE III—AMENDMENTS TO 1926 INCOME TAX

AMENDMENTS TO 1926  
INCOME TAX

### SEC. 501. AFFILIATED CORPORATIONS—STATUTE OF LIMITATIONS.

Affiliated corporations.

(a) Section 240 of the Revenue Act of 1926 is amended by adding at the end thereof a new subdivision to read as follows:

Vol. 44, p. 46, amended.

“(h)(1) If a notice under subdivision (a) of section 274 in respect of a deficiency for the taxable year 1922, 1923, 1924, 1925, 1926, or 1927, has been mailed to a corporation, the suspension of the running of the statute of limitations, provided in subdivision (b) of section 277 and in subdivision (1) of section 283, shall apply in the case of corporations with which such corporation made a consolidated return for such taxable year.

If notice of deficiency for former years has been mailed to corporation, suspension of running of statute of limitations, applies.

Vol. 44, pp. 55, 58, 66.

“(2) If a notice under subdivision (a) of section 274 in respect of a deficiency for the taxable year 1921 or any previous taxable year has been mailed to a corporation, the suspension of the running of the statute of limitations provided in subdivision (b) of section 277 and in subdivision (1) of section 283, shall apply in the case of the corporations with which such corporation was affiliated, determined in accordance with the law applicable to the year in respect of which the deficiency is asserted.”

For 1921 and prior years.

(b) Subsection (a) of this section shall apply in all cases where the period of limitation has not expired prior to the enactment of this Act.

Application if limitation period not expired.

### SEC. 502. EXTENSION OF TIME FOR PAYMENT OF DEFICIENCIES.

Extension of time for payment of deficiencies.

Section 274(k) of the Revenue Act of 1926 is amended by striking out “may grant an extension for the payment of such deficiency or any part thereof for a period not in excess of 18 months” and inserting in lieu thereof “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.”

Vol. 44, p. 57, amended.

Further time in exceptional cases.

### SEC. 503. REQUEST FOR PROMPT ASSESSMENT.

Request for prompt assessment.

Section 277(a)(4) of the Revenue Act of 1926 is amended to read as follows:

Vol. 44, p. 58, amended.

“(4) In the case of income received during the lifetime of a decedent, or by his estate during the period of administration, or by a corporation, the tax shall be assessed, and any proceeding in court without assessment for the collection of such tax shall be begun, within one year 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 the period prescribed for the assessment of the tax in paragraph (1), (2), or (3) of this subdivision. This paragraph shall not apply in the case of a corporation unless (A) such written request notifies the Commissioner that the corporation contemplates dissolution at or before the expiration of such year; and (B) the dissolution is in good faith begun before the expiration of such year; and (C) the dissolution is completed; nor shall it apply in the case of income of a corporation or of an estate during the period of administration unless the written request is filed after the enactment of the Revenue Act of 1928.”

Assessment, etc., within one year after written request by executors, etc.

Application to a corporation intending dissolution.

Not applicable unless request filed.

AMENDMENTS TO 1926  
INCOME TAX  
Statute of limita-  
tions.

Vol. 44, p. 58, amend-  
ed.

Suspension of run-  
ning of, on assessments  
and collections, during  
prohibited period.

Vol. 44, p. 55.

Until decision of  
Board, etc.

Application if period  
not expired.

Statute of limita-  
tions.

Vol. 44, p. 61, amend-  
ed.

Suspension of run-  
ning of, upon liabili-  
ties of transferees, etc.,  
during prohibited pe-  
riod.

Vol. 44, p. 55.

Until decision of  
Board, etc.

Application of period  
not expired.

Waivers after expira-  
tion of period of limita-  
tion.

Vol. 44, p. 59, amend-  
ed.

At any time before  
assessment, by written  
consent of Commis-  
sioner and taxpayer.

Vol. 44, p. 58.

Agreement in writ-  
ing, for extending col-  
lection of income tax,  
etc., by court action.

New subdivision.  
Vol. 44, p. 59, amend-  
ed.

Agreements valid  
hereafter.

#### SEC. 504. SUSPENSION OF RUNNING OF STATUTE OF LIMITATIONS.

(a) Section 277(b) of the Revenue Act of 1926 is amended to read as follows:

"(b) The running of the statute of limitations provided in this section or in section 278 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 subdivision (a) of section 274) be suspended for the period during which the Commissioner is prohibited from making the assessment or beginning distraint or a proceeding in court (and in any event, if a proceeding in respect of the deficiency is placed on the docket of the Board, until the decision of the Board becomes final), and for 60 days thereafter."

(b) Subsection (a) of this section shall apply in all cases where the period of limitation has not expired prior to the enactment of this Act.

#### SEC. 505. SAME—TRANSFEREE CASES.

(a) Section 280(d) of the Revenue Act of 1926 is amended to read as follows:

"(d) The running of the statute of limitations upon the assessment of the liability of a transferee or fiduciary shall, after the mailing of the notice under subdivision (a) of section 274 to the transferee or fiduciary, be suspended for the period during which the Commissioner is prohibited from making the assessment in respect of the liability of the transferee or fiduciary (and in any event, if a proceeding in respect of the liability is placed on the docket of the Board, until the decision of the Board becomes final), and for 60 days thereafter."

(b) Subsection (a) of this section shall apply in all cases where the period of limitation has not expired prior to the enactment of this Act.

#### SEC. 506. WAIVERS AFTER EXPIRATION OF PERIOD OF LIMITATION.

(a) Section 278(c) and (d) of the Revenue Act of 1926 are amended to read as follows:

"(c) Where before the expiration of the time prescribed in section 277 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.

"(d) Where the assessment of any income, excess-profits, or war-profits taxes imposed by this title or by prior Act of Congress has been made (whether before or after the enactment of this Act) within the period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court (begun before or after the enactment of this Act), but only if begun (1) within six years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the taxpayer before the expiration of such six-year period. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon."

