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REVENUE INCREASES

Recommendations of the

COMMITTEE ON FINANCE

Required by the Reconciliation Process
in Section 3(a)(16) of H. Con. Res. 307, the

FIRST BUDGET RESOLUTION FOR FISCAL YEAR 1981

COMMITTEE ON FINANCE UNITED STATES SENATE

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FOREWORD

The Congressional Budget Act provides for the adoption by May 15 of each year of a First Concurrent Budget Resolution setting an overall budgetary framework within which the Congress will operate as it considers revenue and spending legislation for the upcoming fiscal year. The revenue and spending totals in the First Budget Resolution are not binding under the usual rules of the Budget Act. In the Fall of each year a binding Second Concurrent Budget Resolution is adopted to reaffirm or revise the budgetary totals which were incorporated in the First Budget Resolution. The Congressional Budget Act provides for a "reconciliation" procedure under which the Second Budget Resolution may include instructions directing specified House and Senate committees promptly to report legislation raising revenues or reducing spending in programs within their jurisdiction by specific amounts. The Congressional Budget Act does not provide for a reconciliation procedure under the First Budget Resolution. However, the Act does permit the inclusion in that Resolution of any "procedure which is considered appropriate to carry out the purposes of this Act."

The First Concurrent Budget Resolution for fiscal year 1981 (H. Con. Res. 307) includes reconciliation instructions to the Committee on Finance and several other committees of the Senate and House. In the case of the Finance Committee, the resolution includes both revenue and spending instructions. The committee is directed by the resolution to recommend reductions in outlays for spending programs under its jurisdiction totaling $2.2 billion for fiscal year 1981, decreases in budget authority totaling $0.9 billion, and increases in revenues totaling $4.2 billion.

The spending changes have been incorporated in a separate document. This committee print incorporates committee report language and bill language relating to the recommendations for revenue increases required of the Finance Committee.

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I. SUMMARY OF FINANCE COMMITTEE RECOMMENDATIONS

The Finance Committee recommendations submitted to the Budget Committee on ways to raise fiscal year 1981 revenues by $4.2 billion, as required by the first budget resolution, include:

(1) A tax on gains from U.S. real estate realized by foreign investors.

(2) Imposition of social security and unemployment taxes on the employee social security tax paid by employers.

(3) A one-year delay in the phaseout of the telephone excise tax.

(4) Extension of estimated tax requirements for individuals and corporations to the minimum tax.

(5) An increase in the proportion of the corporate income tax to be covered by estimated tax payments from 80 percent to 85 percent.

(6) A requirement that large corporations cover at least 50 percent of their current year's tax liability with estimated tax payments if they elect the exception to the general estimated tax rules allowing them to base their estimates on the prior year's tax liability.

(7) A 40-cent increase in the tariff on alcohol imported for use as fuel.

(8) A $1,000 tax credit for royalty owners against their 1980 windfall profit tax liability.

(9) A reduction in the inflation adjustment to the base price under the windfall profit tax for the taxable periods in fiscal year 1981.

These changes are expected to increase revenues by $4.2 billion in fiscal year 1981 and $1.3 billion in fiscal year 1982.

Tax treatment of gain on sale of U.S. real property by foreign investors

Under present law, capital gains realized by foreign investors on the sale of U.S. property are generally not subject to U.S. tax unless the property is held in connection with a U.S. trade or business.

The committee recommendation would subject foreign investors to tax on gains on the sale or other disposition of U.S. real property. Foreign investors also would be taxed on gains realized from the sale or exchange of an interest in a corporation, trust, or partnership formed or availed of to hold U.S. real property interests. Reporting requirements would be established to identify when taxable transactions had occurred. The tax would be collected through withholding requirements and related enforcement provisions.

The provision would be effective for sales or other dispositions of U.S. real property interests occurring on or after January 1, 1980.

However, to the extent that a provision conflicts with a U.S. treaty obligation, the provision would not take effect until after 1984. Also, the provision would not apply to sales made pursuant to written contracts which were binding at all times after December 6, 1979.

Inclusion in wages of social security taxes paid by employers

The bill provides that an employer payment of an employee's social security tax liability (except with respect to agricultural labor and domestic service) is to be includible in wages for purposes of the social security tax, the unemployment tax and social security benefits. Except in cases of employment by certain State and local governmental units, the provision applies with respect to remuneration paid after December 31, 1980. The provision applies with respect to payments by certain State or local governmental units after December 31, 1983.

Telephone excise tax

Under present law, the excise tax on communications services is scheduled to phase down from 2 percent in 1980 to 1 percent in 1981 and to expire in 1982. The bill delays the phaseout by one year, so that the tax rate will be 2 percent in 1981 and 1 percent in 1982 and the tax will expire on January 1, 1983.

Estimated income tax payments

Under present law, corporations are generally expected to pay 80 percent of their current year's tax liability in quarterly estimated tax payments during the taxable year. However, they are exempt from the penalty for underpayment of estimated tax if their estimated tax payments equal 100 percent of the prior year's tax liability.

The bill raises the amount of the current year's corporate income tax which must be covered by estimated tax payments from 80 percent to 85 percent. Also, corporations whose taxable income in any of the 3 preceding taxable years exceeds $1 million are required to make estimated tax payments of at least 50 percent of the current year's tax liability regardless of their prior year's tax liability.

For both individuals and corporations, the minimum tax is not subject to estimated tax requirements. The bill subjects both the add-on minimum tax for corporations and individuals and the alternative minimum tax for individuals to the same estimated tax requirements as the regular income tax.

Increased duties on alcohol

There is an exemption under present law from the 4-cent-per gallon Federal excise taxes on gasoline, diesel fuel, or other motor fuels for fuel which is at least 10 percent alcohol (other than alcohol derived from petroleum, natural gas, or coal). This exemption applies through December 31, 1992. When fuel is not subject to the excise tax, or to the extent that fuel contains more than 10 percent alcohol, a tax credit equal to 40 cents per gallon of alcohol is available. Both the credit and the exemption apply without regard to where the alcohol was produced.

