88TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 1149

REVENUE ACT OF 1964

FEBRUARY 24, 1964.—Ordered to be printed

Mr. MILLS, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 8363]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 2, 53, 56, 129, 132, 135, 142, 143, 144, 146, 164, 165, 195, 199, 200, 201, 202, and 203.

That the House recede from its disagreement to the amendments of the Senate numbered 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 28, 29, 30, 33, 34, 35, 37, 38, 39, 40, 41, 44, 45, 48, 49, 51, 52, 63, 64, 65, 66, 67, 68, 69, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 102, 103, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 130, 131, 133, 134, 136, 137, 138, 139, 140, 148, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 169, 170, 171, 172, 173, 174, 175, 176, 180, 181, 182, 183, 184, 186, 187, 188, 189, 190, 191, 192, 204, 205, 206, 207, and 208, and agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 202. RETIREMENT INCOME CREDIT OF CERTAIN MARRIED INDIVIDUALS.

(a) DETERMINATION OF RETIREMENT INCOME.—Section 37 (relating to retirement income) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) SPECIAL RULES FOR CERTAIN MARRIED COUPLES.—

"(1) ELECTION.—A husband and wife who make a joint return for the taxable year and both of whom have attained the age of 65 before the close of the taxable year may elect (at such time and in such manner as the Secretary or his delegate by regulations prescribes) to determine the amount of the credit allowed by subsection (a) by applying the provisions of paragraph (2).

"(2) SPECIAL RULES.—If an election is made under paragraph (1) for the taxable year, for purposes of subsection (a)—

"(A) if either spouse is an individual who has received earned income within the meaning of subsection (b), the other spouse shall be considered to be an individual who has received earned income within the meaning of such subsection; and

"(B) subsection (d) shall be considered as providing that the amount of the combined retirement income of both spouses shall not exceed $2,286, less the sum of the amounts specified in paragraphs (1) and (2) of subsection (d) for each spouse."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1963.

And the Senate agree to the same.

Amendment numbered 20:

That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out and in lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(1) the cost of $50,000 of such insurance, and

And the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

Page 7, in the last line of the matter following line 3, of the Senate engrossed amendments, strike out "222" and insert: *221*; and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows:

Page 7, line 6, of the Senate engrossed amendments, strike out "222" and insert: *221*; and the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out and in lieu of the matter proposed to be inserted by the Senate amendment insert the following:

period, if such amounts are at a rate which exceeds 75 percent of the regular weekly rate of wages of the employee (as determined under regulations prescribed by the Secretary or his delegate). If amounts attributable to the first 30 calendar days in such period are at a rate which does not exceed 75 percent of the regular weekly rate of wages of the employee, the first sentence of this subsection (1) shall not apply to the extent that such amounts exceed a weekly rate of $75, and (2) shall not apply to amounts attributable to the first 7 calendar days in such period unless the employee is hospitalized on account of personal injuries or sickness for at least one day during such period."

And the Senate agree to the same.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(5) State and local taxes on the sale of gasoline, diesel fuel, and other motor fuels.

And the Senate agree to the same.

Amendment numbered 36:

That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with amendments as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

(b) UNLIMITED CHARITABLE CONTRIBUTION DEDUCTION.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by inserting after subsection (f) (added by subsection (c) of this section) the following new subsection:

"(g) APPLICATION OF UNLIMITED CHARITABLE CONTRIBUTION DEDUCTION.—

"(1) ALLOWANCE OF DEDUCTION FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1963.—If the taxable year begins after December 31, 1963—

"(A) subsection (b)(1)(C) shall apply only if the taxpayer so elects (at such time and in such manner as the Secretary or his delegate by regulations prescribes); and

"(B) for purposes of subsection (b)(1)(C), the amount of the charitable contributions for the taxable year (and for all prior taxable years beginning after December 31, 1963) shall be determined without the application of subsection (b)(5) and solely by reference to charitable contributions described in paragraph (2).

If the taxpayer elects to have subsection (b)(1)(C) apply for the taxable year, then for such taxable year subsection (a) shall apply

only with respect to charitable contributions described in paragraph (2), and no amount of charitable contributions made in the taxable year or any prior taxable year may be treated under subsection (b)(5) as having been made in the taxable year or in any succeeding taxable year.

"(2) QUALIFIED CONTRIBUTIONS.—The charitable contributions referred to in paragraph (1) are—

"(A) any charitable contribution described in subsection (b)(1)(A);

"(B) any charitable contribution, not described in subsection (b)(1)(A), to an organization described in subsection (c)(2) substantially more than half of the assets of which is devoted directly to, and substantially all of the income of which is expended directly for, the active conduct of the activities constituting the purpose or function for which it is organized and operated;

"(C) any charitable contribution, not described in subsection (b)(1)(A), to an organization described in subsection (c)(2) which meets the requirements of paragraph (3) with respect to such charitable contribution; and

"(D) any charitable contribution payment of which is made on or before the date of the enactment of the Revenue Act of 1964.

"(3) ORGANIZATIONS EXPENDING AT LEAST 50 PERCENT OF DONOR'S CONTRIBUTIONS.—An organization shall be an organization referred to in paragraph (2)(C), with respect to any charitable contribution, only if—

"(A) not later than the close of the third year after the organization's taxable year in which the contribution is received (or before such later time as the Secretary or his delegate may allow upon good cause shown by such organization), such organization expends an amount equal to at least 50 percent of such contribution for—

"(i) the active conduct of the activities constituting the purpose or function for which it is organized and operated,

"(ii) assets which are directly devoted to such active conduct,

"(iii) contributions to organizations which are described in subsection (b)(1)(A) or in paragraph (2)(B) of this subsection, or

"(iv) any combination of the foregoing; and

"(B) for the period beginning with the taxable year in which such contribution is received and ending with the taxable year in which subparagraph (A) is satisfied with respect to such contribution, such organization expends all of its net income (determined without regard to capital gains and losses) for the purposes described in clauses (i), (ii), (iii), and (iv) of subparagraph (A).

If the taxpayer so elects (at such time and in such manner as the Secretary or his delegate by regulations prescribes) with respect to contributions made by him to any organization, then, in applying subparagraph (B) with respect to contributions made by him to such organization during his taxable year for which such election is made

and during all his subsequent taxable years, amounts expended by the organization after the close of any of its taxable years and on or before the 15th day of the third month following the close of such taxable year shall be treated as expended during such taxable year.

"(4) DISQUALIFYING TRANSACTIONS.—An organization shall be an organization referred to in subparagraph (B) or (C) of paragraph (2) only if at no time during the period consisting of the organization's taxable year in which the contribution is received, its 3 preceding taxable years, and its 3 succeeding taxable years, such organization—

"(A) lends any part of its income or corpus to,

"(B) pays compensation (other than reasonable compensation for personal services actually rendered) to,

"(C) makes any of its services available on a preferential basis to,

"(D) purchases more than a minimal amount of securities or other property from, or

"(E) sells more than a minimal amount of securities or other property to,

the donor of such contribution, any member of his family (as defined in section 267(c)(4)), any employee of the donor, any officer or employee of a corporation in which he owns (directly or indirectly) 50 percent or more in value of the outstanding stock, or any partner or employee of a partnership in which he owns (directly or indirectly) 50 percent or more of the capital interest or profits interest. This paragraph shall not apply to transactions occurring on or before the date of the enactment of the Revenue Act of 1964."

Page 62, line 3, of the House engrossed bill, strike out "(g) and (h)," and insert: *(h) and (i),*

And the Senate agree to the same.

Amendment numbered 42:

That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment as follows:

Page 14, line 8, of the Senate engrossed amendments, strike out the period and insert:

, except that such amendments shall not apply to any transfer of a future interest made before July 1, 1964, where—

(A) the sole intervening interest or right is a nontransferable life interest reserved by the donor, or

(B) in the case of a joint gift by husband and wife, the sole intervening interest or right is a nontransferable life interest reserved by the donors which expires not later than the death of whichever of such donors dies later.

For purposes of the exception contained in the preceding sentence, a right to make a transfer of the reserved life interest to the donee of the future interest shall not be treated as making a life interest transferable.

And the Senate agree to the same.

Amendment numbered 43:

That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment as follows:

Page 16, lines 1 and 2, of the Senate engrossed amendments, strike out "may be prescribed by the Secretary or his delegate" and insert: *the Secretary or his delegate by regulations prescribes*

And the Senate agree to the same.

Amendment numbered 46:

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out and in lieu of the matter proposed to be inserted by the Senate amendment insert the following:

> "*(B) The $600 limit of subparagraph (A) shall be increased (to an amount not above $900) by the amount of expenses incurred by the taxpayer for any period during which the taxpayer had 2 or more dependents.*

And the Senate agree to the same.

Amendment numbered 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment as follows:

Page 19, line 21, of the Senate engrossed amendments, strike out "$7,000" and insert: *$6,000*

And the Senate agree to the same.

Amendment numbered 50:

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with amendments as follows:

Strike out the matter proposed to be stricken out and omit the matter proposed to be inserted by the Senate amendment.

Page 68, line 8, of the House engrossed bill, strike out "219" and insert: *218*

Page 71 of the House engrossed bill, in the matter following line 14, strike out " 'Sec. 219. Cross references.' " and insert: "*Sec. 218. Cross references.*"

And the Senate agree to the same.

Amendment numbered 54:

That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment as follows:

Page 22, line 18, of the Senate engrossed amendments, strike out "215" and insert: *214*; and the Senate agree to the same.

Amendment numbered 55:

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out and in lieu of the matter proposed to be inserted by the Senate amendment insert the following: *215*; and the Senate agree to the same.

Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with amendments as follows:

Page 31, line 18, of the Senate engrossed amendments, strike out "217" and insert: *216*

Page 32, line 1, of the Senate engrossed amendments, beginning with "which" strike out all through "80a–2))" in line 5 and insert: *which is a face-amount certificate company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 and following) and which is subject to the banking laws of the State in which such institution is incorporated, interest on face-amount certificates (as defined in section 2(a)(15) of such Act)*

Page 32, line 13, of the Senate engrossed amendments, strike out "25 percent" and insert: *15 percent*

And the Senate agree to the same.

Amendment numbered 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 217. LIMITATION OF TRAVFL ALLOCATION REQUIREMENT TO FOREIGN TRAVEL.

(a) LIMITATION OF APPLICATION OF SECTION 274(c).—Section 274(c) (relating to traveling) is amended to read as follows:

"(c) CERTAIN FOREIGN TRAVEL.—

"(1) IN GENERAL.—In the case of any individual who travels outside the United States away from home in pursuit of a trade or business or in pursuit of an activity described in section 212, no deduction shall be allowed under section 162 or section 212 for that portion of the expenses of such travel otherwise allowable under such section which, under regulations prescribed by the Secretary or his delegate, is not allocable to such trade or business or to such activity.

"(2) EXCEPTION.—Paragraph (1) shall not apply to the expenses of any travel outside the United States away from home if—

"(A) such travel does not exceed one week, or

"(B) the portion of the time of travel outside the United States away from home which is not attributable to the pursuit of the taxpayer's trade or business or an activity described in section 212 is less than 25 percent of the total time on such travel.

"(3) DOMESTIC TRAVEL EXCLUDED.—For purposes of this subsection, travel outside the United States does not include any travel from one point in the United States to another point in the United States."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years ending after December 31, 1962, but only in respect of periods after such date.

And the Senate agree to the same.

Amendment numbered 59:

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment as follows:

Page 33, line 6, of the Senate engrossed amendments, strike out "219" and insert: *218*; and the Senate agree to the same.

Amendment numbered 60:

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment as follows:

Page 35, line 2, of the Senate engrossed amendments, strike out "220" and insert: *219*; and the Senate agree to the same.

Amendment numbered 61:

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with amendments as follows:

Page 37, line 2, of the Senate engrossed amendments, strike out "221" and insert: *220*

Page 44 of the Senate engrossed amendments, after line 22, insert:

If for the period (or part thereof) referred to in clauses (ii) and (iii) such corporation has no gross income, the provisions of clauses (ii) and (iii) shall be treated as satisfied if it is reasonable to anticipate that, with respect to the first taxable year thereafter for which such corporation has gross income, the provisions of such clauses will be satisfied.

And the Senate agree to the same.

Amendment numbered 62:

That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out and in lieu of the matter proposed to be inserted by the Senate amendment insert the following: *221*; and the Senate agree to the same.

Amendment numbered 70:

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(6) APPLICATION OF SUBSECTION (b)(5) WHERE OPTIONS ARE FOR STOCK OF SAME CLASS IN SAME CORPORATION.—The requirement of subsection (b)(5) shall be considered to have been met in the case of any option (referred to in this paragraph as 'new option') granted to an individual if—

"(A) the new option and all outstanding options referred to in subsection (b)(5) are to purchase stock of the same class in the same corporation, and

"(B) the new option by its terms is not exercisable while there is outstanding (within the meaning of paragraph (2)) any qualified stock option (or restricted stock option) which was granted, before the granting of the new option, to such individual

to purchase stock in such corporation at a price (determined as of the date of grant of the new option) higher than the option price of the new option.

And the Senate agree to the same.

Amendment numbered 96:

That the House recede from its disagreement to the amendment of the Senate numbered 96, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 222. SALES AT RETAIL UNDER REVOLVING CREDIT PLANS.

(a) TREATMENT UNDER INSTALLMENT METHOD.—Section 453 (relating to installment method of accounting) is amended by adding at the end thereof the following new subsection:

"(e) REVOLVING CREDIT TYPE PLANS.—For purposes of subsection (a), the term 'installment plan' includes a revolving credit type plan which provides that the purchaser of personal property at retail may pay for such property in a series of periodic payments of an agreed portion of the amounts due the seller under the plan, except that such term does not include any such plan with respect to a purchaser who uses his account primarily as an ordinary charge account."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in respect of sales made during taxable years beginning after December 31, 1963.

And the Senate agree to the same.

Amendment numbered 97:

That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with amendments as follows:

Page 57, line 14, of the Senate engrossed amendments, strike out "224" and insert: *223*

Page 57, line 14, of the Senate engrossed amendments, strike out **"AND CREDITS"**

Page 57, line 17, of the Senate engrossed amendments, strike out "OR CREDIT"

Page 58, line 4, of the Senate engrossed amendments, strike out "or credit"

Page 58, line 6, of the Senate engrossed amendments, strike out "or credit"

Page 58, line 7, of the Senate engrossed amendments, after the period and before the quotation marks insert: *This subsection shall not apply in respect of the deduction for income, war profits, and excess profits taxes imposed by the authority of any foreign country or possession of the United States.*

Page 58, line 11, of the Senate engrossed amendments, strike out "sentence" and insert: *sentences*

Page 58, line 19, of the Senate engrossed amendments, strike out "or credit"

Page 58, line 22, of the Senate engrossed amendments, strike out "or credit"

Page 58, line 23, of the Senate engrossed amendments, after the period and before the quotation marks insert: *The preceding sentence*

shall not apply in respect of the deduction for income, war profits, and excess profits taxes imposed by the authority of any foreign country or possession of the United States.

Page 60, line 4, of the Senate engrossed amendments, strike out "or credit"

Page 61, line 3, of the Senate engrossed amendments, strike out "or credit"

Page 61, line 12, of the Senate engrossed amendments, strike out "or credit"

And the Senate agree to the same.

Amendment numbered 98:

That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out and in lieu of the matter proposed to be inserted by the Senate amendment insert the following: *22⅘*; and the Senate agree to the same.