(b) Section 278 of the Revenue Act of 1926 is further amended by adding at the end thereof a new subdivision to read as follows:

"(f) Any agreement which would be within the provisions of subdivision (c) or (d) of this section but for the fact that it was



executed after the expiration of the period of limitation extended by such agreement, shall be valid and effective according to its terms if entered into after the enactment of the Revenue Act of 1928 and before January 1, 1929."

(c) The amendments made by this section to the Revenue Act of 1926 shall not be construed as in any manner affecting the validity of waivers made prior to the enactment of this Act, which shall be determined according to the law in existence at the time such waiver was filed.

AMENDMENTS TO 1928  
INCOME TAX

Validity of prior  
waivers not affected.

#### SEC. 507. OVERPAYMENTS FOUND BY BOARD OF TAX APPEALS.

Section 284(e) of the Revenue Act of 1926 is amended to read as follows:

"(e) If the Board finds that there is no deficiency and further finds that the taxpayer has made an overpayment of tax in respect of the taxable year in respect of which the Commissioner determined the deficiency, the Board shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Board has become final, be credited or refunded to the taxpayer as provided in subdivision (a). Unless claim for credit or refund, or the petition, was filed within the time prescribed in subdivision (g) for filing claims, no such credit or refund shall be made of any portion of the tax paid more than four years (or, in the case of a tax imposed by this title, more than three years) before the filing of the claim or the filing of the petition, whichever is earlier."

Overpayments.

Vol. 44, p. 67, amend-  
ed.

Credit or refund to  
taxpayer of, found by  
Board.

Time limitation.

### TITLE IV—ADMINISTRATIVE PROVISIONS

Administrative pro-  
visions.

#### SEC. 601. BOARD OF TAX APPEALS—PROCEDURE.

Sections 906 and 907(a) and (b) of the Revenue of 1924, as amended, are further amended to read as follows:

"SEC. 906. (a) The chairman may from time to time divide the Board into divisions of one or more members, assign the members of the Board thereto, and in case of a division of more than one member, designate the chief thereof. If a division, as a result of a vacancy or the absence or inability of a member assigned thereto to serve thereon, is composed of less than the number of members designated for the division, the chairman may assign other members to the division or direct the division to proceed with the transaction of business without awaiting any additional assignment of members thereto. A division shall hear, and make a determination upon, any proceeding instituted before the Board and any motion in connection therewith, assigned to such division by the chairman, and shall make a report of any such determination which constitutes its final disposition of the proceeding.

"(b) The report of the division shall become the report of the Board within 30 days after such report by the division, unless within such period the chairman has directed that such report shall be reviewed by the Board. Any preliminary action by a division which does not form the basis for the entry of the final decision shall not be subject to review by the Board except in accordance with such rules as the Board may prescribe. The report of a division shall not be a part of the record in any case in which the chairman directs that such report shall be reviewed by the Board.

"(c) If a petition for a redetermination of a deficiency has been filed by the taxpayer, a decision of the Board dismissing the proceeding shall be considered as its decision that the deficiency is the amount determined by the Commissioner. An order specify-

Board of Tax Ap-  
peals.

Amendments.

Divisions to be as-  
signed.  
Vol. 44, p. 106, amend-  
ed.

Filling vacancies.

Duties of divisions.

Report of determina-  
tions.

Effect of report.

Preliminary action.

Review by Board.

Effect of dismissing  
petition for redeter-  
mination of deficiency.

REVENUE ACT OF 1928	ing such amount shall be entered in the records of the Board unless the Board can not determine such amount from the record in the proceeding, or unless the dismissal is for lack of jurisdiction.
Dates of decisions, etc.	"(d) A decision of the Board (except a decision dismissing a proceeding for lack of jurisdiction) shall be held to be rendered upon the date that an order specifying the amount of the deficiency is entered in the records of the Board. If the Board dismisses a proceeding for reasons other than lack of jurisdiction and is unable from the record to determine the amount of the deficiency determined by the Commissioner, or if the Board dismisses a proceeding for lack of jurisdiction, an order to that effect shall be entered in the records of the Board, and the decision of the Board shall be held to be rendered upon the date of such entry.
If proceedings are dismissed.	"(e) If the assessment or collection of any tax is barred by any statute of limitations, the decision of the Board to that effect shall be considered as its decision that there is no deficiency in respect of such tax.
Decision if assessment barred by limitation.	"(f) The findings of the Board made in connection with any decision prior to the enactment of the Revenue Act of 1926 shall, notwithstanding the enactment of such Act, continue to be prima facie evidence of the facts therein stated.
Effect of prior findings.	"SEC. 907. (a) Notice and opportunity to be heard upon any proceeding instituted before the Board shall be given to the taxpayer and the Commissioner, and a report upon the proceeding and a decision thereon shall be made as quickly as practicable. The decision shall be made by a member in accordance with the report of the Board, and such decision so made shall, when entered, be the decision of the Board. If an opportunity to be heard upon the proceeding is given before a division of the Board, neither the taxpayer nor the Commissioner shall be entitled to notice and opportunity to be heard before the Board upon review, except upon a specific order of the chairman. Hearings before the Board and its divisions shall be open to the public, and the testimony, and, if the Board so requires, the argument shall be stenographically reported. The Board is authorized to contract (by renewal of contract or otherwise) for the reporting of such hearings, and in such contract to fix the terms and conditions under which transcripts will be supplied by the contractor to the Board and to other persons and agencies. The proceedings of the Board and its divisions shall be conducted in accordance with such rules of practice and procedure (other than rules of evidence) as the Board may prescribe and in accordance with the rules of evidence applicable in courts of equity of the District of Columbia. In any proceeding involving the issue whether the petitioner has been guilty of fraud with intent to evade tax, where no hearing has been held before the enactment of the Revenue Act of 1928, the burden of proof in respect of such issue shall be upon the Commissioner. The mailing by registered mail of any pleading, decision, order, notice, or process in respect of proceedings before the Board shall be held sufficient service of such pleading, decision, order, notice, or process.
Early hearings and procedure.	"(b) It shall be the duty of the Board and of each division to include in its report upon any proceeding its findings of fact or opinion or memorandum opinion. The Board shall report in writing all its findings of fact, opinions and memorandum opinions."
Restriction on review of decision.	<b>SEC. 602. BOARD OF TAX APPEALS—TRANSFEREE PROCEEDINGS.</b>
Reporting of testimony, etc.	Title IX of the Revenue Act of 1924, as amended, is further amended by adding at the end thereof two new sections to read as follows:
Rules to be prescribed.	
Proceedings involving fraudulent evasion of tax.	
Notices.	
Written report of findings, etc.	
Transferee proceedings.	
New sections. Vol. 44, p. 109, amended.	