The bill increases the duty on imported ethyl alcohol (not used as a beverage) by 40 cents per gallon. This duty increase would offset what amounts to a 40 cents per gallon subsidy now available to im-

ported alcohol as a result of the excise tax exemption and the 40-cent tax credit. This provision would encourage U.S. alcohol production for fuel, aiding U.S. national security.

Windfall profit tax changes

The bill provides for a credit or refund for royalty owners (other than most corporations and trusts) equal to the first $1,000 of windfall profit tax on royalty oil removed during calendar year 1980. The credit may be claimed during the first part of 1981. In the case of a family, the $1,000 limit on the credit applies to a husband, wife and their minor children as if they were one taxpayer. A corporation treated as a qualified family farm corporation for purposes of the credit may claim the $1,000 credit; however, the shareholders of the qualified family farm corporation will have to reduce their personal credit in proportion to their interest in the corporation.

In calculating the amount of any deduction of the windfall profit tax for income tax purposes, the royalty owner must reduce the amount of the otherwise available income tax deduction by the amount of the credit allowable against the windfall profit tax for which the deduction would otherwise be claimed. The $1,000 credit will not affect withholding or other tax payment requirements imposed by the Crude Oil Windfall Profit Tax Act of 1980.

The revenue loss in fiscal year 1981 attributable to the credit is offset by the proposed increase in the duty on imported alcohol and by a reduction of the otherwise applicable adjusted base price for each barrel of oil removed during fiscal year 1981. This reduction will be made by subtracting from the otherwise applicable base price an amount equal to 0.8 percent of that price, which is equivalent to a reduction in the inflation adjustment by 0.8 percent.

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II. REVENUE EFFECTS

Table 1 shows the estimated revenue effects of the provisions in the Finance Committee recommendations for fiscal years 1981 through 1985. In fiscal year 1981, the overall revenue increase is $4.2 billion, the amount required by the budget resolution. In fiscal year 1982, it is $1.3 billion. The revenue increases shown for the estimated tax changes (numbers 4, 5 and 6 in table 1) represent changes in the timing of tax payments, not changes in tax liability. The other changes all represent changes in tax liability.

Table 1.—Estimated Revenue Effects From Provisions For Revenue Reconcilliation Recommended by Senate Finance Committee

[In millions of dollars]

Provision	Fiscal years				
	1981	1982	1983	1984	1985
1. Tax gains from sale of U.S. real estate by foreigners	182	119	130	143	157
2. Tax employer payment of employee Social Security tax	45	77	119	217	328
3. Changes in excise tax on communications services (2 percent in 1981 and 1 percent in 1982)	358	570	193		
4. Require estimated payments on minimum tax	500	35	38	40	45
5. Increase proportion of corporate income taxes to be covered by estimated payments from 80 percent to 85 percent	901	139	135	116	119
6. Require large corporations to be at least 50 percent current with estimated payments	2,239	348	334	288	294
7. 40-cent per gallon tariff on imported alcohol	63	23	4	1	
8. Windfall profit tax credit for royalty owners	−190				
9. Modification of windfall profit tax inflation adjustment	124	−15			
Total	**4,222**	**1,296**	**953**	**805**	**943**

III. EXPLANATION OF THE COMMITTEE RECOMMENDATIONS

A. Tax Treatment of Gain on Sale of U.S. Real Property by Foreign Investors

(Secs. 202-72 of the bill and new secs. 897 and 1444 of the Code)

Present law

General

Under the Code, nonresident aliens and foreign corporations engaged in a U.S. trade or business are generally taxed on the U.S. source income of that business in the same manner, and at the same rates, as U.S. persons. (However, their foreign source income not connected with that business is not taken into account in determining the applicable U.S. tax.)

In contrast, the U.S. source income of a nonresident alien or foreign corporation which is not effectively connected with a U.S. business is generally subject to a different tax regime. The Code provides that a foreign individual or corporation is ordinarily subject to a 30-percent withholding tax on the *gross* amount of certain passive income such as rents, dividends, and interest, which is received from U.S. sources and is not effectively connected with a U.S. business. This withholding tax generally satisfies the taxpayer's U.S. income tax liability on the income. Capital gains not effectively connected with a U.S. business are not subject to any U.S. income tax, except in the limited situation of nonresident individuals who were present in the United States 183 days or more during the year, who are taxed at the flat rate of 30 percent on the gains.

Foreign investment in U.S. property

Whether a foreign investor in U.S. real property is engaged in a U.S. trade or business depends on all the facts and circumstances. For example, a foreign investor who enters into a single long-term net lease (under which the lessee is responsible for operation of the property and pays the expenses) probably would not be engaged in a U.S. trade or business, whereas a taxpayer who owns and manages a number of commercial buildings would be so engaged.

If a foreign taxpayer is not actually engaged in a U.S. trade or business, he is permitted under the Code to elect to be treated as if he were so engaged with respect to all his real property held for the production of income. This election is provided because rental income, unlike other types of passive income, ordinarly has associated with it significant expenses. Therefore, a tax equal to 30 percent of the gross rentals could frequently exceed the entire economic income from the

property. If the election is made, the taxpayer may reduce his gross income from the real property by the deductible expenses, such as depreciation, mortgage interest, and real property taxes. The taxpayer is then taxed on the net income at the graduated rates which generally apply to U.S. taxpayers rather than paying 30 percent on his gross rental income. Often, as a result of the election, the investor will pay no tax on the current income because depreciation, mortgage interest, real property taxes and other expenses exceed gross income. (This result would be the same as if a U.S. person owned the property.) However, by making the election, the taxpayer will also subject himself to U.S. tax on any gains from the sale or exchange of the property. The election, once made, is binding on the taxpayer in all subsequent years unless consent to revoke it is obtained from the Internal Revenue Service.