Amendment numbered 99:

That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out by the Senate amendment and in lieu thereof insert the following:

(c) CERTAIN CARRYING CHARGES.—Section 163(b)(1) (relating to installment purchases where interest charge is not separately stated) is amended—

(1) by striking out "personal property is purchased" and inserting in lieu thereof "personal property or educational services are purchased"; and

(2) by adding at the end thereof the following new sentence: "For purposes of this paragraph, the term 'educational services' means any service (including lodging) which is purchased from an educational institution (as defined in section 151(e)(4)) and which is provided for a student of such institution."

And the Senate agree to the same.

Amendment numbered 100:

That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out and in lieu of the matter proposed to be inserted by the Senate amendment insert the following:

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to payments made after December 31, 1963, on account of sales or exchanges of property occurring after June 30, 1963, other than any sale or exchange made pursuant to a binding written contract (including an irrevocable written option) entered into before July 1, 1963. The amendments made by subsection (c) shall apply to payments made during taxable years beginning after December 31, 1963.

And the Senate agree to the same.

Amendment numbered 101:

That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out and in lieu of the matter proposed to be inserted by the Senate amendment insert the following: *225*; and the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment, as follows:

Strike out the matter proposed to be stricken out and in lieu of the matter proposed to be inserted by the Senate amendment insert the following: *obligations*,; and the Senate agree to the same.

Amendment numbered 105:

That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

> "(*iii*) *rendering services or making facilities available in connection with activities described in clauses* (*i*) *and* (*ii*) *carried on by the corporation rendering services or making facilities available, or*
>
> "(*iv*) *rendering services or making facilities available to another corporation which is engaged in the lending or finance business* (*within the meaning of this paragraph*), *if such services or facilities are related to the lending or finance business* (*within such meaning*) *of such other corporation and such other corporation and the corporation rendering services or making facilities available are members of the same affiliated group* (*as defined in section 1504*).

And the Senate agree to the same.

Amendment numbered 106:

That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out and in lieu of the matter proposed to be inserted by the Senate amendment insert the following:

> *unless the loans, notes, or installment obligations are evidenced or secured by contracts of conditional sale, chattel mortgages, or chattel lease agreements arising out of the sale of goods or services in the course of the borrower's or transferor's trade or business, or*

And the Senate agree to the same.

Amendment numbered 141:

That the House recede from its disagreement to the amendment of the Senate numbered 141, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out by the Senate amendment and in lieu thereof insert:

(j) INCREASE IN BASIS WITH RESPECT TO CERTAIN FOREIGN PERSONAL HOLDING COMPANY STOCK OR SECURITIES.—

(1) IN GENERAL.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by redesignating section 1022 as section 1023 and by inserting after section 1021 the following new section:

"SEC. 1022. INCREASE IN BASIS WITH RESPECT TO CERTAIN FOREIGN PERSONAL HOLDING COMPANY STOCK OR SECURITIES.

"(a) GENERAL RULE.—The basis (determined under section 1014(b)(5), relating to basis of stock or securities in a foreign personal holding company) of a share of stock or a security, acquired from a decedent dying after December 31, 1963, of a corporation which was a foreign personal holding company for its most recent taxable year ending before the date of the decedent's death shall be increased by its proportionate share of any Federal estate tax attributable to the net appreciation in value of all of such shares and securities determined as provided in this section.

"(b) PROPORTIONATE SHARE.—For purposes of subsection (a), the proportionate share of a share of stock or of a security is that amount which bears the same ratio to the aggregate increase determined under subsection (c)(2) as the appreciation in value of such share or security bears to the aggregate appreciation in value of all such shares and securities having appreciation in value.

"(c) SPECIAL RULES AND DEFINITIONS.—For purposes of this section—

"(1) FEDERAL ESTATE TAX.—The term 'Federal estate tax' means only the tax imposed by section 2001 or 2101, reduced by any credit allowable with respect to a tax on prior transfers by section 2013 or 2102.

"(2) FEDERAL ESTATE TAX ATTRIBUTABLE TO NET APPRECIATION IN VALUE.—The Federal estate tax attributable to the net appreciation in value of all shares of stock and securities to which subsection (a) applies is that amount which bears the same ratio to the Federal estate tax as the net appreciation in value of all of such shares and securities bears to the value of the gross estate as determined under chapter 11 (including section 2032, relating to alternate valuation).

"(3) NET APPRECIATION.—The net appreciation in value of all shares and securities to which subsection (a) applies is the amount by which the fair market value of all such shares and securities exceeds the adjusted basis of such property in the hands of the decedent.

"(4) FAIR MARKET VALUE.—For purposes of this section, the term 'fair market value' means fair market value determined under chapter 11 (including section 2032, relating to alternate valuation).

"(d) LIMITATIONS.—This section shall not apply to any foreign personal holding company referred to in section 342(a)(2)."

(2) AMENDMENT OF SECTION 1016(a).—Section 1016(a) (relating to adjustments to basis) is amended by striking out the period at the end thereof and by inserting in lieu thereof a semicolon and by adding at the end thereof the following new paragraph:

"(21) to the extent provided in section 1022, relating to increase in basis for certain foreign personal holding company stock or securities."

(3) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 is amended by striking out

"Sec. 1022. Cross references."

and inserting in lieu thereof the following:

"Sec. 1022. Increase in basis with respect to certain foreign personal holding company stock or securities.
"Sec. 1023. Cross references."

And the Senate agree to the same.

Amendment numbered 145:

That the House recede from its disagreement to the amendment of the Senate numbered 145, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out by the Senate amendment and in lieu thereof insert:

(4) The amendments made by subsection (j) shall apply in respect of decedents dying after December 31, 1963.

And the Senate agree to the same.

Amendment numbered 147:

That the House recede from its disagreement to the amendment of the Senate numbered 147, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out and in lieu of the matter proposed to be inserted by the Senate amendment insert the following: *226*; and the Senate agree to the same.

Amendment numbered 149:

That the House recede from its disagreement to the amendment of the Senate numbered 149, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out and in lieu of the matter proposed to be inserted by the Senate amendment insert the following: *227*; and the Senate agree to the same.

Amendment numbered 162:

That the House recede from its disagreement to the amendment of the Senate numbered 162, and agree to the same with an amendment as follows:

Page 68, line 22, of the Senate engrossed amendments, strike out "229" and insert: *228*; and the Senate agree to the same.

Amendment numbered 163:

That the House recede from its disagreement to the amendment of the Senate numbered 163, and agree to the same with an amendment as follows:

Page 70, line 22, of the Senate engrossed amendments, strike out "230" and insert: *229*; and the Senate agree to the same.

Amendment numbered 166:

That the House recede from its disagreement to the amendment of the Senate numbered 166, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out by the Senate amendment and in lieu thereof insert the following:

SEC. 230. CAPITAL LOSS CARRYOVERS FOR TAXPAYERS OTHER THAN CORPORATIONS.

(a) IN GENERAL.—Section 1212 (relating to capital loss carryover) is amended—

(1) by striking out "If for any taxable year the taxpayer" and inserting in lieu thereof:

"(a) CORPORATIONS.—If for any taxable year a corporation"; and

(2) by adding at the end thereof the following new subsection:

"(b) OTHER TAXPAYERS.—

"(1) IN GENERAL.—If a taxpayer other than a corporation has a net capital loss for any taxable year beginning after December 31, 1963—

"(A) the excess of the net short-term capital loss over the net long-term capital gain for such year shall be a short-term capital loss in the succeeding taxable year, and

"(B) the excess of the net long-term capital loss over the net short-term capital gain for such year shall be a long-term capital loss in the succeeding taxable year.

For purposes of this paragraph, in determining such excesses an amount equal to the excess of the sum allowed for the taxable year under section 1211(b) over the gains from sales or exchanges of capital assets (determined without regard to this sentence) shall be treated as a short-term capital gain in such year.

"(2) TRANSITIONAL RULE.—In the case of a taxpayer other than a corporation, there shall be treated as a short-term capital loss in the first taxable year beginning after December 31, 1963, any amount which is treated as a short-term capital loss in such year under this subchapter as in effect immediately before the enactment of the Revenue Act of 1964."

(b) TECHNICAL AMENDMENTS.—

(1) Section 1222(9) (relating to net capital gain) is amended to read as follows:

"(9) NET CAPITAL GAIN.—In the case of a corporation, the term 'net capital gain' means the excess of the gains from sales or exchanges of capital assets over the losses from such sales or exchanges."

(2) The second sentence of section 1222(10) (relating to net capital loss) is amended by striking out "For the purpose" and inserting in lieu thereof "In the case of a corporation, for the purpose".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1963.

And the Senate agree to the same.

Amendment numbered 167:

That the House recede from its disagreement to the amendment of the Senate numbered 167, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out and in lieu of the matter proposed to be inserted by the Senate amendment insert the following: *231*; and the Senate agree to the same.

Amendment numbered 168:

That the House recede from its disagreement to the amendment of the Senate numbered 168, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out and in lieu of the matter proposed to be inserted by the Senate amendment insert the following: *232*; and the Senate agree to the same.

Amendment numbered 177:

That the House recede from its disagreement to the amendment of the Senate numbered 177, and agree to the same with an amendment as follows:

Page 81, line 11, of the Senate engrossed amendments, strike out "235" and insert: *233*; and the Senate agree to the same.

Amendment numbered 178:

That the House recede from its disagreement to the amendment of the Senate numbered 178, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out and in lieu of the matter proposed to be inserted by the Senate amendment insert the following: *234*; and the Senate agree to the same.

Amendment numbered 179:

That the House recede from its disagreement to the amendment of the Senate numbered 179, and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out and in lieu of the matter proposed to be inserted by the Senate amendment insert the following: *235*; and the Senate agree to the same.

Amendment numbered 185:

That the House recede from its disagreement to the amendment of the Senate numbered 185, and agree to the same with an amendment, as follows:

Strike out the matter proposed to be stricken out and insert the matter proposed to be inserted by the Senate amendment and on page 268 of the House engrossed bill strike out lines 20, 21, and 22, and insert:

> *(C) ADOPTED CHILD—For purposes of this section, a legally adopted child of an individual shall be treated as a child of such individual by blood.*

And the Senate agree to the same.

Amendment numbered 193:

That the House recede from its disagreement to the amendment of the Senate numbered 193, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 236. VALIDITY OF TAX LIENS AGAINST PURCHASERS OF MOTOR VEHICLES.

(a) PURCHASERS WITHOUT ACTUAL NOTICE OR KNOWLEDGE OF LIEN.—Section 6323 (relating to validity of liens for Federal taxes) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) EXCEPTION IN CASE OF MOTOR VEHICLES.—

"(1) EXCEPTION.—Even though notice of a lien provided in section 6321 has been filed in the manner prescribed in subsection (a) of this section, the lien shall not be valid with respect to a motor vehicle, as defined in paragraph (2) of this subsection, as against any purchaser of such motor vehicle for an adequate and full consideration in money or money's worth if—

"(A) at the time of the purchase the purchaser is without notice or knowledge of the existence of such lien, and

"(B) before the purchaser obtains such notice or knowledge, he has acquired possession of such motor vehicle and has not thereafter relinquished possession of such motor vehicle to the seller or his agent.

"(2) DEFINITION OF MOTOR VEHICLE.—As used in this subsection, the term 'motor vehicle' means a self-propelled vehicle which is registered for highway use under the laws of any State or foreign country."

(b) LIENS FOR ESTATE AND GIFT TAXES.—Section 6324 (relating to special lien for estate and gift taxes) is amended by adding at the end thereof the following new subsection:

"(d) EXCEPTION IN CASE OF MOTOR VEHICLES.—The lien imposed by subsection (a) or (b) shall not be valid with respect to a motor vehicle, as defined in section 6323(d)(2), as against any purchaser of such motor vehicle for an adequate and full consideration in money or money's worth if—

"(1) at the time of the purchase the purchaser is without notice or knowledge of the existence of such lien, and

"(2) before the purchaser obtains such notice or knowledge, he has acquired possession of such motor vehicle and has not thereafter relinquished possession of such motor vehicle to the seller or his agent."

(c) CLERICAL AMENDMENTS.—

(1) Section 6323(a) is amended by striking out "subsection (c)" and inserting in lieu thereof "subsections (c) and (d)".

(2) Section 6324 is amended by inserting after "subsection (c) (relating to transfers of securities)" in subsections (a) and (b) the following: "and subsection (d) (relating to purchases of motor vehicles)".

(d) EFFECTIVE DATES.—The amendments made by this section shall apply only with respect to purchases made after the date of the enactment of this Act.

And the Senate agree to the same.

Amendment numbered 194:

That the House recede from its disagreement to the amendment of the Senate numbered 194, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 237. EXCLUSION OF EARNED INCOME OF CERTAIN UNITED STATES CITIZENS WHO ARE RESIDENTS OF FOREIGN COUNTRIES.

(a) REDUCTION OF LIMITATION.—Subparagraph (B) of section 911(c)(1) (relating to limitations on amount of exclusion) is amended by striking out "$35,000" and inserting in lieu thereof "$25,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1964.

And the Senate agree to the same.

Amendment numbered 196:

That the House recede from its disagreement to the amendment of the Senate numbered 196, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 238. LOSSES ARISING FROM CONFISCATION OF PROPERTY BY CUBA.

Section 165 (relating to losses) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) CERTAIN PROPERTY CONFISCATED BY CUBA.—For purposes of this chapter, any loss of tangible property, if such loss arises from expropriation, intervention, seizure, or similar taking by the government of Cuba, any political subdivision thereof, or any agency or instrumentality of the foregoing, shall be treated as a loss from a casualty within the meaning of subsection (c)(3)."

And the Senate agree to the same.

Amendment numbered 197:

That the House recede from its disagreement to the amendment of the Senate numbered 197, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 239. CREDIT OR REFUND OF SELF-EMPLOYMENT TAX.

Section 6511 (relating to limitations on credit or refund) is amended by adding at the end of subsection (d) the following new paragraph:

"(5) SPECIAL PERIOD OF LIMITATION WITH RESPECT TO SELF-EMPLOYMENT TAX IN CERTAIN CASES.—If the claim for credit or refund relates to an overpayment of the tax imposed by chapter 2 (relating to the tax on self-employment income) attributable to an agreement, or modification of an agreement, made pursuant to section 218 of the Social Security Act (relating to coverage of State and local employees), and if the allowance of a credit or refund of such overpayment is otherwise prevented by the operation of any law or rule

of law other than section 7122 (relating to compromises), such credit or refund may be allowed or made if claim therefor is filed on or before the later of the following dates: (A) the last day of the second year after the calendar year in which such agreement (or modification) is agreed to by the State and the Secretary of Health, Education, and Welfare, or (B) December 31, 1965."

And the Senate agree to the same.

Amendment numbered 198:

That the House recede from its disagreement to the amendment of the Senate numbered 198, and agree to the same with amendments as follows:

Page 92, line 2, of the Senate engrossed amendments, strike out "243" and insert: *240*

Page 93, line 3, of the Senate engrossed amendments, after "1939" insert: *attributable to such interest, including any extensions thereof,*

And the Senate agree to the same.

W. D. MILLS,
CECIL R. KING,
THOS. J. O'BRIEN,
HALE BOGGS,
JOHN W. BYRNES,
VICTOR A. KNOX,
Managers on the Part of the House.

HARRY F. BYRD,
RUSSELL B. LONG,
GEORGE SMATHERS,
CLINTON P. ANDERSON,
JOHN J. WILLIAMS,
FRANK CARLSON,
WALLACE F. BENNETT,
Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to make certain structural changes with respect to the income tax, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The following Senate amendments made technical, clerical, clarifying, or conforming changes: 2, 3, 5, 6, 7, 9, 14, 15, 19, 22, 24, 27, 28, 33, 34, 38, 39, 40, 44, 45, 48, 49, 50, 51, 52, 55, 62, 63, 65, 68, 69, 72, 73, 75, 77, 78, 79, 80, 89, 90, 92, 93, 94, 98, 101, 103, 104, 110, 112, 113, 115, 118, 120, 121, 122, 123, 125, 126, 127, 128, 130, 134, 135, 136, 138, 140, 142, 143, 144, 145, 146, 147, 148, 149, 150, 152, 154, 155, 156, 157, 158, 159, 160, 161, 167, 168, 169, 170, 172, 173, 174, 175, 176, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, and 192. With respect to these amendments (1) the House either recedes or recedes with amendments which are technical, clerical, clarifying, or conforming in nature; or (2) the Senate recedes in order to conform to other action agreed upon by the committee of conference.