## "TRANSFEREE PROCEEDINGS"

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"SEC. 912. In proceedings before the Board the burden of proof shall be upon the Commissioner to show that a petitioner is liable as a transferee of property of a taxpayer, but not to show that the taxpayer was liable for the tax.

Burden of proof on Commissioner to show liability of transferee.

"SEC. 913. Upon application to the Board, a transferee of property of a taxpayer shall be entitled, under rules prescribed by the Board, to a preliminary examination of books, papers, documents, correspondence, and other evidence of the taxpayer or a preceding transferee of the taxpayer's property, if the transferee making the application is a petitioner before the Board for the redetermination of his liability in respect of the tax (including interest, penalties, additional amounts, and additions to the tax provided by law) imposed upon the taxpayer. Upon such application the Board may require by subpoena, ordered by the Board or any division thereof and signed by a member, the production of all such books, papers, documents, correspondence, and other evidence within the United States the production of which, in the opinion of the Board or division thereof, is necessary to enable the transferee to ascertain the liability of the taxpayer or preceding transferee and will not result in undue hardship to the taxpayer or preceding transferee. Such examination shall be had at such time and place as may be designated in the subpoena."

Preliminary examination of taxpayer's books, etc., allowed transferee applying for redetermination of liability.

Production by subpoena.

**SEC. 603. BOARD OF TAX APPEALS—COURT REVIEW OF DECISION.**

Review of decisions of Board.

Subdivisions (c) and (d) of section 1001 of the Revenue Act of 1926 are amended to read as follows:

Vol. 44, p. 109, amended.

"(c) Notwithstanding any provision of law imposing restrictions on the assessment and collection of deficiencies, such review shall not operate as a stay of assessment or collection of any portion of the amount of the deficiency determined by the Board unless a petition for review in respect of such portion is duly filed by the taxpayer, and then only if the taxpayer (1) on or before the time his petition for review is filed has filed with the Board a bond in a sum fixed by the Board not exceeding double the amount of the portion of the deficiency in respect of which the petition for review is filed, and with surety approved by the Board, conditioned upon the payment of the deficiency as finally determined, together with any interest, additional amounts, or additions to the tax provided for by law, or (2) has filed a jeopardy bond under the income or estate tax laws. If as a result of a waiver of the restrictions on the assessment and collection of a deficiency any part of the amount determined by the Board is paid after the filing of the review bond, such bond shall, at the request of the taxpayer, be proportionately reduced.

No stay of collection, etc., unless appeal filed with bond.

Conditions of bond.

Jeopardy bond. Proportionate reduction for payments.

"(d) In cases where assessment or collection has not been stayed by the filing of a bond, then if the amount of the deficiency determined by the Board is disallowed in whole or in part by the court, the amount so disallowed shall be credited or refunded to the taxpayer, without the making of claim therefor, or, if collection has not been made, shall be abated."

Refund of deficiency disallowed by court.

**SEC. 604. SUITS TO RESTRAIN ENFORCEMENT OF LIABILITY OF TRANSFEREE OR FIDUCIARY.**

Suits to restrain enforcement of liability of transferee or fiduciary.

No suit shall be maintained in any court for the purpose of restraining the assessment or collection of (1) the amount of the liability, at law or in equity, of a transferee of property of a taxpayer in respect of any income, war-profits, excess-profits, or estate tax, or (2) the amount of the liability of a fiduciary under section 3467 of the Revised Statutes in respect of any such tax.

Not to be maintained in any court.

REVENUE ACT OF 1928  
Retroactive regula-  
tions.

Vol. 44, p. 114, amend-  
ed.

Amended Treasury  
decision may be with-  
out retroactive effect.

## SEC. 605. RETROACTIVE REGULATIONS.

Section 1108(a) of the Revenue Act of 1926 is amended to read as follows:

"SEC. 1108. (a) In case a regulation or Treasury decision relating to the internal-revenue laws is amended by a subsequent regulation or Treasury decision, made by the Secretary or by the Commissioner with the approval of the Secretary, such subsequent regulation or Treasury decision may, with the approval of the Secretary, be applied without retroactive effect."

Closing agreements.

Authorization for, re-  
lating to tax liability.

Finality of agree-  
ments, except for fraud.

Reopening not al-  
lowed.

No annulment, etc.,  
in any suit.

Former provision for  
settlement repealed.  
Vol. 44, p. 113, re-  
pealed.

Period of limitation  
against United States.

Tax paid after limi-  
tation expired, deemed  
overpayment, and to be  
refunded.

Limitation against  
taxpayer.

Erroneous refunds of  
tax.

Exceptions.

## SEC. 606. CLOSING AGREEMENTS.

(a) **Authorization.**—The Commissioner (or any officer or employee of the Bureau of Internal Revenue, including the field service, authorized in writing by the Commissioner) is authorized to enter into an agreement in writing with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal-revenue tax for any taxable period ending prior to the date of the agreement.

(b) **Finality of agreements.**—If such agreement is approved by the Secretary, or the Undersecretary, within such time as may be stated in such agreement, or later agreed to, such agreement shall be final and conclusive, and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact—

(1) the case shall not be reopened as to the matters agreed upon or the agreement modified, by any officer, employee, or agent of the United States, and

(2) in any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

(c) Section 1106(b) of the Revenue Act of 1926 is repealed, effective on the expiration of 30 days after the enactment of this Act, but such repeal shall not affect any agreement made before such repeal takes effect.