Apart from the Code election, a number of planning techniques exist whereby a foreign investor may obtain the advantages of being taxed on current income from real property on a net basis. However, unlike the Code election, these techniques also offer the opportunity to avoid tax on the gain which would result from the sale of the property. Also, unlike the Code election, these techniques may be employed on a property-by-property basis. For example, a foreign investor who is actually engaged in a U.S. real estate business will be taxed on current income from the property on a net basis (which might result in no current tax because of the allowable deductions). He may sell the property on the installment basis and receive most or all of the payments in years following the year of the sale. If he is not actually engaged in a U.S. trade or business in later years when the installment payments are received (and has not made the election to be treated as if he were), the gain would not be treated as effectively connected with a trade or business in the later years and would therefore go untaxed.

Secondly, a foreign investor could generally exchange his U.S. real property held for productive use or investment for other property of a like kind, whether within or without the U.S., without recognition of gain. If the property he acquired in the exchange were outside the U.S., the gain he would recognize on the ultimate sale of the property received in the exchange would not be subject to U.S. tax. This would be the case even if the investor were actually engaged in a U.S. trade or business or had made the election to be so treated.

A taxpayer may also obtain the benefits of current taxation on a net basis and exemption from tax on the gain by investing in U.S. real property indirectly through a foreign holding company which either is actually engaged in U.S. business or makes the election. The holding company would be subject to tax on the income it receives from the property, but, as noted earlier, often there would be no taxable income on a current basis. Moreover, the corporation often could reduce or eliminate its taxable income by paying deductible interest to its investors. Ordinarily, dividends and interest paid by a foreign corporation deriving most of its income from U.S. sources are subject to U.S. withholding taxes. However, these taxes are sometimes waived on a reciprocal basis under tax treaties between the United States and other countries. If the corporation is entitled to such a treaty

benefit, income paid currently by the corporation would escape that U.S. tax. (Foreign investors frequently utilize U.S. treaties applicable to the Netherlands Antilles and British Virgin Islands because these treaties contain the necessary waivers or reductions and because these jurisdictions impose low or no taxes on the income.)

The investors in the holding company could avoid U.S. tax on the gain from the sale of the property by either of two methods. First, if the corporation sells the property and follows a plan of liquidation meeting certain requirements, the corporation will not be taxable on the gain under a general rule of the Code which exempts liquidating corporations from tax on gains from the sale of property (sec. 337). Moreover, the shareholders and security holders will generally not be taxable when they exchange their stock and securities in liquidation for the proceeds of the sale of the real property because, as foreign investors, they generally are not subject to U.S. capital gains tax. Even though the corporation is engaged in a U.S. trade or business, that business is not imputed to its investors. Since mere ownership or sale of stock is generally not a trade or business, the gains ordinarily would not be effectively connected with a U.S. business and thus would escape U.S. tax.

Second, if the investors instead sell their stock or securities, they would generally not be subject to tax on the gain for the same reasons that they would generally not recognize gain in a liquidation. Assuming that the sales price reflected the appreciated value of the real property, the purchaser of the corporation, even if a U.S. person, could then liquidate it without realizing a gain subject to U.S. tax because his basis in the stock for purposes of determining his gain on the liquidation would be his purchase price for the stock. He would also get a stepped-up basis for the real property equal to his purchase price for the stock.

Finally, some U.S. tax treaties (such as the treaties with the Netherlands Antilles and the British Virgin Islands) provide for a real property election similar to that in the Code, but the election may be made on a year-by-year basis. A foreign investor entitled to the benefits of such a treaty and not actually engaged in a U.S. business could use the treaty election to be taxed on a net basis in years prior to the year of sale. In the year of sale, the taxpayer would not make the treaty election and would not be taxed on the gain on the sale of the property because of the absence of a U.S. trade or business.

A number of U.S. tax treaties (not including, however, the protocols with the Netherlands Antilles or the British Virgin Islands) contain reciprocal provisions which prevent the United States from taxing certain types of U.S. source capital gains of foreign investors who are entitled to the treaty benefits. While these provisions reciprocally exempting capital gains generally do not apply with respect to real estate (that is, they do not restrict either country from taxing gains on sales of its real estate derived by residents of the other), they generally would apply with respect to stock in corporations formed or availed of to hold real estate. The Code provides that these treaty exemptions are to prevail if they require the exclusion from gross income of gains which the United States would otherwise tax (sec. 894(a); *cf.* also sec. 7852(d)).

Reasons for change

The committee believes that it is essential to establish equity of tax treatment in U.S. real property between foreign and domestic investors. The committee does not intend by the provisions of this bill to impose a penalty on foreign investors or to discourage foreign investors from investing in the United States. However, the committee believes that the United States should not continue to provide an inducement through the tax laws for foreign investment in U.S. real property which affords the foreign investor a number of mechanisms to minimize or eliminate his tax on current income from the property while at the same time effectively exempting himself from U.S. tax on the gain realized on disposition of the property.

The committee further believes that the tax should generally be imposed at a flat rate of 28 percent, currently the maximum rate which a U.S. investor would pay on long-term capital gains. It is not appropriate to allow foreign investors to be taxed on part or all of the gain at the lower graduated rates at which a U.S. investor might pay tax because foreign investors generally are taxed only on their U.S. source income. Their foreign source income would not be taken into account in determining the rates at which the U.S. tax would be imposed. However, if because part or all of the gain is treated as ordinary income, tax at graduated rates would be higher than 28 percent, a tax at the lower flat rate allowed for long-term capital gains would be inappropriate.