DECLARATION BY CONGRESS

Amendment No. 1: Section 1 of the bill as passed by the House provided that it is the sense of Congress that the tax reduction provided by the bill, through stimulation of the economy, will, after a brief transitional period, raise (rather than lower) revenues and that such revenue increases should first be used to eliminate the deficits in the administrative budgets and then to reduce the public debt. Such section also provided that, to further the objective of obtaining balanced budgets in the near future, Congress by this action recognizes the importance of taking all reasonable means to restrain Government spending and urges the President to declare his accord with this objective. Senate amendment No. 1 strikes out this section of the bill.

The Senate recedes.

REDUCTION OF TAX RATES—RETIREMENT INCOME CREDIT

Amendment No. 4: Section 37(a) of the code provides the general rule that the credit against tax for retirement income shall be determined by multiplying the retirement income (as defined in and limited by sec. 37) by the rate provided in section 1 of the code (relating to tax imposed on individuals) for the first $2,000 of taxable income. The bill as passed by the House provided that the credit shall be equal to 15 percent of such retirement income. Senate amendment

No. 4 retains the change made by the bill as passed by the House except that in the case of a taxable year beginning in 1964 the amendment provides that the credit shall be equal to 17 percent of such retirement income.

The House recedes.

RETIREMENT INCOME CREDIT IN CASE OF CERTAIN JOINT RETURNS

Amendment No. 8: Section 37 of the code provides a credit against tax for retirement income. To be eligible for the credit, an individual must have received earned income in excess of $600 in each of 10 calendar years before the taxable year and (except in the case of pensions and annuities under a public retirement system) must have attained the age of 65 before the close of the taxable year. Under section 37(d) of the code the amount of retirement income taken into account in the case of any individual may not exceed $1,524 less (1) amounts received in the taxable year as pensions and annuities (including social security and railroad retirement benefits) which are excluded from gross income, and (2) if the individual has not attained the age of 72, adjustments for earned income received in the taxable year.

Senate amendment No. 8 adds a new subsection (i) to section 37 of the code. The new subsection provides an increase in the $1,524 amount in the case of certain joint returns where both the husband and wife have attained age 65 before the close of the taxable year. If both spouses meet the 10-year earned income requirement and if in the case of either spouse the sum of the retirement income and of the amounts described in paragraphs (1) and (2) of section 37(d) of the code which reduce the $1,524 amount is less than $762, then the $1,524 amount is to be increased with respect to the other spouse by an amount equal to the excess of $762 over such sum. If either spouse does not meet the 10-year earned income requirement, the $1,524 amount is to be increased with respect to the other spouse by an amount equal to the excess of $762 over the amounts described in paragraphs (1) and (2) of section 37(d) of the code received by his spouse.

The House recedes with an amendment. Under the conference agreement, a husband and wife who make a joint return for the taxable year and both of whom have attained the age of 65 before the close of the taxable year may elect to determine the amount of the credit allowed by section 37(a) of the code by applying the special rules of the new section 37(i)(2). These special rules provide that (1) if either spouse meets the 10-year earned income requirement the other spouse shall be considered as also meeting that requirement, and (2) section 37(d) (relating to limitation on retirement income) shall be considered as providing that the amount of the combined retirement income of both spouses is not to exceed $2,286 less the sum of the amounts for each spouse specified in paragraphs (1) and (2) of section 37(d) (that is, amounts received in the taxable year as pensions and annuities which are excluded from gross income, and amounts representing adjustments for certain earned income received during the taxable year). Under the conference agreement, this new provision will apply to taxable years beginning after December 31, 1963.

EFFECTIVE DATE FOR REPEAL OF REQUIREMENT THAT BASIS OF SECTION 38 PROPERTY BE REDUCED BY 7 PERCENT

Amendments Nos. 10, 11, 12, 13, 16, 17, and 18: Section 48(g) of the code requires the basis of any section 38 property (that is, property with respect to which an investment credit is allowable) to be reduced by an amount equal to 7 percent of the qualified investment with respect to such property. The bill as passed by the House repealed section 48(g) of the code, provided special rules to increase the basis of property placed in service before July 1, 1963 (the effective date of the repeal), and made conforming changes in the code. The repeal and conforming changes apply (1) in the case of property placed in service after June 30, 1963, with respect to taxable years ending after such date, and (2) in the case of property placed in service before July 1, 1963, with respect to taxable years beginning after June 30, 1963.

Senate amendments Nos. 10, 11, 12, 13, 16, 17, and 18 change the "June 30, 1963" and "July 1, 1963" dates to "December 31, 1963" and "January 1, 1964", respectively, for purposes of both the effective date provisions and the special rules relating to property placed in service before the effective date.

The House recedes.

GROUP-TERM LIFE INSURANCE PURCHASED FOR EMPLOYEES

Amendment No. 20: The bill as passed by the House added a new section 79 to the code. In general, the new section 79 requires an employee to include in gross income for the taxable year an amount equal to the cost of group-term life insurance on his life under policies carried by his employers, but only to the extent that such cost exceeds the sum of (1) the cost of so much of such insurance as does not exceed $30,000 of such protection, and (2) the amount (if any) paid by the employee toward the purchase of the insurance.

Senate amendment No. 20 in effect increases the $30,000 amount referred to above to $70,000.

The House recedes with an amendment. Under the conference agreement the new section 79 of the code requires an employee to include in gross income for the taxable year an amount equal to the cost of group-term life insurance on his life under policies carried by his employers, but only to the extent that such cost exceeds the sum of (1) the cost of $50,000 of such insurance, and (2) the amount (if any) paid by the employee toward the purchase of such insurance. In providing for the inclusion, to the extent specified, in a taxpayer's income of certain amounts representing the cost of group-term life insurance, it is not intended that such insurance include the death benefits in so-called travel insurance or accident and health policies where such policies do not provide general death benefits.

Amendment No. 21: Under the bill as passed by the House the cost of group-term life insurance on the life of an employee provided during any period was to be determined on the basis of uniform premiums (computed on the basis of 5-year age brackets); except that, at the election of the employer with respect to any employee, the cost was to be determined on the basis of the actual average premium cost under the policy for the ages included within the age bracket which would be applicable to the employee but for the election.

Senate amendment No. 21 deletes the election (policy cost method) so that the cost is to be determined in all cases under the uniform premium method.

The House recedes. It is the understanding of the conferees that the Treasury Department will study the table of premiums at attained ages contained in the committee reports on the bill to see whether this table should not be replaced by a table which reflects the most recent mortality experience and which may possibly make some allowance for expense factors.

Amendment No. 23: The bill as passed by the House added a new section 218 to the code to provide a deduction in the case of certain employees where group-term life insurance in excess of $30,000 is provided under policies carried by his employers. The deduction in the case of any employee was to be an amount equal to the excess (if any) of (1) the amount paid by the employee toward the purchase of such insurance in excess of $30,000, over (2) the cost of such insurance in excess of $30,000 (such cost to be determined in a specified manner).

Senate amendment No. 23 strikes out this provision.

The House recedes.

Amendments Nos. 25 and 26: Under the bill as passed by the House, the cost of group-term life insurance included in the income of the employee under the new section 79 was not excluded from income tax withholding. Under Senate amendment No. 25, no part of the cost of group-term life insurance is to be subject to income tax withholding. Senate amendment No. 26 adds a new section 6052 to the code (1) to require the employer to file an information return setting forth the cost of such insurance, to the extent such cost is includible in the gross income of the employee, and (2) to furnish a statement to the employee showing the cost shown on the return. This amendment also makes conforming changes in section 6678 of the code, relating to penalty for failure to furnish statements.

The House recedes with a clerical amendment.

Amendment No. 29: The new section 79(b) of the code provides exceptions to the general rule of section 79(a) which requires an employee to include in gross income a portion of the cost of certain group-term life insurance. Under section 79(b)(2)(B), the general rule is not to apply to the cost of any portion of the group-term life insurance on the life of an employee provided during part or all of the taxable year of the employee under which a person described in section 170(c) of the code (relating to definition of charitable contributions) is the sole beneficiary. The effect of Senate amendment No. 29 is to treat the insurance contract as satisfying this condition for the period beginning January 1, 1964, and ending April 30, 1964, in the case of a taxable year beginning before May 1, 1964, if the condition is satisfied for the portion after April 30, 1964, of the employee's first taxable year ending after such date.

The House recedes.

INCLUSION IN GROSS INCOME OF REIMBURSED MEDICAL EXPENSES TO THE EXTENT THAT THE REIMBURSEMENT EXCEEDS THE EXPENSES

Amendment No. 30: Section 204 of the bill as passed by the House added a new section 80 to the code. The new section 80 required that amounts received through accident or health insurance for medi-

cal expenses be included in gross income to the extent the aggregate of such amounts received for any personal injury or sickness exceeds the aggregate amount of the medical expenses incurred by the taxpayer for such injury or sickness.

Senate amendment No. 30 strikes out this section of the bill.

The House recedes.

AMOUNTS RECEIVED UNDER WAGE CONTINUATION PLANS

Amendment No. 31: Section 105(d) of the code (relating to wage continuation plans) provides (subject to a $100 weekly rate limitation) that gross income does not include amounts received as accident or health insurance if such amounts constitute wages or payments in lieu of wages for a period during which the employee is absent from work on account of personal injury or sickness. Under existing law, in the case of a period during which the employee is absent from work on account of sickness, the exclusion from gross income does not apply to amounts (sick pay) attributable to the first 7 calendar days in such period unless the employee is hospitalized on account of sickness for at least 1 day during such period.

Under the bill as passed by the House, the exclusion from gross income was not to apply to amounts (sick pay) attributable to the first 30 calendar days in any period of absence from work on account of personal injury or sickness. Senate amendment No. 31 has the same effect as the bill as passed by the House where the amounts (sick pay) received exceed 75 percent of the regular weekly rate of wages of the employee. Under the Senate amendment, if the amounts (sick pay) received are less than 75 percent of the regular weekly rate of wages of the employee, the exclusion from gross income is not to apply to amounts attributable to the first 7 calendar days in the period of absence from work unless the employee is hospitalized on account of sickness for at least 1 day during such period.

The House recedes with an amendment which provides that if the amounts (sick pay) received are at a rate not exceeding 75 percent of the employee's regular weekly rate of wages, the exclusion from gross income is to apply to amounts attributable to the first 30 calendar days of the period of absence to the extent of a weekly rate of $75, but is not to apply to amounts attributable to the first 7 calendar days in such period unless the employee is hospitalized on account of personal injuries or sickness for at least 1 day during such period.

DENIAL OF DEDUCTIONS FOR CERTAIN STATE, LOCAL, AND FOREIGN TAXES

Amendment No. 32: Section 207 of the bill as passed by the House amended section 164 of the code (relating to deduction of taxes) to provide for the allowance of a deduction for those State, local, and foreign taxes listed in the bill. Senate amendment No. 32 adds to the list:

(1) State and local taxes on the sale of gasoline, diesel fuel, and other motor fuels; and

(2) State and local taxes on the registration or licensing of highway motor vehicles and on licenses for the operation of highway motor vehicles.

The House recedes with an amendment. Under the conference action, State and local taxes on the sale of gasoline, diesel fuel, and other motor fuels will remain deductible. However, State and local taxes on the registration or licensing of highway motor vehicles and on licenses for the operation of highway motor vehicles will no longer be deductible (unless paid or accrued in carrying on a trade or business or an activity described in sec. 212 of the code).

Amendment No. 35: In amending section 164 of the code, the bill as passed by the House eliminated the deduction permitted by existing section 164(b)(5)(B) of the code for certain taxes assessed against local benefits levied by special taxing districts described in such section. The effect of Senate amendment No. 35 is to continue the allowance of the deduction for such taxes if the special taxing district was in existence on December 31, 1963, and the taxes are levied for the purpose of retiring indebtedness existing on such date.

The House recedes.

CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS

Amendment No. 36: Under existing section 170(b)(1)(C) of the code, an individual is allowed an unlimited charitable contribution deduction if in the taxable year, and in 8 of the 10 preceding taxable years, the charitable contributions and the income taxes paid by the taxpayer during such year exceed 90 percent of his taxable income computed without deduction for charitable contributions, personal exemptions, and net operating loss carrybacks. Under existing law, the unlimited charitable contribution deduction is computed by reference to charitable contributions to those organizations to which the general 20-percent limitation applies, whether or not those organizations are ones to which the additional 10-percent limitation also applies.

This amendment redesignates subparagraph (D) of section 170(b)(1) of the code as subparagraph (E) and inserts a new subparagraph (D) which provides, in effect, that if the taxable year begins after December 31, 1963—

(1) section 170(b)(1)(C) shall apply only at the election of the taxpayer; and

(2) in determining whether the 90-percent requirement is satisfied in the taxable year and in 8 of the 10 preceding taxable years, the amount of the charitable contributions for the taxable year (and for all prior taxable years beginning after December 31, 1963) is to be determined without the application of section 170(b)(5) of the code (carryover of certain excess contributions by individuals, added by Senate amendment No. 37) and solely by reference to charitable contributions described in section 170(b)(1)(A) of the code, as amended by section 209(a) of the bill (i.e., contributions to those organizations to which the additional 10-percent limitation applies).

If the taxpayer elects to have section 170(b)(1)(C) apply for the taxable year, then for such taxable year the deduction under section 170(a) of the code applies only with respect to charitable contributions to those organizations to which the additional 10-percent limitation applies. In addition, no amount of charitable contributions made in the taxable year or any prior taxable year may be treated

under the new section 170(b)(5) as having been made in the taxable year or in any succeeding taxable year.

The House recedes with amendments. Under the conference agreement, section 170 of the code is amended by inserting after subsection (f) (added by subsec. (e) of sec. 209 of the bill) a new subsection (g).

Paragraph (1) of such new subsection (g) provides that if the taxable year begins after December 31, 1963—

(A) section 170(b)(1)(C) shall apply only at the election of the taxpayer; and

(B) in determining whether the 90-percent requirement is satisfied in the taxable year and in 8 of the 10 preceding taxable years, the amount of the charitable contributions for the taxable year (and for all prior taxable years beginning after December 31, 1963) is to be determined without the application of section 170(b)(5) of the code (carryover of certain excess contributions by individuals, added by Senate amendment No. 37) and solely by reference to the charitable contributions which are described in paragraph (2) of new subsection (g).

If the taxpayer elects to have section 170(b)(1)(C) apply for the taxable year, then for such taxable year, the deduction under section 170(a) of the code applies only with respect to charitable contributions which are described in paragraph (2) of new subsection (g). In addition, no amount of charitable contributions made in the taxable year or any prior taxable year may be treated under section 170(b)(5) as having been made in the taxable year or in any succeeding taxable year.