## SEC. 607. EFFECT OF EXPIRATION OF PERIOD OF LIMITATION AGAINST UNITED STATES.

Any tax (or any interest, penalty, additional amount, or addition to such tax) assessed or paid (whether before or after the enactment of this Act) after the expiration of the period of limitation properly applicable thereto shall be considered an overpayment and shall be credited or refunded to the taxpayer if claim therefor is filed within the period of limitation for filing such claim.

## SEC. 608. EFFECT OF EXPIRATION OF PERIOD OF LIMITATION AGAINST TAXPAYER.

A refund of any portion of an internal-revenue tax (or any interest, penalty, additional amount, or addition to such tax) made after the enactment of this Act, shall be considered erroneous—

(a) if made after the expiration of the period of limitation for filing claim therefor, unless within such period claim was filed; or

(b) in the case of a claim filed within the proper time and disallowed by the Commissioner after the enactment of this Act, if the refund was made after the expiration of the period of limitation for filing suit, unless—

(1) within such period suit was begun by the taxpayer, or

(2) within such period, the taxpayer and the Commissioner agreed in writing to suspend the running of the statute of limitations for filing suit from the date of the agreement to the

date of final decision in one or more named cases then pending before the United States Board of Tax Appeals or the courts.

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#### SEC. 609. ERRONEOUS CREDITS.

(a) Credit against barred deficiency.—Any credit against a liability in respect of any taxable year shall be void if any payment in respect of such liability would be considered an overpayment under section 607.

Erroneous credits.

Against barred deficiency.

Ante, p. 874.

(b) Credit of barred overpayment.—A credit of an overpayment in respect of any tax shall be void if a refund of such overpayment would be considered erroneous under section 608.

Barred overpayment.

Ante, p. 874.

(c) Application of section.—The provisions of this section shall apply to any credit made before or after the enactment of this Act.

Application.

#### SEC. 610. RECOVERY OF AMOUNTS ERRONEOUSLY REFUNDED.

(a) Any portion of an internal-revenue tax (or any interest, penalty, additional amount, or addition to such tax) refund of which is erroneously made, within the meaning of section 608, after the enactment of this Act, may be recovered by suit brought in the name of the United States, but only if such suit is begun within two years after the making of such refund.

Recovery of amounts erroneously refunded.

By suit brought hereafter, within two years of refund.

(b) Any portion of an internal-revenue tax (or any interest, penalty, additional amount, or addition to such tax) which has been erroneously refunded (if such refund would not be considered as erroneous under section 608) may be recovered by suit brought in the name of the United States, but only if such suit is begun before the expiration of two years after the making of such refund or before May 1, 1928, whichever date is later.

Former refunds.

#### SEC. 611. COLLECTIONS STAYED BY CLAIM IN ABATEMENT.

If any internal-revenue tax (or any interest, penalty, additional amount, or addition to such tax) was, within the period of limitation properly applicable thereto, assessed prior to June 2, 1924, and if a claim in abatement was filed, with or without bond, and if the collection of any part thereof was stayed, then the payment of such part (made before or within one year after the enactment of this Act) shall not be considered as an overpayment under the provisions of section 607, relating to payments made after the expiration of the period of limitation on assessment and collection.

Collections stayed by claim in abatement.

Payment of any part, not deemed an overpayment.

#### SEC. 612. REPEAL OF SECTION 1106(a) OF 1926 ACT.

Section 1106(a) of the Revenue Act of 1926 is repealed as of February 26, 1926.

Repeal of section 1106 (a) of 1926 Act.

Limitations against United States. Vol. 44, p. 113, amended.

#### SEC. 613. LIEN FOR TAXES.

(a) Section 3186 of the Revised Statutes, as amended, is amended to read as follows:

Lien for taxes.

R. S., sec. 3186, p. 612.

"SEC. 3186. (a) If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any interest, penalty, additional amount, or addition to such tax, together with any costs that may accrue in addition thereto) shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, belonging to such person. Unless another date is specifically fixed by law, the lien shall arise at the time the assessment list was received by the collector and shall continue until the liability for such amount is satisfied or becomes unenforceable by reason of lapse of time.

Unpaid taxes a lien on all property. Vol. 43, p. 994, amended.

Time of.

"(b) Such lien shall not be valid as against any mortgagee, purchaser, or judgment creditor until notice thereof has been filed by the collector—

Notice required to mortgagee, etc. Filing.

REVENUE ACT OF 1928 Under State or Territorial laws.	“(1) in accordance with the law of the State or Territory in which the property subject to the lien is situated, whenever the State or Territory has by law provided for the filing of such notice; or
In office of clerk of district court.	“(2) in the office of the clerk of the United States District Court for the judicial district in which the property subject to the lien is situated, whenever the State or Territory has not by law provided for the filing of such notice; or
In office of District of Columbia Supreme Court.	“(3) in the office of the clerk of the Supreme Court of the District of Columbia, if the property subject to the lien is situated in the District of Columbia.
Issue of certificate of release by collector.	“(c) Subject to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, the collector of internal revenue charged with an assessment in respect of any tax—
Lien satisfied or unenforceable.	“(1) May issue a certificate of release of the lien if the collector finds that the liability for the amount assessed, together with all interest in respect thereof, has been satisfied or has become unenforceable;
On acceptance of bond.	“(2) May issue a certificate of release of the lien if there is furnished to the collector and accepted by him a bond that is conditioned upon the payment of the amount assessed, together with all interest in respect thereof, within the time prescribed by law (including any extension of such time), and that is in accordance with such requirements relating to terms, conditions, and form of the bond and sureties thereon, as may be specified in the regulations;
Partial discharge.	“(3) May issue a certificate of partial discharge of any part of the property subject to the lien if the collector finds that the fair market value of that part of such property remaining subject to the lien is at least double the amount of the liability remaining unsatisfied in respect of such tax and the amount of all prior liens upon such property.
Effect of certificate.	“(d) A certificate of release or of partial discharge issued under this section shall be held conclusive that the lien upon the property covered by the certificate is extinguished.
Acceptance of a single bond.	“(e) The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulation provide for the acceptance of a single bond complying both with the requirements of section 272(j) of the Revenue Act of 1928 (relating to the extension of time for the payment of a deficiency), or of any similar provisions of any prior law, and the requirements of subsection (c) of this section.
<i>Ante</i> , p. 854.	“(f) Subsections (c), (d), and (e) of this section shall apply to a lien in respect of any internal-revenue tax, whether or not the lien is imposed by this section.”
Application of certificate and bond.	“(b) The second sentence of section 315(a) of the Revenue Act of 1926 is repealed.
Release under former Act repealed. Vol. 44, p. 80, amended.	