In order to impose a tax on gains from the sale of U.S. real estate, it is also necessary to impose a similar tax on gains from the disposition of interests in entities which hold substantial U.S. real property. Otherwise a foreign investor could, as under present law, avoid tax on the gain by holding the real estate through a corporation, partnership, or trust and disposing of his interest in that entity rather than having the entity itself sell the real estate.

Finally, the committee believes that, to assure effective enforcement, it is necessary to provide for withholding of the tax by the purchaser. This withholding mechanism is similar in many respects to the withholding system now in effect for other types of investment income, such as interest and dividends, paid to foreign investors. However, to protect the U.S. purchaser from liability in cases of unintentional failure to withhold, the obligation only arises if he knows that the seller is a foreign investor or receives a notice to that effect. Moreover, to prevent interference with routine transactions, the withholding obligation will not apply in the case of certain sales of personal residences or the trading of stock in an established securities market.

Explanation of provisions

General

Under the provision, foreign investors would be taxed on gains from the disposition of U.S. real property. Foreign investors would also be taxed on gains realized through the sale or exchange of an interest in a real property holding organization (RPHO). An RPHO generally is a closely held corporation, trust, or partnership at least half of the

assets of which are U.S. real property interests. Reporting requirements would be established to identify when taxable transactions had occurred.

The tax would be collected through withholding requirements and related enforcement provisions. Foreign investors would be required to notify purchasers of their U.S. real property interests of their foreign status prior to the sale. Where such notice is given (or where the purchaser knows that the seller is a foreign person), the purchaser generally would be required to withhold the smallest of (a) 28 percent of the purchase price, (b) the tax on the seller's gain plus the full amount of any tax which was not paid on a previous sale of the property by a foreign person, or (c) the proceeds under his control. This withholding requirement could be waived (or reduced) if a certificate were obtained from the IRS indicating that no tax was due (e.g., there was no gain on the sale or adequate security had been provided to the IRS) or allowing withholding in a reduced amount.

No withholding would be required in the case of a sale of a single-family residence to be used as the purchaser's principal residence unless the gross sales price exceeded $150,000. No withholding would be required in the case of RPHO stock sold on an established securities market.

Tax imposed on seller

Amount of tax

In the case of any nonresident alien individual or foreign corporation, the tax imposed by the provision for each taxable year generally is equal to 28 percent of the excess (if any) of (i) the amount of the gain realized by the taxpayer during the taxable year from the sale of U.S. real property interests, over (ii) the amount of the loss realized by the taxpayer during the taxable year from the sale of U.S. real property interests. However, no tax is due if the excess is $5,000 or less. Gains of certain related parties are aggregated for purposes of the $5,000 exception. In the case of an installment sale, the entire gain to be realized is taken into account in the year of the sale for purposes of determining whether the $5,000 exception is available.

"U.S. real property interests" include both U.S. real property held directly and interests in U.S. real property holding organizations, as described below. The tax is imposed separately from, and in addition to, other U.S. taxes which may be imposed on the foreign investor's income. In order to prevent double taxation in the case of a sale of a U.S. real property interest which is effectively connected with a U.S. trade or business (or which the foreign investor has elected to have so treated), any gain or loss realized on the sale of a U.S. real property interest is not to be taken into account for purposes of applying the provisions governing effectively connected gains (secs. 871 and 882). However, in order to prevent a foreign investor from paying less tax than he would have been required to pay if the gain were treated as effectively connected with a U.S. trade or business, the tax imposed under the provision will be at least equal to the tax that would be paid if the income were effectively connected and subject to graduated tax rates (after allowance of the long-term capital gains deduction where it is appropriate).

For purposes of imposing the tax, any disposition of a U.S. real property interest will be treated as a sale. Moreover, because the tax is imposed on the amount realized, the tax is imposed without regard to any provisions of the Code providing for nonrecognition of realized income unless nonrecognition for purposes of this tax is provided for by regulations. It is anticipated that, for example, if nonrecognition treatment is otherwise available, and if collection of the tax imposed by the provision would not be jeopardized, a foreign person would be permitted under the regulations to exchange one U.S. real property interest for another without recognition of gain and payment of the tax. The tax would not be payable on dispositions by gift or inheritance because there is no amount realized.

The tax is imposed on the beneficial owner of the property, rather than the nominee, trustee, executor, etc., who holds record title. However, the record title holder may be a "seller's agent" under the withholding provisions (discussed below).

Direct interest in U.S. real property

The tax is imposed on gains from the sale of interests in real property (including an interest in a mine, well, or other natural deposit) located in the United States. The term "interest in real property" includes fee ownership and co-ownership of land or improvements, easements, and options to acquire leaseholds of land or improvements. Such an interest would, for example, include a mineral royalty. Moreover, the term includes partial interests such as life estates, remainders, reversions, and rights of refusal in real property. Movable walls, furnishings, and other similar personal property associated with the use of real property are considered real property for purposes of the bill.

U.S. real property holding organizations

Also included in the definition of U.S. real property interests are certain holdings in a U.S. real property holding organization (RPHO). Thus, gain on the sale of such holdings would be subject to the tax.

Generally, the holdings subject to the tax are stock in a corporation, or an interest (other than solely as a creditor) in a partnership or trust, which, during the shorter of the period during which the taxpayer held his interest or the 5 years preceding his sale of the interest, is or was an RPHO. However, the interest would not be a U.S. real property interest if the RPHO recognized gain on all its U.S. real property interests prior to sale of the interest in the RPHO. Since convertible debt of an RPHO is an interest in an RPHO other than solely as a creditor, such convertible debt would be a U.S. real property interest.