Under the conference agreement, the charitable contributions, which are referred to in paragraph (1) and described in paragraph (2) of new subsection (g), which qualify for application of the unlimited charitable contribution deduction are—

(A) any charitable contribution described in section 170(b)(1)(A) of the code;

(B) any charitable contribution, not described in section 170(b)(1)(A) of the code, to an organization described in section 170(c)(2) of the code (certain organizations organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children or animals) substantially more than half of the assets of which is devoted directly to, and substantially all of the income of which is expended directly for, the active conduct of the activities constituting the purpose or function for which it is organized and operated (as distinguished from making contributions to other organizations organized and operated for such purpose or function);

(C) any charitable contribution, not described in section 170(b)(1)(A) of the code, to an organization described in section 170(c)(2) of the code which meets the requirements of new subsection (g)(3) with respect to such charitable contribution; and

(D) any charitable contribution taken into account under existing section 170(b)(1)(C) of the code payment of which is made on or before the date of the enactment of the bill.

Under the conference agreement, a contribution to an organization which is referred to in new subsection (g)(2)(C) qualifies only if such

organization meets the two requirements described in new subsection (g)(3) with respect to such contribution. The first of such requirements is that—

(A) not later than the close of the third year after the organization's taxable year in which the contribution is received (or before such later time as the Secretary of the Treasury or his delegate may allow upon good cause shown by such organization), such organization expends an amount equal to at least 50 percent of such contribution for—

(i) the active conduct of the activities constituting the purpose or function for which it is organized and operated (as distinguished from making contributions to other organizations organized and operated for such purpose or function),

(ii) assets which are directly devoted to such active conduct,

(iii) contributions to organizations which are described in section 170(b)(1)(A) of the code or in paragraph (2)(B) of the new subsection (g), or

(iv) any combination of the foregoing.

If an amount expended as provided in subparagraph (A) is used to qualify any contribution under this 50-percent test, to the extent so used such amount may not be used as an expenditure for purposes of qualifying another contribution under subparagraph (A), whether such other contribution was made by the same donor or by another donor.

The second of such requirements with respect to such contribution is that—

(B) for the period beginning with the beginning of the taxable year in which such contribution is received and ending with the close of the taxable year in which the 50-percent test is satisfied with respect to such contribution, such organization expends all of its net income (determined without regard to capital gains and losses) for the purposes described in clauses (i), (ii), (iii), and (iv) of paragraph (3)(A).

If the organization has shown, to the satisfaction of the Secretary of the Treasury or his delegate, that good cause exists for extending the period during which the organization must expend an amount equal to 50 percent of the contribution in question, and the Secretary or his delegate allows such an extension, the requirement that the organization must expend all of its net income applies with respect to the organization's net income for the period beginning with the beginning of the taxable year in which such contribution is received and ending with the close of the taxable year in which it expends an amount equal to 50 percent of such contribution. Thus, for example, if the Secretary of the Treasury or his delegate extends the time within which an organization may expend an amount equal to at least 50 percent of a contribution until the close of the fifth taxable year after the organization's taxable year in which the contribution is received and the 50-percent test is satisfied during such fifth year, the requirement of subparagraph (B) is satisfied only if the net income for the 6-year period is expended as required by subparagraph (B). On the other hand, if the 50-percent test is satisfied during the taxable year in which the contribution is received, the requirement of subparagraph

(B) is satisfied if the net income for such taxable year is expended as required by subparagraph (B).

Under the conference agreement, subsection (g)(3) also provides the taxpayer with an election (to be exercised in accordance with regulations prescribed by the Secretary of the Treasury or his delegate) with respect to contributions made by him to an organization referred to in subsection (g)(2)(C). If the taxpayer so elects with respect to contributions made by him to such an organization, then, in applying the expenditure of income requirement with respect to contributions made by him to such organization during his taxable year for which such election is made and during all his subsequent taxable years, amounts expended by the organization after the close of any of its taxable years and on or before the 15th day of the third month following the close of such taxable year shall be treated as expended during such taxable year.

Under the conference agreement, for the contribution to qualify under section 170(b)(1)(C) of the code an additional requirement, as described in new subsection (g)(4) (disqualifying transactions), must be met by an organization referred to in new subsection (g)(2) (B) or (C). An organization shall be an organization referred to in new subsection (g)(2) (B) or (C) only if at no time during the period consisting of the organization's taxable year in which the contribution is received, its 3 preceding taxable years, and its 3 succeeding taxable years, such organization—

(A) lends any part of its income or corpus to;

(B) pays compensation (other than reasonable compensation for personal services actually rendered) to;

(C) makes any of its services available on a preferential basis to;

(D) purchases more than a minimal amount of securities or other property from; or

(E) sells more than a minimal amount of securities or other property to,

the donor of such contribution, any member of his family (as defined in section 267(c)(4) of the code), any employee of the donor, any officer or employee of a corporation in which he owns (directly or indirectly) 50 percent or more in value of the outstanding stock, or any partner or employee of a partnership in which he owns (directly or indirectly) 50 percent or more of the capital interest or profits interest. An exception to this provision makes it inapplicable to transactions which occurred on or before the date of the enactment of the bill.

Amendment No. 37: This amendment adds a new paragraph (5) to section 170(b) of the code to provide a 5-year carryover of certain charitable contributions made by individuals in taxable years beginning after December 31, 1963, where the amount of the contributions exceeds 30 percent of the taxpayer's adjusted gross income (computed without regard to net operating loss carrybacks). Under the amendment, the amount carried from a taxable year (and the amount thereof treated as paid in a succeeding taxable year) is determined solely by reference to charitable contributions to those organizations to which the additional 10-percent limitation applies.

The House recedes.

Amendment No. 41: The bill as passed by the House added a new subsection (f) to section 170 of the code to provide, in general, that payment of a charitable contribution which consists of a future interest in tangible personal property shall be treated as made only when all intervening interests in (and rights to the actual possession or enjoyment of) the property have expired or are held by persons other than the taxpayer (or certain related parties). The bill as passed by the House excepted from this rule any charitable contribution where the sole intervening interest or right is a nontransferable life interest reserved by the donor (or donors in the case of a joint gift by husband and wife). Senate amendment No. 41 strikes out this exception.

The House recedes on this amendment, but under the conference action on Senate amendment No. 42, the exception in the bill as passed by the House is restored with respect to transfers of future interests before July 1, 1964.

Amendment No. 42: Senate amendment No. 42 relates to the effective dates for the amendments made by the bill to section 170 of the code. In the case of individuals, the effective dates are the same as provided by the bill as passed by the House.

Under the bill as passed by the House, the amendments providing a 5-year carryover of charitable contributions made by corporations applied with respect to contributions which are paid (or treated as paid under sec. 170(a)(2) of the code) in taxable years beginning after December 31, 1963. Under Senate amendment No. 42, the amendments are to apply to taxable years beginning after December 31, 1963, with respect to contributions which are paid (or treated as paid under sec. 170(a)(2) of the code) in taxable years beginning after December 31, 1961.

The House recedes with an amendment (see discussion of Senate amendment No. 41).

LOSSES ARISING FROM EXPROPRIATION OF PROPERTY BY GOVERNMENTS OF FOREIGN COUNTRIES

Amendment No. 43: In general, the effect of this amendment is to permit a taxpayer to elect (for any taxable year ending after December 31, 1958) a 10-year carryover under section 172 of the code (relating to net operating loss deduction) of the portion of the net operating loss for such year attributable to a foreign expropriation loss for such year in lieu of the existing 3-year carryback and 5-year carryover. The 10-year carryover is not to apply unless the foreign expropriation loss equals or exceeds 50 percent of the net operating loss. The term "foreign expropriation loss" is defined to mean, for any taxable year, the sum of the losses sustained by reason of the expropriation, intervention, seizure, or similar taking of property by the government of any foreign country, any political subdivision thereof, or any agency or instrumentality of the foregoing. For this purpose, a debt which becomes worthless is to be treated as a loss to the extent of any deduction allowed under section 166(a) of the code.

The amount of any loss taken into account in determining a foreign expropriation loss may not exceed the taxpayer's adjusted basis for the property or bad debt in question since the foreign expropriation loss must arise from a loss described in section 165 of the code or a bad debt described in section 166; in both of these cases the deduction

allowed may not exceed the adjusted basis for purposes of the sale or other disposition of the property.

If a taxpayer makes the election for a taxable year ending before January 1, 1964, special rules are provided (with respect to any year affected by the election) to extend to the close of December 31, 1965, the time for making or changing any choice or election under sections 901 through 905 of the code (relating to foreign tax credit) and to extend to the close of December 31, 1968, the time for assessing deficiencies and filing claims for refund or credit of overpayments.

The House recedes with a technical amendment.

CARE OF DEPENDENTS

Amendment No. 46: The bill as passed by both the House and the Senate amends section 214 of the code (relating to deduction for expenses for care of certain dependents). Under the bill as passed by the House, section 214(b)(1) limited the deduction under section 214(a) for any taxable year to $600, except that the $600 limit was to be increased (to an amount not above $900) by the amount of expenses incurred by the taxpayer for any period during which the taxpayer had two or more dependents (within the meaning of amended sec. 214(d)(1) of the code). In the case of a woman who is married, the increase in the limitation applied only for a period during which her husband is incapable of self-support because mentally or physically defective.

The effect of Senate amendment No. 46 is to retain the $900 amount for a period during which the taxpayer had two dependents, to increase the $900 amount to $1,000 for a period during which the taxpayer had three or more dependents, and to omit the provision which would limit the application of these new amounts in the case of married women.

The House recedes with an amendment which retains the $900 amount for a period during which the taxpayer had two or more dependents and omits the provision which would limit the application of this new amount in the case of married women.

Amendment No. 47: Under the bill as passed by the House, section 214(b) further provided, in the case of a woman who is married and in the case of a husband whose wife is incapacitated, that the deduction otherwise allowable under section 214(a)—

(1) would not be allowed unless the couple files a joint return; and

(2) would be reduced dollar for dollar to the extent that the couple's combined adjusted gross income exceeds $4,500.

These conditions did not apply in certain specified situations. The effect of the Senate amendment No. 47 is to retain these conditions and exceptions, except that the Senate amendment substitutes $7,000 for the $4,500 amount.

The House recedes with an amendment which provides that this amount will be $6,000.

DEDUCTION FOR POLITICAL CONTRIBUTIONS

Amendment No. 53: This amendment adds a new section 218 to the code. Section 218(a) provides that in the case of an individual, there shall be allowed as a deduction any political contribution pay-

ment of which is made by the taxpayer within the taxable year. Section 218(b) limits the deduction to $50 for any taxable year, except that in the case of a joint return of a husband and wife the limit is $100.

The Senate recedes.

100-PERCENT DIVIDENDS-RECEIVED DEDUCTION FOR MEMBERS OF ELECTING AFFILIATED GROUPS

Amendment No. 54: This amendment adds a new section to the bill which amends section 243 of the code (relating to the deduction for certain dividends received by corporations) to provide a 100-percent deduction in the case of "qualifying dividends", and makes conforming technical amendments.

As amended, section 243(b)(1) defines the term "qualifying dividends" to mean dividends received by a corporation which (at the close of the day the dividends are received) is a member of the same affiliated group of corporations (as defined in sec. 243(b)(5)) as the corporation distributing the dividends, if (1) such affiliated group has made an election under section 243(b)(2) which is effective for the taxable years of its members which include such day; and (2) the dividends are distributed out of earnings and profits of a taxable year of the distributing corporation ending after December 31, 1963, with respect to which two requirements are satisfied. First, the distributing corporation and the recipient corporation must have been members of such affiliated group on each day of such taxable year. Second, an election under section 1562 (relating to election of multiple surtax exemptions) must not be effective for such taxable year.

Section 243(b)(2) prescribes rules for the making of an election and the taxable years to which it applies. Under section 243(b)(3), if an election by an affiliated group is effective with respect to a taxable year of the common parent corporation, then under regulations prescribed by the Secretary of the Treasury or his delegate—

(1) no member of such affiliated group may consent to an election under section 1562 for such taxable year;

(2) the members of such group will be treated as one taxpayer for purposes of making the elections under section 901(a) (relating to allowance of foreign tax credit) and section 904(b)(1) (relating to election of overall limitation); and

(3) the members of such affiliated group will be limited to (i) one $100,000 minimum accumulated earnings credit under section 535(c) (2) or (3); (ii) one $100,000 limitation for exploration expenditures under section 615 (a) and (b); (iii) one $400,000 limitation for exploration expenditures under section 615(c)(1); (iv) one $25,000 limitation on small business deductions of life insurance companies under sections 804(a)(4) and 809(d)(10); and (v) one $100,000 exemption for purposes of estimated tax filing requirements under section 6016 and the addition to tax under section 6655 for failure to pay estimated tax.

Section 243(b)(4) provides for the termination of an election under section 243(b)(2) either by the filing by the group of a termination of the election or by the filing of a statement by a new member of the group that it does not consent to the election.

Section 243(b)(5) provides that the term "affiliated group" has the meaning assigned to it by section 1504(a) of the code except that for

purposes of the 100-percent dividends received deduction insurance companies subject to taxation under section 802 or 821 of the code are not to be excluded by section 1504(b)(2) from a group and are not to be considered under section 1504(c) as a separate group. Section 243(b)(6) provides special rules for insurance companies.

The amendments providing for the 100-percent dividends received deduction are to apply with respect to dividends received in taxable years ending after December 31, 1963.

The House recedes with a clerical amendment.

INTEREST ON LOANS INCURRED TO PURCHASE CERTAIN INSURANCE AND ANNUITY CONTRACTS

Amendment No. 56: The bill as passed by the House amended section 264 of the code to provide that, under certain circumstances, no deduction is allowed for interest on loans incurred or continued to purchase or carry certain life insurance, endowment, or annuity contracts. This new provision was to apply only in respect of contracts purchased after August 6, 1963. Under the Senate amendment No. 56 this new provision applies only in respect of contracts purchased after December 31, 1963.

The Senate recedes.

INTEREST ON INDEBTEDNESS INCURRED OR CONTINUED TO PURCHASE OR CARRY TAX-EXEMPT BONDS

Amendment No. 57: Section 265(2) of the code provides that no deduction shall be allowed for interest on indebtedness incurred or continued to purchase or carry obligations (other than certain obligations of the United States) the interest on which is wholly exempt from income tax. Under Senate amendment No. 57, a new sentence is added to section 265(2) to provide that, in applying the preceding sentence to a financial institution (other than a bank) which is subject to the banking laws of the State in which such institution is incorporated, interest—

(1) on face-amount certificates (as defined in sec. 2(a)(15) of the Investment Company Act of 1940 (15 U.S.C. 80a–2)) issued by the institution; and

(2) on amounts received by such institution to be applied toward the purchase of such face-amount certificates to be issued by the institution—

is not to be considered as interest on indebtedness incurred or continued to purchase or carry obligations the interest on which is wholly exempt from income tax to the extent that the average amount of such obligations held by such institution during the taxable year (as determined under regulations prescribed by the Secretary of the Treasury or his delegate) does not exceed 25 percent of the average of the total assets of the institution during the taxable year (as so determined). The new provision is to apply with respect to taxable years ending after the date of the enactment of the bill.

The House recedes with amendments. Under the conference agreement, the new sentence added to section 265(2) of the code by the Senate amendment is to apply only with respect to interest on face-amount certificates, and on amounts received toward the purchase of such certificates, issued by a face-amount certificate company

(registered under the Investment Company Act of 1940), and the percentage contained in the new sentence is reduced to 15 percent. In providing that the financial institutions specified in this provision are not to be denied interest deductions under section 265(2) of the code to the extent that the average amount invested by such an institution in tax-free obligations does not exceed 15 percent of the average of its total assets, it is not intended to imply that an interest deduction is to be denied because of investments in excess of the specified 15-percent level if the taxpayer establishes that indebtedness was not "incurred or continued to purchase or carry" these excess obligations. Nor is it intended that any inference with respect to years before the effective date of this provision be drawn from the enactment of this provision.