#### SEC. 614. INTEREST ON OVERPAYMENTS.

Interest on overpayments.	(a) Interest shall be allowed and paid upon any overpayment in respect of any internal-revenue tax, at the rate of 6 per centum per annum, as follows:
Rate allowed.	(1) In the case of a credit, from the date of the overpayment to the due date of the amount against which the credit is taken, but if the amount against which the credit is taken is an additional assessment of a tax imposed by the Revenue Act of 1921 or any subsequent revenue Act, then to the date of the assessment of that amount.
In case of a credit.	

(2) In the case of a refund, from the date of the overpayment to a date preceding the date of the refund check by not more than 30 days, such date to be determined by the Commissioner.

(b) As used in this section the term "additional assessment" means a further assessment for a tax of the same character previously paid in part, and includes the assessment of a deficiency of any income or estate tax imposed by the Revenue Act of 1924 or by any subsequent revenue Act.

(c) Section 1116 of the Revenue Act of 1926 is repealed.

(d) Subsections (a), (b), and (c) shall take effect on the expiration of thirty days after the enactment of this Act, and shall be applicable to any credit taken or refund paid after the expiration of such period, even though allowed prior thereto.

REVENUE ACT OF 1928  
In case of a refund.

Meaning of "additional assessment."

Former provisions repealed.  
Vol. 44, p. 119.  
Effective date, etc.

#### SEC. 615. INTEREST ON JUDGMENTS.

(a) Section 177 of the Judicial Code, as amended, is amended to read as follows:

"SEC. 177. (a) No interest shall be allowed on any claim up to the time of the rendition of judgment by the Court of Claims, unless upon a contract expressly stipulating for the payment of interest, except as provided in subdivision (b).

"(b) In any judgment of any court rendered (whether against the United States, a collector or deputy collector of internal revenue, a former collector or deputy collector, or the personal representative in case of death) for any overpayment in respect of any internal-revenue tax, interest shall be allowed at the rate of 6 per centum per annum upon the amount of the overpayment, from the date of the payment or collection thereof to a date preceding the date of the refund check by not more than thirty days, such date to be determined by the Commissioner of Internal Revenue."

(b) Subsection (a) of this section shall take effect on the expiration of thirty days after the enactment of this Act.

Interest on judgments.  
Judicial Code.  
Vol. 36, p. 1141,  
amended.

Allowance restricted on Court of Claims judgments.  
Vol. 44, p. 119, amended.

Rate on judgments, in any court, for overpayment of internal revenue tax.

Date.

Effective in 30 days.

#### SEC. 616. COMPROMISES—CONCEALMENT OF ASSETS.

Any person who, in connection with any compromise under section 3229 of the Revised Statutes, as amended, or offer of such compromise, or in connection with any closing agreement under section 606 of this Act, or offer to enter into any such agreement, willfully (1) conceals from any officer or employee of the United States any property belonging to the estate of a taxpayer or other person liable in respect of the tax, or (2) receives, destroys, mutilates, or falsifies any book, document, or record, or makes under oath any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax, shall, upon conviction thereof, be fined not more than \$10,000 or imprisoned for not more than one year, or both.

Compromise, concealment of assets, etc.

Punishment for concealing property, false statements, etc., in compromises of internal revenue cases.  
R. S., sec. 3229, p. 620.  
*Ante*, p. 874.

#### SEC. 617. JURISDICTION OF COURTS.

(a) If any person is summoned under the internal-revenue laws to appear, to testify, or to produce books, papers, or other data, the district court of the United States for the district in which such person resides shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, or other data.

(b) The district courts of the United States at the instance of the United States are hereby invested with such jurisdiction to make and issue, both in actions at law and suits in equity, writs and orders of injunction, and of ne exeat republica, orders appointing receivers, and such other orders and process, and to render such judgments and decrees, granting in proper cases both legal and equitable relief

Jurisdiction of courts.

Power to secure testimony, etc.

District courts to issue orders and processes, render judgments, etc., for enforcing internal revenue laws.  
Vol. 44, p. 121, amended.

REVENUE ACT OF 1926.  
Additional to other  
remedies.

together, as may be necessary or appropriate for the enforcement of the internal-revenue laws. The remedies hereby provided are in addition to and not exclusive of any and all other remedies of the United States in such courts or otherwise to enforce such laws.

Examination of books  
and witnesses.  
Vol. 44, p. 113, amend-  
ed.

#### SEC. 618. EXAMINATION OF BOOKS AND WITNESSES.

Section 1104 of the Revenue Act of 1926 is amended to read as follows:

Powers conferred on  
revenue officers to se-  
cure information, etc.

"SEC. 1104. The Commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making a return where none has been made, 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 the matters required to be included in the return, and may require the attendance of the person rendering the return 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 required by law to be included in such return, with power to administer oaths to such person or persons."

Minor amendments.

#### SEC. 619. MINOR ADMINISTRATIVE AMENDMENTS.

Assessments.  
Statement modified.  
Vol. 44, p. 114, amend-  
ed.