An RPHO is a corporation, partnership, or trust, whether domestic or foreign, if at any time during the taxable year, (i) a controlling interest in the organization is owned by or for not more than 10 persons, and (ii) U.S. real property interests constituted at least 50 percent of the assets of the organization. For purposes of the 10-owner rule, if the organization cannot identify holders of interests (e.g., bearer shares), it is intended that the unidentified interests will be presumed to be held by one person unless shown otherwise. In addition, to

the extent that their effect is to make an organization an RPHO. attribution rules similar to those applied to ownership of personal holding companies will be applied under regulations. A "controlling interest" is, in the case of a corporation, 50 percent or more of the total combined voting power of all classes of stock or 50 percent or more of the fair market value of all classes of stock; in the case of a partnership, 50 percent or more of the capital or profits interest; and, in the case of a trust, 50 percent or more of the beneficial interests (actuarially determined). For purposes of applying the assets test, cash, certain savings deposits, marketable securities, accounts or notes receivable, or other assets which are readily marketable, in excess of a reasonable amount of working capital, are not counted. This rule is intended to prevent the investors in an RPHO from converting it into a non-RPHO merely by infusing liquid assets.

The Treasury Department is to prescribe regulations setting forth "look through" rules under which, if a person controls an entity, that person is deemed to own directly a pro rata share of the assets of the entity.

Tax withheld by purchaser

Requirement of withholding

To enforce the provision, withholding obligations are imposed on purchasers of a United States real property interest (and certain other persons involved in the transactions) who know or receive a notice (described below) that the seller is foreign. As discussed below, in certain situations a withholding obligation is also imposed on certain other persons involved in the disposition of a U.S. real property interest. The purchaser or other withholding agent is to deduct and withhold a tax equal to the smallest of (i) 28 percent of the amount realized on the disposition, (ii) the "seller's maximum tax liability" (discussed below), or (iii) the fair market value of that portion of the sale proceeds which is within the withholder's control. The "seller's maximum tax liability" is the maximum amount which the Treasury determines that the seller could owe as his tax under the provision as a result of the disposition of a United States real property interest plus any unsatisfied prior withholding tax liabilities of foreign persons under the provision with respect to that interest. Thus, for example, if a U.S. person sells a U.S. real property interest to a foreign investor for $1 million, if that foreign investor sells the property for $1.5 million to a second foreign investor and no tax under this provision is paid, and if that second foreign investor in turn sells the property to a third foreign investor for $2 million and again no tax is paid, the unsatisfied prior withholding liability on the subsequent sale of the property by the third foreign investor would be $280,000 (assuming the gain of the first two foreign investors is long-term capital gain)—the sum of the unsatisfied withholding tax liabilities of the second and third foreign investors (which would be the amount of the maximum tax liabilities of the previous holders). Therefore, if the third investor sold the property for $2.5 million, his "maximum tax liability" would be $420,000—the sum of his $280,000 unsatisfied prior withholding liability plus the $140,000 tax due by reason of his disposition.

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The provision limiting the withholding obligation to the value of the proceeds in the withholder's control limits the amount of withholding in sales where part of the consideration is the assumption of a mortgage or where payments are to be made in installments. If the amount withheld exceeds the seller's liability for failure to withhold on a prior transaction and for gain on the sale, the excess is refundable to the seller. The purchaser is indemnified against any claims by the seller if he withholds the lesser of 28 percent of the amount realized or the amount set forth in a "qualifying statement" (discussed below) from the IRS. If a purchaser fails to withhold when he had a duty to do so, he is relieved of liability to the extent that the tax is paid by the seller or some other person.

A person receiving a U.S. real property interest from a foreign person in an exchange is considered to be the purchaser of the interest for purposes of this provision and is required to withhold the appropriate amount of tax from the property transferred to the foreign person in the exchange. Thus, for example, in the case of a liquidation of an RPHO, the liquidating corporation is treated as the purchaser of stock exchanged by foreign shareholders for the liquidating distribution and is required to withhold from the liquidating distribution.

Where there are multiple sellers, the withholding rules apply to the portion of the proceeds which reflect the interests of sellers who are foreign persons. Where there are multiple purchasers, the withholding liability of each is limited, as described above, to the proceeds under his control.

Knowledge or notice requirement

The withholding requirement is not to apply to a purchaser of a United States real property interest unless, as of the time for settling the transaction, he knows that the seller is a foreign person or has received a notice from the seller or the seller's agent that the seller is a foreign person. However, if after the time for settling the transaction, the purchaser has any portion of the sale proceeds under his control and, immediately before the purchaser pays any of those proceeds to the seller, he knows or receives notice from the seller or the seller's agent that the seller is a foreign person, then the purchaser will be required to withhold with respect to the later payment.

The seller is required to notify the purchaser that the seller is a foreign person. The seller's agent (which can be the seller's nominee, broker, settlement attorney or any person holding any of the sale proceeds) is also required to notify the purchaser that the seller is a foreign person if, as of the time for settling the transaction, the agent has reason to believe that the seller may be a foreign person. The notice requirement for both the seller and his agents will be satisfied if at least one party gives the purchaser the required notice.

Other withholding agents

A domestic partnership, the trustee of a domestic trust, or the executor of a domestic estate will be required to deduct and withhold from distributions to foreign partners or beneficiaries to the extent that the distributions are attributable to the sale of a U.S. real property interest.

Failure to give notice

If a seller's agent is required to notify the purchaser of a U.S. real property interest that the seller is a foreign person and fails to give the

notice, the agent is liable for the amount of the unpaid tax which the purchaser would have been required to withhold if the agent had given the purchaser the required notice. As in the case of other withholders under this provision, the liability of the seller's agent is limited to the proceeds under his control. For this purpose, however, compensation received by the agent in connection with the transaction is treated as proceeds under his control. A seller's agent who fails to make reasonable inquiry is treated as required to give notice.