ALLOCATION OF CERTAIN TRAVELING EXPENSES

Amendment No. 58: Section 274(c) of the code provides that in the case of any individual who is traveling away from home in pursuit of a trade or business or in pursuit of an activity described in section 212, no deduction shall be allowed under section 162 or section 212 for that portion of the expenses of such travel otherwise allowable under such section which, under regulations prescribed by the Secretary of the Treasury or his delegate, is not allocable to such trade or business or to such activity. Such provision, however, does not apply to the expenses of any travel away from home which does not exceed 1 week or where the portion of the time away from home which is not attributable to the pursuit of the taxpayer's trade or business or to an activity specified in section 212 is less than 25 percent of the total time away from home on such travel. Senate amendment No. 58 strikes out subsection (c) of section 274 of the code, effective with respect to taxable years ending after December 31, 1962, but only in respect of periods after such date.

The House recedes with an amendment which, in effect, retains section 274(c) of the code but limits its application to foreign travel. Under the conference agreement, section 274(c) will only apply to an individual's travel outside the United States away from home. Travel from one point in the United States to another point in the United States is not to be considered travel outside the United States, even though it may constitute a portion of the trip in which the taxpayer travels to a point outside the United States. Section 274(c), as amended, will not apply to the expenses of any travel outside the United States away from home, if such travel does not exceed 1 week, or if the portion of the time of travel outside the United States away from home which is not attributable to the pursuit of the taxpayer's trade or business or an activity described in section 212 is less than 25 percent of the total time on such travel. Section 274(c), as amended, will apply with respect to taxable years ending after December 31, 1962, but only in respect of periods after such date.

ACQUISITION OF STOCK IN EXCHANGE FOR STOCK OF CORPORATION WHICH IS IN CONTROL OF ACQUIRING CORPORATION

Amendment No. 59: Under existing section 368(a)(1)(B) of the code, the acquisition by one corporation, in exchange solely for all or a part of its voting stock, of stock of another corporation qualifies as a

"reorganization" if, immediately after the acquisition, the acquiring corporation has control of such other corporation (whether or not such acquiring corporation had control immediately before the acquisition). Under Senate amendment No. 59, section 368(a)(1)(B) is amended to permit an acquiring corporation to exchange either its voting stock or the voting stock of a corporation which is in control of the acquiring corporation for the stock of another corporation. The amendment also makes technical and conforming changes. The amendments apply with respect to transactions after December 31, 1963, in taxable years ending after such date.

The House recedes with a clerical amendment.

RETROACTIVE QUALIFICATION OF CERTAIN UNION-NEGOTIATED MULTIEMPLOYER PENSION PLANS

Amendment No. 60: Section 401 of the code relates to qualified pension, profit-sharing, and stock bonus plans. Senate amendment No. 60 inserts a new subsection (i) in section 401.

The new subsection (i) applies to a trust forming part of a pension plan which has been determined by the Secretary of the Treasury or his delegate to constitute a qualified trust under section 401(a), and to be exempt from taxation under section 501(a), for a period beginning after contributions were first made to or for such trust. The new subsection (i) provides that where such a trust meets certain conditions, then it shall be considered as having constituted a qualified trust under section 401(a), and as having been exempt from taxation under section 501(a), for the period beginning on the date on which contributions were first made to or for such trust and ending on the date such trust first constituted (without regard to the new subsection) a qualified trust.

The conditions referred to in the preceding paragraph require that it be shown to the satisfaction of the Secretary of the Treasury or his delegate that: (1) Such trust was created pursuant to a collective bargaining agreement between employee representatives and two or more employers who are not related (determined under regulations prescribed by the Secretary of the Treasury or his delegate); (2) any disbursements made prior to the period for which the trust was determined to be qualified (without regard to the new subsection) substantially comply with the terms of the trust (and plan) as so qualified; and (3) prior to the period for which the trust was determined to be qualified (without regard to the new subsection) contributions were not used in a manner which would jeopardize the interests of the beneficiaries.

The new subsection (i) is to apply with respect to taxable years beginning after December 31, 1953, and ending after August 16, 1954, but only with respect to contributions made after December 31, 1954.

The House recedes with a clerical amendment.

QUALIFIED PENSION, ETC., PLAN COVERAGE FOR EMPLOYEES OF CERTAIN SUBSIDIARY EMPLOYERS

Amendment No. 61: This amendment adds a new section to the bill, relating to qualified pension, etc., plan coverage for employees of certain subsidiary employers.

Employees of foreign subsidiaries covered by social security agreements

Subsection (a) of the new section adds a new section 406 to part I of subchapter D of chapter 1 of the code.

(*a*) *Treatment as employees of domestic corporation.*—The new section 406(a) sets forth the rules relating to the treatment of certain employees of foreign subsidiaries who are covered under a social security agreement described in section 3121(l) of the code, entered into at the request of the domestic corporation, as employees of such domestic corporation. The new section 406(a) only applies in the case of a plan established and maintained by a domestic corporation which is a pension, profit-sharing, or stock bonus plan described in section 401(a) of the code, an annuity plan described in section 403(a) of the code, or a bond purchase plan described in section 405(a) of the code. The new section 406(a) provides that in the case of such a plan an individual who is a citizen of the United States and who is also an employee of a foreign subsidiary (as defined in sec. 3121(l)(8) of the code) of the domestic corporation shall be treated as an employee of such domestic corporation if certain requirements are satisfied.

The first of the requirements of the new section 406(a) is that the domestic corporation has entered into an agreement described in section 3121(l) of the code, relating to agreements entered into by domestic corporations with respect to foreign subsidiaries, and such agreement covers the foreign subsidiary of the domestic corporation in which the individual is employed.

The second requirement is that the qualified plan of the domestic employer must expressly provide coverage for the U.S. citizen employees of all foreign subsidiaries which are covered under the agreement described in section 3121(l) of the code which has been entered into by the domestic corporation.

The third requirement for qualification of an individual as an employee is that contributions under a funded plan of deferred compensation (whether or not such plan is a qualified plan) are not provided by any other person with respect to the remuneration paid to such individual by the foreign subsidiary.

(*b*) *Special rules for application of section 401(a).*—The new section 406(b) provides certain special rules for the application of section 401(a) of the code in the case of a plan which covers an individual who is treated as an employee of a domestic corporation under the new section 406(a).

Paragraph (1) of such section 406(b) provides certain rules regarding the application of section 401(a) (3)(B) and (4) of the code in the case of a plan which covers such an individual. Paragraph (1)(A) of section 406(b) provides that if such an individual is an officer, shareholder, or person whose principal duties consist in supervising the work of other employees of a foreign subsidiary of such domestic corporation, he shall be treated as having such capacity with respect to the domestic corporation. Paragraph (1)(B) of section 406(b) provides that the determination of whether an individual who is treated as an employee under the new section 406(a) is a highly compensated employee for purposes of section 401(a) (3)(B) and (4) of the code is made by treating such individual's total compensation (as computed in accordance with the provisions of par. (2) of sec. 406(b)) as compensation paid by the domestic corporation and by determining

such individual's status as a highly compensated employee with regard to such domestic corporation.

Paragraph (2) of the new section 406(b) sets forth the rules regarding determination of the compensation of an individual who is treated as an employee of a domestic corporation under section 406(a) of the code. Such rules are applicable whenever the compensation of such an individual is to be determined for the purpose of determining whether the plan satisfies the requirements for qualification set forth in section 401(a). Paragraph (2)(A) of section 406(b) provides that, for the purpose of applying section 401(a)(5) with respect to such an individual, his total compensation is the remuneration paid to him by the foreign subsidiary which would constitute his total compensation if his services had been performed for the domestic corporation treated as his employer. In addition, such paragraph (2)(A) provides that the portion of the individual's total compensation which constitutes his basic or regular rate of compensation shall be determined under regulations prescribed by the Secretary of the Treasury or his delegate.

Paragraph (2)(B) of section 406(b) provides that an individual who is treated as an employee under section 406(a) shall be treated as having paid the amount paid by such domestic corporation which is equivalent to the tax imposed by section 3101 of the code (relating to the tax imposed on employees) with respect to such individual.

(c) *Termination of status as deemed employee not to be treated as separation from service for purposes of capital gains provisions.*—Existing sections 402(a)(2) and 403(a)(2) of the code provide capital gains treatment for certain distributions after an employee's separation from service. The new section 406(c) provides that for purposes of applying section 402(a)(2) and section 403(a)(2) of the code with respect to an individual who is treated as an employee of a domestic corporation under section 406(a), such individual shall not be treated as separated from the service solely by reason of the fact that—

(1) the agreement entered into by such domestic corporation under section 3121(l) which covers the employment of such individual is terminated under the provisions of such section;

(2) such individual becomes an employee of a foreign subsidiary (as defined in sec. 3121(l)(8)) with respect to which an agreement described in section 3121(l) does not apply;

(3) such individual ceases to be an employee within the meaning of section 406(a) and becomes an employee of another corporation controlled by the domestic corporation; or

(4) the provision of the plan described in section 406(a)(2) is terminated.

(d) *Deductibility of contributions.*—The new section 406(d) relates to the deductibility of contributions made on behalf of an individual who is treated as an employee of a domestic corporation by reason of the provisions of section 406(a).

Paragraph (1) of the new section 406(d) provides that, for purposes of applying sections 404 and 405(c) with respect to contributions made to a qualified plan on behalf of an individual who is treated as an employee of a domestic corporation under section 406(a), no domestic corporation is allowed a deduction.

Paragraph (2) of the new section 406(d) provides that the amount which would be deductible under section 404 or 405(c) by the domestic

corporation if the individual who is an employee within the meaning of section 406(a) were its own employee is to be allowed as a deduction to the foreign subsidiary.

Paragraph (3) of the new section 406(d) provides that for the purpose of computing the amount deductible under section 404 or 405(c) any reference to compensation shall be considered to be a reference to the total compensation of such individual determined with the application of the rules set forth in the new section 406(b)(2).

The new section 406(d) also provides that any amount deductible by a foreign subsidiary under this section shall be deductible for its taxable year with or within which the taxable year of the domestic corporation ends.

(*e*) *Treatment as employee under related provisions.*—The new section 406(e) provides that an individual who is treated as an employee of a domestic corporation under the new section 406(a) is also to be treated as an employee of the domestic corporation with respect to certain related provisions dealing with the tax treatment of employees under the qualified plan.

Employees of domestic subsidiaries engaged in business outside the United States

Subsection (b) of the new section added by the Senate amendment adds a new section 407 to part I of subchapter D of chapter 1 of the code.

(*a*) *Treatment as employees of domestic parent corporation.*—The new section 407(a) sets forth the requirements which must be satisfied for a U.S. citizen who is employed by a domestic subsidiary engaged in business outside the United States to be treated as an employee of the domestic parent corporation.

Paragraph (1) of section 407(a) provides that for purposes of applying part I of subchapter D of chapter 1 of the code, with respect to a qualified plan described in either section 401(a), 403(a), or 405(a), of a domestic parent corporation, an individual who is a citizen of the United States and an employee of a domestic subsidiary (as defined in par. (2) of sec. 407(a)) of a domestic parent corporation shall be treated as an employee of the domestic parent corporation if two requirements are satisfied. The first of these requirements is that the plan of the domestic parent corporation must expressly provide coverage for U.S.-citizen employees of every domestic subsidiary (as defined in par. (2) of sec. 407(a)). The second requirement is that contributions must not be provided for the employee by any other person under a funded plan of deferred compensation (whether or not such plan is a qualified plan).

Paragraph (2) of the new section 407(a) provides certain definitions for purposes of section 407. Paragraph (2)(A) of section 407(a) defines the term "domestic subsidiary" for purposes of section 407. Such paragraph (2)(A) sets forth three requirements which must be satisfied in order for a domestic corporation to be classified as a "domestic subsidiary". First, the domestic parent corporation must own 80 percent or more of the outstanding voting stock of the subsidiary corporation. Second, 95 percent or more of the subsidiary corporation's gross income for the 3-year period immediately preceding the close of the taxable year of such subsidiary which ends on or before the close of the taxable year of the domestic parent corporation

(or for such part of such period during which the corporation was in existence) must be derived from sources without the United States. The third requirement is that 90 percent or more of the subsidiary corporation's gross income for such period (or such part) must be derived from the active conduct of a trade or business.

Paragraph (2)(B) of section 407(a) defines the term "domestic parent corporation" for purposes of section 407. A domestic parent corporation for purposes of such section is the domestic corporation which owns 80 percent or more of the outstanding voting stock of a domestic subsidiary (as defined in paragraph (2)(A)).

(*b*) *Special rules for application of section 401(a).*—The new section 407(b) provides special rules for the application of section 401(a). The rules are substantially the same as those prescribed in the new section 406 (b)(1) and (2)(A), except that the provisions of section 407(b) relate to individuals who are employees within the meaning of section 407(a).

(*c*) *Termination of status as deemed employee not to be treated as separation from service for purposes of capital gains provisions.*—The new section 407(c) relates to certain occasions when the termination of the status as an employee within the meaning of section 407 shall not be treated as separation from service for purposes of sections 402(a)(2) and 403(a)(2) of the code. The new section 407(c) provides that an individual who is an employee of a domestic subsidiary but who is treated as an employee of a domestic parent corporation under the new section 407(a) shall not be considered as separated from the service of the domestic parent corporation solely by reason of the fact that—

(1) the domestic subsidiary ceases, for any taxable year, to be a subsidiary within the meaning of section 407(a)(2)(A);

(2) such individual ceases to be an employee of a domestic subsidiary corporation and becomes an employee of another corporation controlled by the domestic parent corporation; or

(3) the plan no longer contains the provision described in section 407(a)(1)(A).

(*d*) *Deductibility of contributions.*—The new section 407(d) provides rules relating to the deductibility of contributions made on behalf of an individual who is an employee within the meaning of section 407(a). These rules are substantially the same as the rules in the new section 406(d), except that the provisions of section 407 relate to contributions on behalf of employees of domestic subsidiaries.

(*e*) *Treatment as employee under related provisions.*—The substantive provisions of the new section 407(e) are the same as the new section 406(e), except that the provisions of section 407 relate to the tax treatment of employees of domestic subsidiaries.

Technical amendments

Subsection (c) of the new section added to the bill makes a conforming change in a table of sections and amends section 3121(a)(5) of the code (relating to definition of wages) and section 209(e) of the Social Security Act (relating to definition of wages) to conform these definitions to the Internal Revenue Code of 1954, as amended by the Self-Employed Individuals Tax Retirement Act of 1962.

Effective date

Subsection (d) of the new section added to the bill provides that the new sections 406 and 407 added to the code shall apply with respect to taxable years ending after December 31, 1963. The technical amendments relating to the definitions of wages are to apply to remuneration paid after December 31, 1962.

The House recedes with a clerical amendment and a technical amendment.

EMPLOYEE STOCK OPTIONS AND PURCHASE PLANS

Amendments Nos. 64, 66, 67, 71, 74, 76, 81, 82, 83, 84, 85, 86, 87, and 88: The bill as passed both by the House and the Senate revises part II of subchapter D of chapter 1 of the code (relating to certain stock options). Under the bill as passed by the House, the revised part II was to apply to taxable years ending after June 11, 1963, and the determination as to whether an option is a qualified stock option, a restricted stock option, or an option granted under an employee stock purchase plan was (in general) to be based in part on whether the option was granted after June 11, 1963, or before June 12, 1963. These amendments change the June 11, 1963, and June 12, 1963, dates to December 31, 1963, and January 1, 1964, respectively.

The House recedes on these amendments.