(a) Section 1109 of the Revenue Act of 1926 is amended by striking out "Except as provided in sections 277, 278, 310, and 311" and inserting in lieu thereof "Except in the case of income, war-profits, excess-profits, estate, and gift taxes".

Refunds.  
Statement modified.  
Vol. 44, p. 115, amend-  
ed.

(b) Section 3220 of the Revised Statutes, as amended by section 1111 of the Revenue Act of 1926, is amended by striking out "Except as otherwise provided in sections 284 and 319 of the Revenue Act of 1926" and inserting in lieu thereof "Except as otherwise provided by law in the case of income, war-profits, excess-profits, estate, and gift taxes".

Erroneously collected  
taxes.  
Exception modified.  
Vol. 44, p. 115, amend-  
ed.

(c) Section 3228 of the Revised Statutes, as amended by section 1112 of the Revenue Act of 1926, is amended by striking out "except as provided in sections 284 and 319 of the Revenue Act of 1926" and inserting "except as otherwise provided by law in the case of income, war-profits, excess-profits, estate, and gift taxes".

Returns.  
Exception modified.  
Vol. 44, p. 112, amend-  
ed.

(d) Section 3176 of the Revised Statutes, as amended by section 1103 of the Revenue Act of 1926, is amended by striking out "other than a return under Title II of the Revenue Act of 1924 or Title II of the Revenue Act of 1926" and inserting in lieu thereof "other than a return of income tax".

General provisions.

## TITLE V—GENERAL PROVISIONS

Definitions.

#### SEC. 701. DEFINITIONS.

Meaning of terms.  
"Person."

(a) When used in this Act—

(1) The term "person" means an individual, a trust or estate, a partnership, or a corporation.

"Corporation."

(2) The term "corporation" includes associations, joint-stock companies, and insurance companies.

"Domestic."

(3) 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.

"Foreign."

(4) The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.



(5) The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person. REVENUE ACT OF 1928  
"Fiduciary."

(6) The term "withholding agent" means any person required to deduct and withhold any tax under the provisions of section 144 or 145. "Withholding agent."

(7) The term "stock" includes the share in an association, joint-stock company, or insurance company. "Stock."

(8) The term "shareholder" includes a member in an association, joint-stock company, or insurance company. "Shareholder."

(9) 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. "United States."

(10) The term "Secretary" means the Secretary of the Treasury. "Secretary."

(11) The term "Commissioner" means the Commissioner of Internal Revenue. "Commissioner."

(12) The term "collector" means collector of internal revenue. "Collector."

(13) The term "taxpayer" means any person subject to a tax imposed by this Act. "Taxpayer."

(14) The term "military or naval forces of the United States" includes the Marine Corps, the Coast Guard, the Army Nurse Corps, Female, and the Navy Nurse Corps, Female. "Military or naval forces of the United States."

(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. "Includes" and "including."

#### SEC. 702. BASIS OF PROPERTY UPON SALE BY ESTATE—RETROACTIVE. Retroactive provision.

(a) If in the return of any decedent's estate for any taxable year preceding the taxable year 1928, the basis, upon which gain or loss realized upon the sale or other disposition of property acquired by the estate from the decedent was computed, was the value of the property at the time of the death of the decedent or was in accordance with the regulations in force at the time such return was filed, then the computation of such gain or loss shall be made upon such basis, unless claim for refund or credit in respect of such basis, or a written election not to come within the provisions of this subsection, has been filed by the estate before the expiration of the period of limitation for filing claims. Computation for preceding years of value of sale of property acquired by decedent.

(b) In every other case the computation of the gain or loss realized by an estate in any taxable year preceding the taxable year 1928 from the sale or other disposition by it of property acquired by the estate from the decedent, shall be made on such basis as is in accordance with the law properly applicable thereto, without regard to any provision of this Act. By preceding years.

#### SEC. 703. DEDUCTION OF ESTATE AND INHERITANCE TAXES—RETROACTIVE. Estate and inheritance taxes.

(a) In determining the net income of an heir, devisee, legatee, distributee, or beneficiary (hereinafter in this section referred to as "beneficiary") or of an estate for any taxable year, under the Revenue Act of 1926 or any prior revenue Act, the amount of estate, inheritance, legacy, or succession taxes paid or accrued within such taxable year shall be allowed as a deduction as follows: Deductions allowed net income of heir, etc.

(1) If the deduction has been claimed by the estate, but not by the beneficiary, it shall be allowed to the estate; To the estate.

(2) If the deduction has been claimed by the beneficiary, but not by the estate, it shall be allowed to the beneficiary; To the beneficiary.

Under Revenue Act of 1926, etc.

REVENUE ACT OF 1928  
If claimed by estate,  
and the beneficiary.

To the person paying  
the tax.

Claims barred by  
statute of limitations.

Meaning of  
"claimed."

Prior cases not af-  
fected.

Taxability of trusts  
as corporations.

Return by taxpayer  
prior to 1925, taxable as  
a trust and not a cor-  
poration.

Trust, at option of  
trustee, to be considered  
as a trust, the income  
taxable to beneficiaries.

Conditions.

(3) If the deduction has been claimed by the estate and also by the beneficiary, it shall be allowed to the estate (and not to the beneficiary) if the tax was actually paid by the legal representative of the estate to the taxing authorities of the jurisdiction imposing the tax; and it shall be allowed to the beneficiary (and not to the estate) if the tax was actually paid by the beneficiary to such taxing authorities;

(4) If the deduction has not been claimed by the estate nor by the beneficiary, it shall be allowed as a deduction only to the person (either the estate or the beneficiary) by whom the tax was paid to such taxing authorities, and only if a claim for refund or credit is filed within the period of limitation properly applicable thereto;

(5) Notwithstanding the provisions of paragraphs (1), (2), (3), and (4) of this subsection, if the claim of the deduction by the estate is barred by the statute of limitations, but such claim by the beneficiary is not so barred, the deduction shall be allowed to the beneficiary, and if such claim by the beneficiary is barred by the statute of limitations, but such claim by the estate is not so barred, the deduction shall be allowed to the estate.