Exemption from and reductions of withholding

A purchaser will not be required to withhold if: (i) the seller furnishes a "qualifying statement" (described below) to the person required to withhold, (ii) the property being sold is a single family residence which is to be used by the purchaser as his principal residence and the amount realized by the seller on the sale is $150,000 or less, or (iii) the property being sold is stock of a corporation and the sales transaction takes place on an established securities market. For this purpose, "established securities market" would generally include those included for purposes of section 453(b)(3) of the Code and also any comparable foreign securities market. It would not include negotiated transactions. A "qualifying statement" is a statement by the Treasury that the seller either (i) has reached agreement with the Treasury on the payment of the tax imposed by section 897 and has satisfied or provided adequate security for unsatisfied prior tax liabilities under section 897, or, (ii) is exempt from tax imposed by section 897 and has satisfied or provided adequate security for unsatisfied prior tax liabilities under section 897. The Treasury may prescribe a reduced amount to be withheld if the Treasury, upon request by the purchaser or the seller, determines that such reduced amount will not jeopardize the collection of the withholding tax or the tax under section 897.

Reporting requirements

Requirement to file a return

If, at any time during a calendar year, (i) a corporation, partnership, or trust has United States real property interests which constitute more than 40 percent of the fair market value of its assets, (ii) 10 or fewer persons have a controlling interest (other than solely as a creditor) in the entity, and (iii) at least one foreign person has an interest (other than solely as a creditor) in the entity, the entity is required to file an information return for the year. The return is to set forth the following information: (i) the name and address of any person who held an interest (other than solely as a creditor) in the entity at any time during the calendar year, (ii) the composition of the assets of the entity at such time or times during the calendar year as the Treasury may prescribe by regulations, (iii) any information with respect to transfers during the calendar year of interests in the entity which the Treasury may prescribe by regulations, (iv) whether such entity was a United States RPHO at any time during the calendar year, and (v) any other information which the Treasury may prescribe by regulations.

In addition to the information return, the reporting entity is also required to furnish a written statement to every person who held an interest (other than solely as a creditor) in the entity during the calendar year setting forth the name and address of the entity mak-

ing the return, whether the entity was a United States RPHO at any time during the calendar year and any other information that the Treasury may prescribe through regulations. The return will be furnished to the person having the interest no later than January 31 of the year following the year for which the return was made.

Failure to make a return or furnish a statement

A penalty for failure to file a tax return or to furnish a statement will be imposed in an amount equal to the greater of (i) $25 for each day during which such failure continues but not to exceed $25,000, or (ii) the amount of the tax imposed by section 897 which is not paid and which is attributable to transfers (other than those made in an established securities market) occurring during the calendar year for which the return or statement was required. However, if it is shown that the failure to file the return or to furnish the notice is due to reasonable cause and not to willful neglect, no penalty will be imposed.

Miscellaneous amendments

Source of income.—Income from the disposition of a United States real property interest will be United States source income.

Examination of taxpayer.—Section 7605(b) will not apply to an inspection of a taxpayer's books of account for purposes of sections 897 or 1444.

Effective date

The amendments made by the provision will generally apply to dispositions after December 31, 1979. The amendments will not apply, however, to sales made pursuant to written contracts which were binding at all times after December 6, 1979 (the date these provisions were originally ordered reported by the Finance Committee as amendments to H.R. 1212, H.R. 1319, and H.R. 2297). In addition, for a 5-year period, gain will not be taxed to the extent required by treaty obligations of the United States. After that 5-year period for the renegotiation of conflicting treaty provisions (i.e., after December 31, 1984), the provision will prevail over any conflicting treaty provisions remaining in effect. The provision may, however, be modified by treaties taking effect after the effective date of these amendments where such modification is necessary to prevent double taxation or otherwise coordinate the tax systems of the two countries.

Revenue effect

It is estimated that this provision will increase budget receipts by $182 million in fiscal year 1981, $119 million in 1982, $130 million in 1983, $143 million in 1984 and $157 million in 1985.

B. Inclusion In Wages of Employee Social Security Taxes Paid By Employers

(Sec. 211 of the bill, sec. 209 of the Social Security Act and secs. 3121 and 3306 of the Code)

Present law

The Internal Revenue Code imposes separate social security (FICA) taxes on employers and employees. Traditionally, the employer deducts and withholds the employee's tax from his pay and remits both it and the employer's own tax payment to the Treasury. Present law, however, excludes from the definition of wages for tax and benefit purposes any payment by an employer of the employee's social security tax liability so long as the employer makes the payment without deduction from the remuneration of the employee. A similar exclusion applies to the definition of wages for the purposes of the Federal Unemployment Tax Act (FUTA).

Ordinarily, the employee FICA tax is levied on the employee's earnings before deduction of the tax, and the employee is credited for social security purposes with earnings equal to his earnings before deduction of FICA taxes. If an employer pays the employee FICA tax without deduction from the employee's remuneration, however, the procedure can be different. First, the amount of both the employer's and employee's payroll tax liability is, in effect, based on earnings after deducting the employee's FICA tax rather than earnings before the deduction. Second, the amount of earnings credited for social security benefit computation purposes is also, in effect, earnings net of the FICA tax. An example of how such a salary reduction plan works under the alternative FICA tax computation is set out in table 2.

Table 2.—Example of effects of employer payment of employee social security tax in 1980

	Before adoption of plan	After adoption of plan	Result
Employer:			
Pays salary of	$10,000	$9,387	
Pays employer FICA tax of	613	[1] 575	
Pays employee FICA tax of	0	[1] 575	
Total cost	10,613	10,538	Employer saves $75.
Employee:			
Receives salary of	10,000	9,387	
Pays employee FICA tax of	613	0	
Take home pay (before income tax)	9,387	9,387	
Income subject to income tax:			
Salary	10,000	9,387	
Employee tax paid by employer	0	575	
Taxable income	10,000	9,962	Has $38 less subject to income tax.
Receives social security benefit credit of.	10,000	9,387	Receives $613 less in social security benefit credit.
Social Security Trust Funds: Receive FICA taxes of.	1,226	1,151	Lose $75 in revenues.