Amendment No. 95: This amendment adds a special rule for determining whether options granted during the calendar year 1964 are (or may be changed during such year to become) qualified stock options. In the case of such an option, the requirements of paragraphs (1) and (2) of section 422(b) of the code (as added by the bill) are not to apply, and paragraph (1) of section 425(h) of the code is not to apply to any change in the terms of the option made before January 1, 1965, to permit such option to qualify under paragraphs (3), (4), and (5) of section 422(b). Paragraphs (1) and (2) of section 422(b) require a qualified stock option (1) to be granted pursuant to a plan which is approved by the stockholders and which includes the aggregate number of shares which may be issued under options, and the employees (or class of employees) eligible to receive options; and (2) to be granted within 10 years from the date the plan is adopted, or the date approved by the stockholders, whichever is earlier. Paragraph (1) of section 425(h) provides that, for purposes of part II of subchapter D of chapter 1, if the terms of any option to purchase stock are modified, extended, or renewed, such modification, extension, or renewal is to be considered as the granting of a new option.

The House recedes.

Amendment No. 70: Under the bill as passed both by the House and Senate, section 422(b)(5) of the code provides (in general) that an option may not be a qualified stock option unless such option by its terms is not exercisable while there is outstanding a prior qualified (or restricted) stock option issued to the individual to purchase stock in the employer corporation (or certain other corporations). Under this Senate amendment, section 422(b)(5) is not to apply if (1) the new option and all outstanding qualified (or restricted) stock options referred to in section 422(b)(5) are to purchase stock of the same class in the same corporation, and (2) the price payable under each

such outstanding option (as of the date of the grant of the new option) is not more than the option price of the new option.

The House recedes with a technical amendment.

Amendment No. 91: Under the bill as passed both by the House and the Senate, section 425(h)(3) of the code defines the term "modification" to mean (subject to certain exceptions) any change in the terms of the option which gives the employee additional benefits under the option. Under this amendment, in the case of an option not immediately exercisable in full, the term "modification" is not to include a change in the terms of the option to accelerate the time at which the option may be exercised.

The House recedes.

The attention of the conferees was called to a statement in the report on this bill of the Senate Committee on Finance to the effect that the use of a general term such as "key employees" is not a sufficient description of those eligible to receive options. The conferees, after having considered the matter, have concluded that the use of the term "key employees" should be considered a sufficient description of the class of employees from among whom a board of directors or any other executive committee of a corporation may select those to whom stock options may be granted.

The bill provides that a qualified stock option plan must be approved by stockholders within a 12-month period before or after its adoption and must provide the aggregate number of shares which may be issued under options and the employees (or class of employees) eligible to receive such options. It is intended that the remaining requirements relating to the terms of options granted under the new provisions may be met in such options. Inconsistencies between the plan and the options should, of course, be removed but a modification by the board of directors (or other executive committee of the corporation), under a power, expressed or implied, of the board (or committee) to modify the plan to conform with the requirements of law, will be sufficient. The granting period for qualified stock options under these circumstances will not be affected by such modifications.

INSTALLMENT SALES BY DEALERS IN PERSONAL PROPERTY

Amendment No. 96: This amendment adds a new section to the bill amending section 453(a) of the code (relating to reporting of income by dealers in personal property from sales on the installment plan). Under the amendment the existing provisions of section 453(a) are continued in the new paragraph (1) and new paragraphs (2) and (3) are added.

The new paragraph (2) provides that for purposes of paragraph (1), the term "installment plan" includes any plan which provides for the payment by the purchaser for the personal property sold to him in a series of periodic installments of an agreed part or installment of the debt due the seller.

The new paragraph (3) provides that for purposes of paragraph (1), the term "total contract price" includes all charges relative to the sale of the personal property, including the time price differential which represents the amount paid or payable for the privilege of purchasing

the personal property to be paid for by the purchaser in installments over a period of time.

The amendment to section 453(a) is to apply to taxable years beginning after December 31, 1963.

The House recedes with an amendment. Under the conference agreement, a new subsection (e) is added to section 453. New section 453(e) provides that, for purposes of section 453(a) of the code (which in effect allows a dealer in personal property to return on the installment basis income from sales of personal property on the installment plan), the term "installment plan" includes a revolving credit type plan which provides that the purchaser of personal property at retail may pay for such property in a series of periodic payments of an agreed portion of the amounts due the dealer under the plan, except that such term does not include any such plan with respect to a purchaser who uses his account primarily as an ordinary charge account. The new section 453(e) is to apply in respect of sales made during taxable years beginning after December 31, 1963.

TIMING OF DEDUCTIONS AND CREDITS IN CERTAIN CASES WHERE ASSERTED LIABILITIES ARE CONTESTED

Amendment No. 97: This amendment adds a new section to the bill, relating to the timing of deductions and credits in certain cases where asserted liabilities are contested.

(*a*) *Taxable year of deduction or credit.*—Subsection (a) of the new section amends section 461 of the 1954 code (relating to general rule for taxable year of deduction) and section 43 of the 1939 code (relating to period for which deductions and credits taken) to provide that if—

(1) the taxpayer contests an asserted liability;

(2) the taxpayer transfers money or other property to provide for the satisfaction of the asserted liability;

(3) the contest with respect to the asserted liability exists after the time of the transfer; and

(4) but for the fact that the asserted liability is contested, a deduction or credit would be allowed for the taxable year of the transfer (or for an earlier taxable year);

then the deduction or credit shall be allowed for the taxable year of the transfer.

(*b*) *Effective dates.*—Subsection (b) of the new section provides that except as provided by subsections (c) and (d) of the new section, the amendment to the 1954 code is to apply to taxable years to which the 1954 code applies and the amendment to the 1939 code is to apply to taxable years to which the 1939 code applies.

(*c*) *Election as to transfers in taxable years beginning before January 1, 1964.*—Paragraph (1) of subsection (c) of the new section added to the bill provides that the amendments made to section 461 of the 1954 code and section 43 of the 1939 code by subsection (a) shall not apply to any transfer of money or other property described in subsection (a) made in a taxable year beginning before January 1, 1964, if the taxpayer elects, in the manner provided by regulations prescribed by the Secretary of the Treasury or his delegate, to have such paragraph (1) apply. Such an election (1) must be made within 1 year after the date of enactment of the bill, (2) may not be revoked after the expiration of such 1-year period, and (3) shall apply to all transfers of money or

other property described in subsection (a) made in a taxable year beginning before January 1, 1964 (other than transfers described in par. (2) of subsec. (c)). In the case of any transfer to which paragraph (1) applies, the deduction or credit shall be allowed only for the taxable year in which the contest with respect to such transfer is settled.

Paragraph (2) of subsection (c) provides that paragraph (1) of subsection (c) shall not apply to any transfer if the assessment of any deficiency which would result from the application of the election in respect of such transfer is, on the date of the election under such paragraph (1), prevented by the operation of any law or rule of law.

Paragraph (3) of subsection (c) provides that if the taxpayer makes an election under paragraph (1) of subsection (c), and if, on the date of such election, the assessment of any deficiency which results from the application of the election in respect of any transfer is not prevented by the operation of any law or rule of law, the period within which assessment of such deficiency may be made shall not expire earlier than 2 years after the date of enactment of the bill.

(*d*) *Certain other transfers in taxable years beginning before January 1, 1964.*—Subsection (d) of the new section added to the bill provides that the amendments made to section 461 of the 1954 code and section 43 of the 1939 code by paragraphs (1) and (2), respectively, of subsection (a) shall not apply to any transfer of money or other property described in subsection (a) made in a taxable year beginning before January 1, 1964, if (1) no deduction or credit has been allowed in respect of such transfer for any taxable year before the taxable year in which the contest with respect to such transfer is settled, and (2) refund or credit of any overpayment which would result from the application of such amendments to such transfer is prevented by the operation of any law or rule of law. In the case of any transfer to which subsection (d) applies, the deduction or credit shall be allowed for the taxable year in which the contest with respect to such transfer is settled.

The House recedes with amendments. Under the conference agreement, the amendments to section 461 of the 1954 code (relating to general rule for taxable year of deduction) and section 43 of the 1939 code (relating to period for which deductions and credits taken) do not apply in respect of any credit against tax, and do not apply in respect of the deduction for income, war profits, and excess profits taxes imposed by the authority of any foreign country or possession of the United States.

It is the understanding of the conferees that the new provisions relating to the timing of deductions in certain cases where asserted liabilities are contested do not affect the taxable year in which the taxpayer may deduct items of a nature which are properly accruable in a year before the year of payment.

INTEREST ON CERTAIN DEFERRED PAYMENTS

Amendment No. 99: Subsection (c) of section 215 of the bill as passed by the House amended section 163(b) of the code to provide that if personal services are purchased under a contract providing for installment payments of part or all of the purchase price and if the contract provides for carrying charges but the portion thereof which constitutes interest cannot be ascertained, then the payments

under the contract are treated, for purposes of the interest deduction, as if they included interest equal to 6 percent of the average unpaid balance. Senate amendment No. 99 strikes this provision from the bill.

The House recedes with an amendment. Under the conference agreement, this provision is restored to the bill but is made applicable only with respect to educational services. For this purpose, the term "educational services" is defined as meaning any service (including lodging) which is purchased from an educational institution (as defined in section 151(e)(4) of the code) and which is provided for a student of such institution.

Amendment No. 100: Under the bill as passed by the House the new provisions relating to the treatment of interest on certain deferred payments (subsec. (a) of this section of the bill) were to apply to payments made after December 31, 1963, on account of sales or exchanges of property occurring after June 30, 1963. Senate amendment No. 100 provides, in addition, that the new provisions will not apply to a sale or exchange made pursuant to a binding written contract (including an irrevocable written option) entered into before July 1, 1963.

The House recedes with an amendment providing that the amendments made to section 163(b)(1) of the code with respect to certain payments for educational services are to apply to payments made during taxable years beginning after December 31, 1963.

PERSONAL HOLDING COMPANIES

Amendments Nos. 102, 105, 106, and 107:

Excluded lending and finance companies.—Under the bill as passed by the House, a lending or finance company was excluded from the definition of a personal holding company if it met four requirements: (1) At least 60 percent of its ordinary gross income must be derived directly from the active and regular conduct of a lending or finance business; (2) its personal holding company income (computed without regard to income qualifying under the 60-percent test; computed by including as personal holding company income the entire amount of the gross income from rents, royalties, produced film rents, and compensation for the use of corporate property by shareholders; and computed without regard to certain income from domestic subsidiaries described in sec. 542(d)(3) of the code), plus the interest described in section 543(b)(2)(C) of the code, must not exceed 20 percent of the ordinary gross income; (3) business deductions directly allocable to the active and regular conduct of its lending or finance business must equal or exceed the sum of 15 percent of its ordinary gross income up to $500,000 plus 5 percent of its ordinary gross income between $500,000 and $1,000,000; and (4) loans to substantial shareholders must not exceed $5,000 in principal amount. Senate amendment No. 102 deletes the provision that interest described in section 543(b)(2)(C) be included with the corporation's personal holding company income in applying the 20-percent-of-ordinary-gross-income test of section 542(c)(6)(B) which is described in clause (2) of the preceding sentence.

The House recedes on Senate Amendment No. 102.

Under the bill as passed by the House, section 542(d)(1)(A) of the code defined a lending or finance business, generally, as a business of

making loans, or purchasing or discounting accounts receivable, notes, or installment obligations. Senate amendment No. 105 amends the definition of a lending or finance business in section 542(d)(1) to include therein the business of rendering services or making facilities available to another member of the same affiliated group (as defined in sec. 1504) which is also in the lending or finance business. The House recedes with an amendment to Senate amendment No. 105. Under the conference agreement, the definition of a lending or finance business in section 542(d)(1) includes (1) rendering services or making facilities available in connection with the activities of making loans, or purchasing or discounting accounts receivable, notes, or installment obligations where such activities are carried on by the corporation rendering the services or making the facilities available, and (2) rendering services or making facilities available to another corporation which is a member of the same affiliated group and is engaged in the lending or finance business, if such services or facilities are related to the lending or finance business of such other corporation.

Under the bill as passed by the House, section 542(d)(1)(B)(i) provided that the term "lending or finance business" does not include the business of making loans, or purchasing or discounting notes or installment obligations, if the remaining maturity exceeds 60 months. Senate amendment No. 106 excepts from this exclusion loans, notes, and installment obligations evidenced or secured by contracts of conditional sale, chattel mortgages, or lease agreements, arising out of the sale of goods or services in the course of the transferor's or borrower's trade or business. The House recedes with a clarifying amendment.

Under the bill as passed by the House, section 542(d)(3) of the code provided that the lawful income received by a lending company which is in the small loan business (consumer finance business) from domestic subsidiary corporations which are themselves excepted from the definition of a personal holding company under section 542(c)(6) is not included for purposes of the 20-percent-of-ordinary-gross-income test of section 542(c)(6)(B). Senate amendment No. 107 changes this provision in two respects. First, the corporation receiving such income may be any lending or finance company which meets the 60-percent requirement of section 542(c)(6)(A). It does not have to meet the requirement of being in the small loan (consumer finance) business. Second, the payor corporation may be any member of the same affiliated group (as defined in sec. 1504 of the code) as the corporation receiving such income. Thus, the corporation receiving such income is not required to be the parent corporation of the payor corporation. However, the payor corporation must still meet the requirements of section 542(c)(6). The House recedes.

Amendments Nos. 108, 109, and 111:

Personal holding company income.—Subsection (d) of this section of the bill amends section 543(a) of the code (relating to personal holding company income). It also amends section 543(b) to provide definitions of the new terms "ordinary gross income," "adjusted ordinary gross income," "adjusted income from rents," and "adjusted income from mineral, oil, and gas royalties." Subsections (a) and (b) of section 543 are the same under the bill as passed by the House and under the Senate amendments except for changes in section 543(a)(2) (relating to rents), section 543(b)(2)(A) (relating to required adjust-

ments in the amount of gross income from rents includible in adjusted ordinary gross income), and section 543(b)(4) (defining "adjusted income from mineral, oil, and gas royalties").

Rents.—Senate amendment No. 108 modifies the 10-percent test in section 543(a)(2)(B) in the bill as passed by the House to provide that adjusted income from rents which meets the 50-percent requirement of section 543(a)(2)(A) shall not be treated as personal holding company income if the sum of the consent dividends (determined under sec. 565) and the dividends paid or considered as paid (determined under secs. 562 and 563) during the taxable year by the corporation to its shareholders equals or exceeds the amount, if any, by which the corporation's personal holding company income for the taxable year (computed without regard to such rents and compensation for the use of the corporation's property by its shareholders, and computed by treating copyright royalties and adjusted income from mineral, oil, and gas royalties as personal holding company income) exceeds 10 percent of the ordinary gross income as defined in section 543(b)(1). The effect of this modification in the 10-percent test applicable to rents is that this test shall be deemed to be met if the shareholders are required to include in their income as dividends an amount which is at least equal to the corporation's other personal holding company income which is in excess of 10 percent of total ordinary gross income. The House recedes.

Adjustment to rents included in adjusted ordinary gross income.—The bill as passed by the House defines, in paragraph (2) of section 543(b) of the code, the term "adjusted ordinary gross income" as the ordinary gross income adjusted as provided in subparagraphs (A), (B), and (C) of such paragraph. Senate amendment No. 109 amends subparagraph (A)(i) of section 543(b)(2) to provide that the gross income from rents derived from leases of tangible personal property which is not customarily retained by any one lessee for a period of more than 3 years shall not be reduced by allowable deductions for exhaustion, wear and tear, obsolescence, and amortization of such property. The House recedes.

Adjusted income from mineral, oil, and gas royalties.—Senate amendment No. 111 amends section 543(b)(4) of the code to specifically include production payments and overriding royalties as mineral, oil, and gas royalties for purposes of classification as personal holding company income under section 543(a). The House recedes.