(b) As used in this section, the term "claimed" means claimed—

(1) In the return; or

(2) In a claim in abatement filed in respect of an assessment made on or before June 2, 1924.

(c) This section shall not affect any case in which a decision of the Board of Tax Appeals or any court has been rendered prior to the enactment of this Act, whether or not such decision has become final.

#### SEC. 704. TAXABILITY OF TRUSTS AS CORPORATIONS—RETROACTIVE.

(a) If a taxpayer filed a return as a trust for any taxable year prior to the taxable year 1925 such taxpayer shall be taxable as a trust for such year and not as a corporation, if such taxpayer was considered to be taxable as a trust and not as a corporation either (1) under the regulations in force at the time the return was made or at the time of the termination of its existence, or (2) under any ruling of the Commissioner or any duly authorized officer of the Bureau of Internal Revenue applicable to any of such years, and interpretative of any provision of the Revenue Act of 1918, 1921, or 1924, which had not been reversed or revoked prior to the time the return was made, or under any such ruling made after the return was filed which had not been reversed or revoked prior to the time of the termination of the taxpayer's existence.

(b) For the purpose of the Revenue Act of 1926 and prior Revenue Acts, a trust shall, at the option of the trustee exercised within one year after the enactment of this Act, be considered as a trust the income of which is taxable (whether distributed or not) to the beneficiaries, and not as an association, if such trust (1) had a single trustee, and (2) was created and operated for the sole purpose of liquidating real property as a single venture (with such powers of administration as are incidental thereto, including the acquisition, improvement, conservation, division, and sale of such property), distributing the proceeds therefrom in due course to or for the benefit of the beneficiaries, and discharging indebtedness secured by the trust property, and (3) has not made a return for the taxable year as an association.

**SEC. 705. INSTALLMENT SALES—RETROACTIVE.**

REVENUE ACT OF 1928

(a) If any taxpayer by an original return made prior to February 26, 1926, changed the method of reporting his net income for the taxable year 1924 or any prior taxable year to the installment basis, then, if his income for such year is properly to be computed on the installment basis—

Installment sales. Computing tax on installment basis, if method changed thereto.

(1) No refund or credit of income, war-profits, or excess-profits taxes for the year in respect of which the change is made or any subsequent year shall be made or allowed, unless the taxpayer has overpaid his taxes for such year, computed by including, in computing income, amounts received during such year on account of sales or other dispositions of property made in any prior year; and

No refund unless taxes overpaid on sales in prior years.

(2) No deficiency shall be determined or found in respect of any such taxes unless the taxpayer has underpaid his taxes for such year, computed by excluding, in computing income, amounts received during such year on account of sales or other dispositions of property made in any year prior to the year in respect of which the change was made.

No deficiency found unless taxes underpaid by excluding sales in prior years.

(b) Nothing in this section shall be construed as in any manner modifying section 607, 608, 609, or 610 of this Act, relating to the effect of the running of the statute of limitations.

No modification of statute of limitations. *Ante*, pp. 874, 875.

**SEC. 706. CONTRIBUTIONS TO CHARITY—RETROACTIVE.**

Contributions to charity.

In computing the net income of any individual, other than a non-resident alien, for the taxable year 1923, there shall be allowed as a deduction (subject to the percentage limitation prescribed by section 214(a)(11) of the Revenue Act of 1921) any contributions or gifts to or for the use of a trust organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, if such individual made during the taxable year 1924 contributions or gifts to the same trust and in the aggregate of substantially the same amount. In no case shall there be allowed as a deduction under this section contributions or gifts to an amount in excess of \$50,000. Any tax paid in respect of such deduction shall, subject to the statutory period of limitation applicable thereto, be credited or refunded.

In net income of individuals for 1923, deduction allowed for any, to a trust for religious etc., purposes.

Condition.

Maximum.

Credit or refund of tax paid.

**SEC. 707. INCOME TAX ON SALE OF VESSELS BUILT BEFORE 1914.**

Income tax on sale of vessels built before 1914.

The second paragraph of section 23 of the Merchant Marine Act, 1920, is amended, to take effect as of June 5, 1920, to read as follows:

Amendment to Merchant Marine Act, 1920. Vol. 41, p. 998, amended.

“During the period of ten years from June 5, 1920, any person, a citizen of the United States, who may sell a vessel documented under the laws of the United States and built prior to January 1, 1914, shall be exempt from all income taxes that would be payable upon any of the proceeds of such sale under the Revenue Act of 1918, or under any subsequent Revenue Act in force during such ten-year period, if the entire proceeds thereof shall be invested in the building of new ships in American shipyards, such ships to be documented under the laws of the United States and to be of a type approved by the board. The basis of any such new ship shall be reduced by the amount of the gain from such sale exempt from taxation under this paragraph.”

Income tax exemption on sales by citizens of American ships built prior to January 1, 1914.

New American ships to be built from proceeds thereof.

Basis of new ships.

**SEC. 708. DEFINITION OF THE TERM “MOTOR BOAT.”**

Definition of “motor boat.”

The term “motor boat,” when used in the Act of September 21, 1922, includes a yacht or pleasure boat, regardless of length or tonnage, whether sail, steam, or motor propelled, owned by a resident of the United States or brought into the United States for

Pleasure boats of residents included in. Vol. 42, p. 885.

**REVENUE ACT OF 1928**

sale or charter to a resident thereof, whether or not such yacht or boat is brought into the United States under its own power, but does not include a yacht or boat used or intended to be used in trade or commerce, nor a yacht or boat built, or for the building of which a contract was entered into, prior to December 1, 1927.

Remission or mitigation of forfeitures.

Provisions for, under customs laws made applicable to internal revenue.

**SEC. 709. REMISSION OR MITIGATION OF FORFEITURES.**

The provisions of law applicable to the remission or mitigation by the Secretary of the Treasury of forfeitures under the customs laws shall apply to forfeitures incurred or alleged to have been incurred, before or after the enactment of this Act, under the internal-revenue laws.