[1] Rounded to nearest dollar.

Reasons for change

The compensation plans which make use of the alternative FICA computation have an adverse effect on participating employees and on the financial condition of the social security trust funds.

First, reducing the amount of earnings subject to the FICA tax also reduces the amount of earnings credited for social security benefit computation purposes. Thus, while the employer and employee pay somewhat less in taxes, the employee receives more limited social secu-

rity protection. Moreover, the reduction in social security benefits may be only one byproduct of such alternative tax computations. There might also be reductions in the benefits available under other employee benefit plans which are related to earnings, such as pensions, profit-sharing, other insurance and unemployment compensation.

Second, the use of the alternative FICA computation leads to a reduction in total social security payroll tax receipts. While it also leads to a reduction in benefit payments, the reduction in benefit payments occurs in the future while the reduction in payroll tax revenue occurs immediately. Even the long-run use of the alternative computation will reduce receipts available to meet benefit payments. In a pay-as-you-go system such as social security, these results are particularly pernicious. If all employers adopted the alternative procedure, trust fund receipts would be reduced by more than $6 billion per year in 1980.

Third, in establishing the social security program, Congress believed that it was important that it be based on both employer and employee contributions. This gives program participants an important stake in the financing of the program and allows them properly to view the benefits payable as the earned result of their many years of contributions to the program. While the legislative history is not entirely clear as to the reasons for the 1939 amendment which excluded from social security taxes and credits payments made by employers of the employee FICA tax, there is no indication that this was viewed as authorizing such a fundamental change in the financing structure of the program. At the time, the maximum annual tax avoidance from using the procedure was of the magnitude of 60 cents and was thus not likely to lead to widespread use. By contrast, the larger savings now possible have resulted in the promotion of its use and may well lead to its rapid spread.

Finally, the elimination of the alternative FICA tax computation has been recommended by the 1979 Quadrennial Advisory Council on Social Security. In its report the Council noted its concern over the growing use of the "tax avoidance device." The Council emphasized that if enough employers began to use these plans, there would be a significant loss to the trust funds that would have to be made up by higher tax payments from all workers and employers.

The committee has decided, however, to allow the continued use of the alternative computation procedure with respect to agricultural and domestic labor. This is in recognition that this procedure has been much more common with regard to this type of employment and that requiring these employers to change their methods of tax computation for what are often relatively informal employment arrangements could lead to problems of compliance.

Explanation of the provision

The provision revises the Social Security Act (section 209(f)) and the Internal Revenue Code of 1954 (sections 3121(a)(6) and 3306(b)(6)) to include within the definition of wages for tax and social security benefit computation purposes payments by an employer (without deduction from the remuneration of the employee) of social security taxes imposed upon an employee. The provision does not apply to payments by an employer of the payroll taxes imposed upon

an employee for wages paid for agricultural labor and for domestic service in the home of the employer.

The general rule with respect to social security taxation is that all forms of remuneration constitute wages for social security tax purposes unless specifically exempted by statute. The committee understands that a question has been raised as to whether or not this general rule would cover payments by State and local governments of the equivalent of employee social security taxes for their employees inasmuch as the Social Security Act imposes the liability for such payments on the States rather than on the employees themselves. Inasmuch as such payments represent a benefit to the employees from their employer, the committee feels that the better reading of the law would be to consider such payments to constitute "remuneration" within the meaning of the Act and the Code but for the exception which is being eliminated by this amendment. To remove any doubt, however, the committee has included specific language providing that payments by a State or local employer after December 31, 1983, of the employee share of the social security tax equivalent will be treated as wages for purposes of the Social Security Act. The committee intends that this provision shall be considered as clarifying existing law and shall not call into question the general rule that all remuneration constitutes wages in the absence of a specific exception in the statute.

Effective date

Except for certain State or local governmental employment, the provision applies with respect to remuneration paid after December 31, 1980.

In the case of certain State, political subdivision, or other State or local coverage group employment under section 218 of the Social Security Act, the provision applies with respect to remuneration paid after December 31, 1983. This later effective date for governmental units is limited to remuneration for services in positions of a kind for which all or a substantial portion of the amounts equivalent to employee social security taxes were paid by such governmental units (without deduction from the wages of the employee) under the practices of the governmental unit in effect on June 17, 1980.

Revenue effect

The provision will increase budget receipts by an estimated $45 million in fiscal year 1981, $77 million in 1982, $119 million in 1983, $217 million in 1984, and $328 million in 1985.

C. Telephone Excise Tax

(Sec. 231 of the bill and sec. 4251 of the Code)

Present law

Under present law, the excise tax imposed on communication services (local telephone service, toll telephone service, and teletypewriter exchange service) for 1980 is 2 percent of amounts paid for service (Code sec. 4251). The tax is scheduled to be 1 percent for 1981 and to expire as of January 1, 1982. The communication services excise tax has been declining one percentage point per year since 1973, when it declined from the prior rate of 10 percent to 9 percent.

Reason for change

The committee believes that delaying the phasedown of the telephone excise tax will raise revenues to meet budget targets for fiscal year 1981 without having the adverse economic effects which might result from new taxes.

Explanation of provision

The provision delays by one year the remaining scheduled reductions in the communication services excise tax. Thus, on amounts paid pursuant to bills first rendered during 1980 or 1981 the tax will be 2 percent. For 1982 the tax will be 1 percent, and the tax will expire as of January 1, 1983.

Effective date

The provision will be effective for amounts paid pursuant to bills first rendered after December 31, 1980.

Revenue effect

It is estimated that the provision will increase budget receipts by $358 million in fiscal year 1981, $570 million in fiscal year 1982 and $193 million in fiscal year 1983, and will have no revenue effect thereafter.