Amendments Nos. 114, 116, 117, 119, 124, 129, and 131:

One-month liquidations.—The bill as passed by the House added a new subsection (g) to section 333 of the code to provide a special rule for 1-month liquidations of certain corporations. Senate amendment No. 114 amends paragraph (1) of section 333(g) to provide that it shall be applicable to corporate liquidations occurring before January 1, 1967 (instead of January 1, 1966, as in the bill as passed by the House). Senate amendments Nos. 116 and 117 provide that the capital gain treatment under section 333(g)(1)(B) shall not apply to certain earnings and profits to which the corporation succeeds after December 31, 1963 (instead of August 1, 1963). Senate amendments Nos. 119 and 124 amend paragraph (2) of section 333(g) to provide that it shall be applicable to liquidations occurring after December 31, 1966 (instead of December 31, 1965), of corporations which owe qualified indebtedness (as defined in sec. 545(c)) on January 1, 1964 (instead of on August 1, 1963). The House recedes.

Senate amendment No. 129 amends paragraph (3) of section 333(g), which describes the corporations to which paragraphs (1) and (2) of section 333(g) may apply, to provide that such a corporation is one which was not a personal holding company under section 542 of existing law for at least 1 of its 2 most recent taxable years ending before December 31, 1963 (instead of the date of the enactment of the bill) but which would have been a personal holding company under section 542 for such taxable year if the law applicable for the first taxable year beginning after December 31, 1963, had been applicable to such preceding taxable year. The Senate recedes.

Senate amendment No. 131 adds a new paragraph (4) to section 333(g) providing that if an election is made under section 333 by a qualified electing shareholder (as defined in sec. 333(c)) of a corporation and the shareholder states in such election that it is made on the assumption that the corporation is a corporation referred to in paragraph (3) of section 333(g), the election under section 333 shall have no force or effect if it is determined that the corporation is not a corporation referred to in section 333(g)(3). The House recedes.

Amendments Nos. 132, 133, 137, and 139:

Deduction for amortization of indebtedness.—The bill as passed by the House added a new subsection (c) to section 545 of the code which provides that, under certain circumstances, there shall be allowed as a deduction (in computing undistributed personal holding company income) amounts used, or amounts irrevocably set aside, to pay or retire qualified indebtedness. Senate amendment No. 133 amends proposed section 545(c)(3) to provide that the term "qualified indebtedness" includes outstanding indebtedness incurred by the taxpayer before January 1, 1964 (instead of before August 1, 1963, as in the bill as passed by the House). The House recedes.

Senate amendments Nos. 137 and 139 amend proposed paragraphs (5) and (6) of section 545(c) to provide that allowable deductions for depletion shall be taken into account to reduce the deduction allowed by section 545(c) and to reduce the qualified indebtedness under certain circumstances. The House recedes.

Senate amendment No. 132 amends proposed paragraph (2)(A) of section 545(c), which describes a category of corporations to which paragraph (1) of section 545(c) may apply, to provide that such a corporation is one which was not a personal holding company under section 542 of existing law for at least one of its two most recent taxable years ending before December 31, 1963 (instead of the date of the enactment of the bill, as in the bill as passed by the House) but which would have been a personal holding company under section 542 for such taxable year if the law applicable for the first taxable year beginning after December 31, 1963, had been applicable to such preceding taxable year. The Senate recedes.

Amendment No. 141:

Increase in basis with respect to certain foreign personal holding company stock or securities.—Subsection (j) of section 216 of the bill as passed by the House amended the code to provide for an increase in basis with respect to certain foreign personal holding company holdings. Such subsection (j) also contained provisions relating to the liquidation of certain foreign personal holding companies. Senate amendment No. 141 strikes out this subsection.

Under the conference agreement, the provisions of subsection (j) relating to an increase in basis with respect to certain foreign personal

holding company holdings are restored to the bill (with modifications) and the provisions relating to liquidation of foreign personal holding companies are omitted. Paragraph (1) of subsection (j) redesignates section 1022 of the code as section 1023 and inserts a new section 1022 (relating to increase in basis with respect to certain foreign personal holding company stock or securities).

Section 1014(b)(5) of the code provides that the basis of a share of stock or of a security in a foreign personal holding company, in the hands of a person acquiring it from a decedent by bequest, devise, or inheritance, or acquired by the decedent's estate from the decedent, is the lower of the fair market value of such share or security at the date of the decedent's death or the basis in the hands of the decedent. The new section 1022(a) provides that the basis determined under section 1014(b)(5) of a share of stock or a security, acquired from a decedent dying after December 31, 1963, of a corporation which was a foreign personal holding company for its most recent taxable year ending before the date of the decedent's death is to be increased by such share's or security's proportionate share of any Federal estate tax attributable to the net appreciation in value of all of such shares and securities.

The new section 1022(b) provides that a share's or security's proportionate share of the tax referred to in section 1022(a) is an amount which bears the same ratio to the amount of tax determined under section 1022(c)(2) as the appreciation in value of the share or security bears to the aggregate appreciation in value of all such shares and securities having appreciation in value.

The new section 1022(c) provides special rules and definitions to be used in determining the increase in basis provided in section 1022(a).

Paragraph (1) of section 1022(c) defines the term "Federal estate tax" to mean the tax imposed by section 2001 or 2101 of the code, reduced by any credit allowable with respect to a tax on prior transfers by section 2013 or 2102 of the code.

Paragraph (2) of section 1022(c) provides that the Federal estate tax attributable to the net appreciation in value of all shares of stock and securities to which section 1022(a) applies is the amount which bears the same ratio to the Federal estate tax as the net appreciation in value of all of such shares and securities bears to the value of the gross estate as determined under chapter 11 of the code. If, for estate tax purposes, alternate valuation is elected under section 2032 of the code, the value of the gross estate is to be determined under the provisions of such section.

Paragraph (3) of section 1022(c) provides that the net appreciation in value of all shares and securities to which section 1022(a) applies is the amount by which the fair market value of all shares and securities exceeds the adjusted basis of such property in the hands of the decedent.

Paragraph (4) of section 1022(c) defines "fair market value", for purposes of section 1022, to mean such value determined under chapter 11 of the code. If, for estate tax purposes, alternate valuation is elected under section 2032 of the code, fair market value is to be determined as of the appropriate date provided in such section.

The new section 1022(d) provides that section 1022 is not to apply to any stock or securities of a foreign personal holding company referred to in section 342(a)(2) of the code (relating to foreign corporations which were foreign personal holding companies in 1937).

Paragraph (2) of the new subsection (j) of the bill adds a new paragraph (21) to section 1016(a) of the code providing, in effect, that an increase in basis under section 1022 of the code is to be taken into account in determining the adjusted basis of property to which such provisions apply. Paragraph (3) of the new subsection (j) makes a clerical amendment to the table of sections to part II of subchapter O of chapter 1 of the code.

TREATMENT OF CERTAIN IRON ORE ROYALTIES

Amendments Nos. 151 and 153: The bill as passed by the House amended sections 631(c), 1231(b)(2), and 272 of the code to grant, in the case of certain disposals of iron ore with a retained economic interest, the same treatment which is now available in the case of certain disposals of coal with a retained economic interest. Under such treatment, the gain or loss attributable to such disposals of iron ore is treated as gain or loss from the sale of property used in the trade or business (as defined in sec. 1231(b) of the code).

Under the Senate amendments, this treatment of these disposals of iron ore with a retained economic interest provided by the bill as passed by the House is retained with two exceptions. First, the treatment is to be available only in the case of iron ore mined in the United States. Second, the treatment is not to apply to disposals of iron ore to certain related persons. One of these is where the disposal is to a person whose relationship to the party disposing of the iron ore is such that a loss would be disallowed under section 267 of the code (relating to losses, etc., with respect to transactions between related taxpayers) or section 707(b) (relating to certain sales or exchanges of property with respect to controlled partnerships). The other of these is where the disposal is to a person owned or controlled directly or indirectly by the same interests which own or control the person disposing of the iron ore.

The House recedes.

INSURANCE COMPANIES

Amendment No. 162:

(*a*) *Certain mutualization distributions made in 1962.*—Subsection (a) of the section added to the bill by this amendment amends section 809(d)(11) of the code (relating to certain mutualization distributions) to allow, as a deduction in the computation of gain from operations, distributions made in 1962, in acquisition of stock, pursuant to a plan of mutualization adopted by a stock life insurance company before January 1, 1958. Existing law permits a deduction for such mutualization distributions made in 1958, 1959, 1960, or 1961.

(*b*) *Accrual of bond discount.*—Subsection (b) of the section added to the bill by Senate amendment No. 162 relates to the accrual of bond discount by insurance companies subject to tax under part I or II of subchapter L of chapter 1 of the code (relating to life insurance companies and certain mutual insurance companies).

Paragraph (1) of this subsection (b) amends section 818(b) of the code (relating to amortization of premium and accrual of discount) to add a new paragraph at the end thereof. The new section 818(b)(3) provides that for taxable years beginning after December 31, 1962,

no accrual of discount shall be required under section 818(b)(1) on any bond (as defined in sec. 171(d) of the code) except in the case of discount which is interest to which section 103 of the code applies or is original issue discount (as defined in sec. 1232(b) of the code). The new section 818(b)(3) also provides that for purposes of section 805(b)(3)(A) of the code, the current earnings rate for any taxable year beginning before January 1, 1963, is to be determined as if the first sentence of the new section 818(b)(3) applied to such taxable year.

Paragraph (2) of subsection (b) of the section added to the bill by Senate amendment No. 162 amends section 822(d)(2) of the code (relating to the amortization of premium and accrual of discount in the case of mutual insurance companies other than life and other than certain fire, flood, and marine insurance companies) by adding a new sentence. This sentence provides that for taxable years beginning after December 31, 1962, no accrual of discount shall be required under section 822(d)(2) of the code on any bond (as defined in sec. 171(d) of the code).

(c) *Contributions to qualified pension, etc., plans.*—Subsection (c) of the section added to the bill by Senate amendment No. 162 amends section 832(c)(10) of the code (relating to deductions allowed in computing taxable income of certain insurance companies) to make it clear that in computing the taxable income of insurance companies subject to the tax imposed by section 831 of the code, there shall be allowed the deduction provided in part I of subchapter D of chapter 1 of the code (sec. 401 and following, relating to pension, profit-sharing, stock bonus plans, etc.). Under subsection (d) of this section of the bill, this clarification is to apply to taxable years beginning after December 31, 1953, and ending after August 16, 1954.

The House recedes on Senate amendment No. 162 with a clerical amendment.

REGULATED INVESTMENT COMPANIES

Amendment No. 163:

(a) *Time for mailing certain notices to shareholders.*—Subsection (a) of the section added to the bill by this amendment amends several provisions of part I of subchapter M of chapter 1 of the code (relating to regulated investment companies) to increase from 30 days to 45 days after the close of the regulated investment company's taxable year the time within which such company must mail certain notices to its shareholders. The sections of the code which are amended are sections 852(b)(3)(C), 852(b)(3)(D)(i), 853(c), 854(b)(2), and 855(c). The amendments are to apply to taxable years of regulated investment companies ending on or after the date of the enactment of the bill.

(b) *Certain redemptions by unit investment trusts.*—Subsection (b) of the section added to the bill by Senate amendment No. 163 amends section 852 of the code (relating to taxation of regulated investment companies and their shareholders) to add at the end thereof a new subsection (d). Under section 852(b) of existing law, a regulated investment company is allowed a deduction for dividends paid (as defined in sec. 561), other than capital gains dividends, in determining its investment company taxable income, and is allowed a deduction for dividends paid (as defined in sec. 561), determined with reference to capital gains dividends only, in computing that part of the excess

of its net long-term capital gain over net short-term capital loss on which it must pay a capital gains tax. Section 562(c) of the code (relating to preferential dividends) provides that the amount of any distribution shall not be considered as a dividend unless such distribution is pro rata, with no preference to any share of stock as compared with other shares of the same class, and with no preference to one class of stock as compared with another class except to the extent that the former is entitled to such preference.

The new section 852(d) added to the code by this amendment provides that in the case of a unit investment trust—

(1) which is registered under the Investment Company Act of 1940 and issues periodic payment plan certificates (as defined in such act); and

(2) substantially all of the assets of which consist of securities issued by a management company (as defined in such act);

section 562(c) of the code (relating to preferential dividends) shall not apply to a distribution by such trust to a holder of an interest in such trust in redemption of part or all of such interest, with respect to the net capital gain of such trust attributable to such redemption. The effect of this change is that, where the requirements of the new section 852(d) are met, the distribution is considered to be a distribution by the trust which qualifies for the deduction for dividends paid with respect to capital gains dividends under section 852(b)(3)(A) of the code. This change is to apply to taxable years of regulated investment companies ending after December 31, 1963.

The House recedes on Senate amendment No. 163 with a clerical amendment.

FOREIGN TAX CREDIT WITH RESPECT TO CERTAIN FOREIGN MINERAL INCOME

Amendment No. 164: This amendment inserts a new subsection (d) in section 901 of the code (relating to credit for foreign taxes). Paragraph (1) of the new subsection (d) provides that in certain cases the amount of foreign taxes described in section 901 (relating to amount of foreign tax allowed as a credit) which are paid or accrued during the taxable year with respect to mineral income to any foreign country (if the per-country limitation applies), or to all foreign countries (if the overall limitation applies), is to be reduced for purposes of computing the foreign tax credit.

The Senate recedes.

AMOUNTS RECEIVED FROM EMPLOYER ON SALE OF RESIDENCE OF EMPLOYEE IN CONNECTION WITH TRANSFER TO NEW PLACE OF WORK

Amendment No. 165: This amendment adds a new section 1003 to part I of subchapter 0 of chapter 1 of the code (relating to determination of amount of and recognition of gain or loss). Subsection (a) of the new section 1003 provides that if property used by the taxpayer as his principal residence is sold by the taxpayer or his spouse pursuant to a sales contract entered into within the forced sale period for such property, and if the taxpayer's employer, not later than 1 year after the date such sales contract was entered into, pays part or all of the sale differential on such property, then for

purposes of chapter 1 of the code the amount so paid is to be treated by the taxpayer or his spouse as an additional amount realized on the sale of such property to the extent that it does not exceed the lesser of (1) the sale differential, or (2) 15 percent of the gross sales price of such property.

Subsection (b) of the new section 1003 places certain limitations on the application of such section. Subsection (c) contains definitions and special rules for the application of the new section.

The new section 1003 is to apply to amounts paid with respect to sales contracts entered into after December 31, 1963, in taxable years ending after such date.

The Senate recedes.

CAPITAL GAINS AND LOSSES

Amendment No. 166: Section 219(a) of the bill as passed by the House amended the code to provide, in the case of taxpayers other than corporations, for the splitting of the long-term capital gain or loss category into two categories: (1) Class B capital gain or loss (in general, gain or loss from the sale or exchange of a capital asset held for more than 6 months but not more than 2 years); and (2) class A capital gain or loss (in general, gain or loss from the sale or exchange of a capital asset held for more than 2 years). Under the bill as passed by the House the deduction under section 1202 of the code for an excess of net long-term capital gain over net short-term capital loss was increased, in the case of adjusted class A capital gain (as defined in the bill), from 50 percent to 60 percent. It also provided that the alternative maximum capital gain tax provided by section 1201(b) of the code for taxpayers other than corporations was to be decreased, in the case of adjusted class A capital gain, from 25 percent to 21 percent.

Under existing section 1212 of the code, if a taxpayer has a net capital loss for a taxable year, the amount thereof is a short-term capital loss in each of the 5 succeeding taxable years, to the extent that such amount exceeds the total of any net capital gains of any taxable years intervening between the taxable year in which the net capital loss arose and such succeeding taxable year. Section 219(b) of the House bill in effect provided, in the case of a taxpayer other than a corporation, for an unlimited carryover of a net short-term, net class B, or net class A capital loss.