Refunds and credits to be referred to Joint Committee.

No refund, etc., over \$75,000, until after submission to Joint Committee on Internal Revenue.

**SEC. 710. REFUNDS AND CREDITS TO BE REFERRED TO JOINT COMMITTEE.**

No refund or credit of any income, war-profits, excess-profits, estate or gift tax, in excess of \$75,000, shall be made after the enactment of this Act, until after the expiration of thirty days from the date upon which a report giving the name of the person to whom the refund or credit is to be made, the amount of such refund or credit, and a summary of the facts and the decision of the Commissioner of Internal Revenue is submitted to the Joint Committee on Internal Revenue Taxation. A report to Congress shall be made annually by such committee of such refunds and credits, including the names of all persons and corporations to whom amounts are credited or payments are made, together with the amounts credited or paid to each.

Report to Congress.

Commissioners of Court of Claims.

Salaries increased. Vol. 43, p. 984, amended.

*Ante*, p. 51.

**SEC. 711. COMMISSIONERS OF COURT OF CLAIMS.**

The salary of the commissioners of the Court of Claims provided for in the Act entitled "An Act to authorize the appointment of commissioners by the Court of Claims and to prescribe their powers and compensation," approved February 24, 1925, as continued in force by Public Resolution 4, Seventieth Congress, approved January 11, 1928, shall after the date of the enactment of this Act be at the rate of \$7,500 a year.

Bureau of Internal Revenue.

Details of field employees to Washington, etc., authorized.

**SEC. 712. BUREAU OF INTERNAL REVENUE—DETAILS TO WASHINGTON.**

The Commissioner may order any officer or employee of the internal-revenue service engaged in field work to duty with the Bureau of Internal Revenue in the District of Columbia, for such periods as the Secretary may prescribe, and to any designated post of duty outside the District of Columbia, upon the completion of such duty.

Collectors of internal revenue.

Vol. 40, p. 1140, amended.

Salaries increased, etc.

**SEC. 713. SALARIES OF COLLECTORS OF INTERNAL REVENUE.**

Section 1301(b) of the Revenue Act of 1918 is amended to read as follows:

"(b) The salaries of collectors may be readjusted and increased under such regulations as may be prescribed by the Commissioner, subject to the approval of the Secretary, but no collector shall receive a salary in excess of \$7,500 a year."

Repeals.

Parts of Act of 1926 repealed hereby to remain in force for accrued taxes, etc., thereof.

**SEC. 714. REPEALS.**

The parts of the Revenue Act of 1926 which are repealed by this Act shall remain in force for the assessment and collection of all taxes imposed thereby, and for the assessment, imposition, and collection of all interest, penalties, or forfeitures which have accrued or may accrue in relation to any such taxes.

SEC. 715. SEPARABILITY CLAUSE.

If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

REVENUE ACT OF 1928  
Separability.  
Invalidity of any provision not to affect remainder of Act.

SEC. 716. EFFECTIVE DATE OF ACT.

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

Effective date.  
Upon enactment, except as otherwise provided.

Approved, May 29, 1928, 8 a. m.

CHAP. 853.—An Act Making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1928, and prior fiscal years, to provide supplemental appropriations for the fiscal years ending June 30, 1928, and June 30, 1929, and for other purposes.

May 29, 1928.  
[H. R. 13873.]  
[Public, No. 563.]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1928, and prior fiscal years, to provide supplemental appropriations for the fiscal years ending June 30, 1928, and June 30, 1929, and for other purposes, namely:

Second Deficiency Act, 1928.

LEGISLATIVE

Legislative.

SENATE

Senate.

To pay Natalia S. Jones, widow of Honorable Andrieus A. Jones, late a Senator from the State of New Mexico, \$10,000.

Andrieus A. Jones.  
Pay to widow.

To enable the Secretary of the Senate to pay to Natalia S. Jones, widow of Honorable Andrieus A. Jones, from the appropriation for "Mileage of Senators, fiscal year 1928," \$839.20 for mileage of the said Honorable Andrieus A. Jones, late a Senator from the State of New Mexico.

Mileage.

To pay Mary E. Ferris, widow of Honorable Woodbridge N. Ferris, late a Senator from the State of Michigan, \$10,000.

Woodbridge N. Ferris.  
Pay to widow.

To pay Allie D. Willis, widow of Honorable Frank B. Willis, late a Senator from the State of Ohio, \$10,000.

Frank B. Willis.  
Pay to widow.

To enable the Secretary of the Senate to pay from the appropriation "Salaries of officers and employees of the Senate, fiscal year 1928," to Vernon V. Thompson for services as a folder in the folding room of the Senate from February 6 to March 2, 1928, both dates inclusive, at the rate of \$1,140 per annum.

Vernon V. Thompson.  
Services.

To enable the Secretary of the Senate to pay from the appropriation for "Salaries of officers and employees of the Senate, fiscal year 1927," to Florence L. Gulliver, for services rendered as assistant clerk to Honorable Frank L. Smith, of Illinois, from June 1 to 30, 1927, both dates inclusive, at the rate of \$1,830 per annum.

Florence L. Gulliver.  
Services.

To pay William A. Folger for extra and expert services rendered the Committee on Pensions during the first session of the Seventieth Congress as an assistant clerk to said committee, by detail from the Bureau of Pensions, \$1,200.

William A. Folger.  
Services.

For payment to Hicklin Yates for services rendered as clerk to the Special Committee Investigating Campaign Expenditures in Senatorial Primary and General Elections, pursuant to Senate Resolution Numbered 195 of the Sixty-ninth Congress and Senate Resolution Numbered 10 of the present Congress, fiscal year 1928, \$2,500.

Hicklin Yates.  
Services.

For services performed during the summer of 1927 in the removal and cleaning of books and documents incident to the renovation of

Renovation of Library, etc.