Senate amendment No. 166 strikes out this section of the bill as passed by the House.

Under the conference agreement, the House recedes with an amendment which adds a new subsection (b) to section 1212 of the code and makes technical changes in the definitions contained in paragraphs (9) and (10) of section 1222 of the code (relating to terms relating to capital gains and losses). Under paragraph (1) of the new subsection (b), in the case of a taxpayer other than a corporation, the excess of the net short-term capital loss over the net long-term capital gain for a taxable year, and the excess of the net long-term capital loss over the net short-term capital gain for such year are to be treated, respectively, as a short-term and a long-term capital loss in the succeeding taxable year. In determining a net short-term capital gain or loss of a taxable year, for purposes of computing a capital loss carryover to the succeeding taxable year, an amount equal to the excess of the capital losses allowable as a deduction for the taxable year by virtue of section 1211(b) of the code (relating to limitation on capital

losses) over the capital gains for such year is treated as a short-term capital gain occurring in such year. The effect of the latter rule is to reduce first the amount of a net short-term capital loss which may be carried over to a succeeding taxable year by the amount of capital losses which were allowed against ordinary income in the loss year and then to reduce the amount of a net long-term capital loss which may be carried over to the succeeding taxable year by any balance of the capital losses allowed against ordinary income in the loss year.

Paragraph (2) of new subsection (b) contains a transitional rule. The transitional rule provides, in effect, that, in the case of a taxpayer other than a corporation, any capital loss carryover which, under subchapter P of chapter 1 of the code as in effect immediately before the enactment of the bill is treated as a short-term capital loss in the first taxable year of a taxpayer beginning after December 31, 1963, is to be treated as a short-term capital loss in such year irrespective of the fact that such carryover may be composed in whole or in part of losses which were long-term capital losses in the year in which sustained.

Under the conference agreement, the amendments of sections 1212 and 1222 of the code are to apply to taxable years beginning after December 31, 1963.

ELECTION OF STANDARD DEDUCTION BY CERTAIN INDIVIDUALS WHO ELECT TO AVERAGE INCOME

Amendment No. 171: This amendment amends section 144 of the code (relating to election of standard deduction) to allow an individual who chooses the benefits of income averaging and whose adjusted gross income for the computation year is less than $5,000 to elect the standard deduction.

The House recedes.

SMALL BUSINESS CORPORATIONS

Amendment No. 177: This amendment amends section 1371 of the code (defining "small business corporation" for purposes of subch. S of ch. 1 of the code, relating to election as to taxable status) by adding at the end thereof a new subsection (d) and amends section 1375 of the code (relating to special rules applicable to distributions of electing small business corporations) by adding at the end thereof a new subsection (e).

Under existing section 1371(a) of the code the definition of a "small business corporation" does not include any corporation which is a member of an affiliated group (as defined in sec. 1504 of the code). The new subsection (d) added to section 1371 of the code by Senate amendment No. 177 provides that, for purposes of section 1371(a), a corporation is not to be considered a member of an affiliated group at any time during the taxable year by reason of ownership of stock in another corporation if such other corporation has not begun business at any time on or after the date of its incorporation and before the close of such taxable year and if such other corporation does not have taxable income for the period included within such taxable year. The new subsection (d) is to apply to taxable years of corporations beginning after December 31, 1962.

The new subsection (e) added to section 1375 provides that under specified circumstances a distribution of money made by a corporation

on or before the 15th day of the 3d month following a taxable year for which such corporation is an electing small business corporation shall be treated for purposes of chapter 1 of the code as made on the last day of such taxable year. The new subsection (e) is to apply to taxable years beginning after December 31, 1957.

The House recedes with a clerical amendment.

VALIDITY OF TAX LIENS AGAINST PURCHASERS OF MOTOR VEHICLES

Amendment No. 193: Section 6323(a) of the code provides that the lien for taxes provided by section 6321 of the code is not to be valid as against any mortgagee, pledgee, purchaser, or judgment creditor until notice thereof has been filed by the Secretary of the Treasury or his delegate in the appropriate office specified in section 6323(a). Senate amendment No. 193 amends section 6323(c) of the code which contains a special rule as to the validity of tax liens in the case of securities to make that special rule applicable also with respect to motor vehicles. Under the Senate amendment, even though notice of lien has been filed in the manner prescribed in section 6323(a) of the code, the lien is not to be valid with respect to a motor vehicle as against any mortgagee, pledgee, or purchaser of such motor vehicle, for an adequate and full consideration in money or money's worth, if at the time of such mortgage, pledge, or purchase such mortgagee, pledgee, or purchaser is without notice or knowledge of the existence of such lien.

Senate amendment No. 193 also amends section 6324 of the code (relating to special liens for estate and gift taxes) to grant, in the case of the mortgage, pledge, or purchase of a motor vehicle, the same treatment which is now available in the case of the mortgage, pledge, or purchase of a security after a lien for estate or gift tax has arisen. Under the amendment, even though a special lien for estate or gift tax has arisen, such lien will not be valid with respect to any mortgagee, pledgee, or purchaser of a motor vehicle, for an adequate and full consideration in money or money's worth, if at the time of such mortgage, pledge, or purchase, such mortgagee, pledgee, or purchaser was without notice or knowledge of the existence of such lien.

Under the amendment, these changes to sections 6323 and 6324 of the code apply to mortgages, pledges, and purchases made after the date of the enactment of the bill.

The House recedes with an amendment. Section 6323 (relating to validity of tax liens against mortgagees, pledgees, purchasers, and judgment creditors) is amended by redesignating subsection (d) as subsection (e) and by inserting a new subsection (d) which provides that even though notice of lien imposed by section 6321 has been properly filed, the lien shall not be valid with respect to a motor vehicle as against a purchaser thereof for an adequate and full consideration in money or money's worth if (1) at the time of the purchase, the purchaser is without notice or knowledge of the existence of such lien, and (2) before the purchaser obtains such notice or knowledge, he has acquired possession of such motor vehicle and has not thereafter relinquished possession of such motor vehicle to the seller or his agent.

Section 6324 (relating to special liens for estate and gift taxes) is amended by adding a new subsection (d) which provides in effect that a lien for estate or gift taxes will be invalid as against a purchaser of a motor vehicle (as defined in sec. 6323 (d)(2)) for an adequate and full

consideration in money or money's worth if (1) at the time of the purchase, such purchaser is without notice or knowledge of such lien, and (2) before the purchaser obtains such notice or knowledge, he has acquired possession of such motor vehicle and has not thereafter relinquished possession of such motor vehicle to the seller or his agent.

Where a motor vehicle is purchased under the circumstances specified in the new section 6323(d) or 6324(d) of the code, the tax lien will abate with respect to the motor vehicle in question and will not be valid against any subsequent purchaser (or other successor in interest) of the vehicle.

The amendments to sections 6323 and 6324 of the code apply to purchases made after the date of the enactment of the bill.

EXCLUSION OF EARNED INCOME OF CERTAIN U.S. CITIZENS WHO ARE RESIDENTS OF FOREIGN COUNTRIES

Amendment No. 194: This amendment adds a new section to the bill amending section 911(c)(1) of the code (relating to limitations on amount of exclusion of earned income from sources without the United States). Existing section 911(c)(1) provides in effect that the amount excluded from the gross income of an individual under section 911(a) for any taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of—

(A) except as provided in subparagraph (B), $20,000 in the case of an individual who qualifies under section 911(a); or

(B) $35,000 in the case of an individual who qualifies under section 911(a)(1) (relating to bona fide resident of foreign country), but only with respect to that portion of the taxable year occurring after such individual has been a bona fide resident of a foreign country or countries for an uninterrupted period of 3 consecutive years.

Senate amendment No. 194 amends section 911(c)(1)(A) to substitute "$4,000" for the $20,000 amount contained therein, and it amends section 911(c)(1)(B) to substitute "$6,000" for the $35,000 amount contained therein. Under the amendment these changes are applicable only with respect to taxable years beginning after December 31, 1963.

The House recedes with an amendment. Under the conference agreement, the limitation contained in subparagraph (B) of section 911(c)(1) of the code (relating to limitations on amount of exclusion of earned income from sources without the United States) is reduced from $35,000 to $25,000, effective for taxable years beginning after December 31, 1964.

DEFINITION OF HEAD OF HOUSEHOLD

Amendment No. 195: Section 1(b)(2) of the code defines a head of a household to be an individual who is not married at the close of his taxable year, is not a surviving spouse, and maintains a household which constitutes for the taxable year the principal place of abode of a dependent for whom the taxpayer is entitled to a deduction for the taxable year under section 151 of the code or (if not married at the close of the taxpayer's taxable year) a child, stepchild, or descendant. Except in the case of a father or mother, the household must be maintained as the home of the taxpayer. The effect of Senate amendment No. 195 is to remove the requirement that the household be maintained

as the home of the taxpayer and to provide that a taxpayer may qualify as a head of household with respect to a child, stepchild, or descendant only if he is a dependent for whom the taxpayer is entitled to a deduction for the taxable year.

The Senate recedes.

LOSSES ARISING FROM CONFISCATION OF PROPERTY BY CUBA

Amendment No. 196: Section 165(c)(3) of the code provides that, in the case of an individual, the deduction for losses provided by section 165(a) shall, except for losses incurred in a trade or business or in a transaction entered into for profit, be limited to losses of property arising from fire, storm, shipwreck, or other casualty, or from theft. Section 172(d)(4) of the code provides for purposes of the net operating loss that, in the case of a taxpayer other than a corporation, the deductions not attributable to a taxpayer's trade or business shall be allowed only to the extent of the gross income not derived from such trade or business. This limitation does not apply to a deduction allowable under section 165(c)(3) of the code.

Senate amendment No. 196 adds a new subsection (i) to section 165 of the code which provides that, for purposes of section 165(c)(3), losses of property which arise from expropriation, intervention in, or confiscation by Cuba shall be deemed to be losses from "other casualty."

The House recedes with an amendment which limits the application of the new section 165(i) to losses of tangible property and which makes technical and conforming changes.

CREDIT OR REFUND OF SELF-EMPLOYMENT TAX

Amendment No. 197: This amendment adds a new provision to the code to permit credit or refund of self-employment tax if, by reason of an agreement made pursuant to section 218 of the Social Security Act, the self-employment income of an individual (for a year with respect to which the period of limitation for filing claim for credit or refund has expired) is different from what it would be but for the agreement.

The House recedes with an amendment. Under the conference agreement, a new paragraph (5) is added to 6511(d) of the code. The new paragraph (5) applies both to agreements and modifications of agreements under section 218 of the Social Security Act. The new paragraph (5) also provides that if the allowance of a credit or refund of an overpayment attributable to such an agreement or modification is otherwise prevented by the operation of any law or rule of law other than section 7122 of the code (relating to compromises) such credit or refund may be allowed or made if claim therefor is filed on or before whichever of the following is the later: (A) the last day of the second year after the calendar year in which such agreement or modification is agreed to by the State and the Secretary of Health, Education, and Welfare, or (B) December 31, 1965.

EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX ON VALUE OF REVERSIONARY OR REMAINDER INTEREST IN PROPERTY

Amendment No. 198: Section 6163(a) of the 1954 code provides that if the value of a reversionary or remainder interest in property is

included in the value of the gross estate for purposes of the estate tax, then the payment of the part of the estate tax attributable to the interest may (at the election of the executor) be postponed until 6 months after the termination of the precedent interest or interests in the property. A similar rule applies under the 1939 code. Under section 6163(b) of the 1954 code (or sec. 925 of the 1939 code), if the Secretary of the Treasury or his delegate finds that the payment of the tax at the expiration of the period of postponement would result in undue hardship to the estate, he may extend the time for payment for a reasonable period not in excess of 2 years from such period of postponement. Under Senate amendment No. 198, he would be permitted to extend the time for payment for a reasonable period or periods not in excess of 3 years from the expiration of such period of postponement.

The House recedes with clerical amendments.

CROP INSURANCE PROCEEDS

Amendment No. 199: This amendment adds a new subsection (c) to section 451 of the code (relating to general rule for taxable year of including items in gross income). Under the new subsection, in the case of insurance proceeds received as a result of destruction or damage to crops, a taxpayer reporting on the cash basis of accounting may elect to include such proceeds in income for the year following the year of destruction or damage provided he establishes to the satisfaction of the Secretary of the Treasury or his delegate that, under his practice, income from such crops would not have been reported in the year in which raised.

The Senate recedes.

TRANSPORTATION OF DISABLED INDIVIDUAL TO AND FROM WORK

Amendment No. 200: This amendment adds a new section 219 to the code. Section 219(a) provides that in the case of a disabled individual there shall be allowed as a deduction expenses paid during the taxable year for transportation to and from work to the extent that such expenses do not exceed $600. Section 219(b) defines the term "disabled individual" and contains rules as to the submission of proof and certification of disability.

The Senate recedes.

ADDITIONAL PERSONAL EXEMPTIONS FOR DISABILITY

Amendment No. 201: This amendment adds a new subsection (f) to section 151 of the code (relating to allowance of deductions for personal exemptions). The new subsection (f) provides an additional exemption of $600 for the taxpayer if he is a disabled individual (as defined in new subsec. (f)(3)) and an additional exemption of $600 for the spouse if the spouse is a disabled individual (as so defined) and if the taxpayer is entitled to an exemption under section 151(b) of the code for such spouse.

The Senate recedes.

TIME FOR FILING CLAIM FOR REFUND OF TAXES PAID FOR GASOLINE USED ON FARMS

Amendment No. 202: The second sentence of section 6420(b) of the code provides that no claim shall be allowed under section 6420

of the code (relating to payments to ultimate purchaser of amounts equivalent to tax on gasoline used on a farm for farming purposes) with respect to any 1-year period (ending on June 30) unless filed on or before September 30 of the year in which such 1-year period ends. The effect of Senate amendment No. 202 is to permit the Secretary of the Treasury or his delegate to allow a claim filed after September 30 if the claimant had good cause for failing to file on or before such date.

The Senate recedes.

FACILITIES TO CONTROL WATER OR AIR POLLUTION

Amendment No. 203: Section 46(a) of the code provides, in general, that the credit against income tax allowed by section 38 (relating to investment in certain depreciable property) shall be equal to 7 percent of the qualified investment (as defined in sec. 46(c)). Under section 46(c)(1), the qualified investment with respect to any taxable year is the aggregate of the applicable percentage of the basis of each new section 38 property (or of the cost of each used sec. 38 property) placed in service by the taxpayer during the taxable year. The applicable percentage (33⅓, 66⅔, or 100 percent) is determined by reference to the useful life of the property. Senate amendment No. 203 adds a new paragraph (5) to section 46(c). Under the new paragraph, in the case of section 38 property which consists of facilities or equipment to control water or air pollution, the amount of the qualified investment shall be twice the amount determined under section 46(c)(1).

The Senate recedes.

INCOME TAX COLLECTED AT SOURCE

Amendments Nos. 204, 205, 206, 207, and 208: Section 302 of the bill as passed by the House provided a 15-percent withholding rate for wages paid during calendar year 1964 and a 14-percent withholding rate for wages paid after December 31, 1964. The bill as passed by the House also provided that the withholding rate on certain payments to nonresident aliens was to be 15 percent in the case of such payments made during calendar year 1964 and 14 percent in the case of such payments made after December 31, 1964.

Under the Senate amendments the withholding rate for wages and for the payments to nonresident aliens described in the preceding paragraph is 14 percent, effective with respect to wages paid (and such payments made) after the seventh day after the date on which the bill is enacted.

The House recedes.

W. D. MILLS,
CECIL R. KING,
THOS. J. O'BRIEN,
HALE BOGGS,
JOHN W. BYRNES,
VICTOR A. KNOX,
Managers on the Part of the House.

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