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D. Cash Management Provisions

1. Estimated income tax payments by corporations (Sec. 251 of the bill and sec. 6655 of the Code)

Present law

Under present law, a corporation must make estimated tax payments if the estimated tax for the taxable year can reasonably be expected to be $40 or more (Code sec. 6154). In general, a corporation's estimated tax is the estimated income tax (other than the minimum tax) less any estimated credits against the tax. Any corporation required to make estimated tax payments must make such payments in installments. The number of installments, and the amount of each installment, is determined in accordance with the following table:

If the $40 threshold is first met—	The following percentages of the estimated tax shall be paid on the 15th day of the—			
	4th mo.	6th mo.	9th mo.	12th mo.
Before the 1st day of the 4th month of the taxable year	25	25	25	25
After the last day of the 3rd month and before the 1st day of the 6th month of the taxable year		33⅓	33⅓	33⅓
After the last day of the 5th month and before the 1st day of the 9th month of the taxable year			50	50
After the last day of the 8th month and before the 1st day of the 12th month of the taxable year				100

A corporation that fails to pay the proper estimated tax when due may be subject to an underpayment penalty (Code sec. 6655). The penalty is figured for the period of underpayment, determined under section 6655 of the Code, at a rate determined under section 6621. (The penalty rate currently is 12 percent.) The amount of underpayment is, for purposes of this penalty, the excess of the amount of the installment which would be required to be paid if the estimated tax were equal to 80 percent of the tax shown on the return for the taxable year (or, if no return was filed, 80 percent of the tax for such year) over the

amount, if any, of the installment paid on or before the last date prescribed for payment.

No penalty is charged with respect to underpayment of a corporation's estimated tax liability if the corporation made payments on or before the due date of the installment and the total payments up to the particular due date in question equal or exceed the amount which would have been due had the estimated tax been based on any of the following amounts: (1) the preceding year's liabilities, if a return showing a tax liability was filed by the corporation for the preceding taxable year and such preceding year was a taxable year of 12 months; (2) tax liabilities computed by using the current year's tax rates for the prior year's return and the law that applies to the prior year; or (3) 80 percent of the taxes which would have been due if the income which the corporation had already received during the current year had been placed on an annualized basis.

Reasons for change

The committee believes that there are few, if any, reasons to permit very large corporations to escape paying estimated tax for the current year simply because they had little or no tax liability for their prior taxable year. Allowing these corporations to avoid paying estimated tax amounts to a large, interest-free loan to the corporations from the Government. Because large corporations should be able to estimate their profit position on a regular basis, the committee feels that there is no need for them to base their estimated tax payments entirely on the prior year's experience. Accordingly, the committee has agreed that the use of the prior year exceptions to the general estimated tax penalty rules should be restricted in the case of large corporations. However, in the case of smaller business entities, which may lack the capability for projecting their annual income currently, no change in the prior year exceptions is made because the committee feels that these corporations should continue to be able to rely on these exceptions.

In addition, the committee believes that the proportion of the final liability required to be paid to avoid a penalty should be increased from 80 percent to 85 percent and the minimum tax should be included in the estimated tax in order to more nearly approximate the current payment of tax.

Explanation of provisions

Under the bill, the estimated tax payments of a large corporation generally must equal at least 50 percent of tax shown on its income tax return for the taxable year (or the actual tax if no return is filed) in order to rely on the prior year exception to the estimated tax penalties.[1] Thus, a large corporation which had no taxable income for its preceding taxable year will no longer be able to avoid paying estimated tax for its current taxable year.

Corporations subject to these new requirements will be those corporations which had taxable income of $1 million or more in any of the three taxable years immediately preceding the taxable year involved.

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[1] A large corporation could continue to rely on the present exception under which the estimated tax can be based on the current year's tax computed on an annualized basis (Code sec. 6655(d)(3)).

In the case of the component members of a controlled group of corporations (within the meaning of section 1563), the $1 million amount for any taxable year in the 3-year base period shall be divided among the members of the group in the same manner in which the benefits of the graduated tax rates are allocated for that year.

In addition, the bill increases the proportion of the tax shown on the return (or the actual tax if no return is filed) which is to be paid currently by a corporation not relying on the prior year exception from 80 percent to 85 percent. The bill also modifies the exception to the penalty based on the annualized income test by raising the 80-percent requirement to 85 percent.

Finally, the bill includes the minimum tax (under Code sec. 56) in the estimated tax. For purposes of computing the exception to the penalty based on annualization, the minimum tax will be computed by annualizing the items of tax preference and the annual exemption.

Effective date

The provisions are effective for taxable years beginning after December 31, 1980.

Revenue effect

These provisions will increase budget receipts by $3,440 million in fiscal year 1981, $502 million in 1982, $485 million in 1983, $420 million in 1984 and $431 million in 1985.

2. Estimated income tax payments by individuals (Sec. 252 of the bill and secs. 6015 and 6654 of the Cod)

Present law

Under present law, individuals generally are required to make quarterly estimated tax payments if their tax liability is expected to exceed withheld taxes by $100 or more. However, no underpayment penalty is imposed if estimated tax payments and withheld taxes are at least 80 percent of the tax liability shown on the individual's tax return.

In addition, there are four exceptions to the underpayment penalty. No penalty is imposed upon a taxpayer if: (1) total tax payments (withholding plus estimated tax payments) exceed the preceding year's tax liabilities; (2) total tax payments exceed the tax on prior year's income under the current year's tax rates and exemptions; (3) total tax payments exceed 80 percent (66⅔ percent for farmers or fishermen) of the taxes which would be due if the income already received during the current year were placed on an annual basis; or (4) total tax payments exceed 90 percent of the tax which would be due on the income actually received from the beginning of the year to the computation date.

The alternative minimum tax (under Code sec. 55) and the add-on minimum tax (under Code sec. 56) are not included in the tax liability on which the estimated tax must be based.

Reasons for change

The committee believes that individual taxpayers should be required to make current payments of their minimum tax liability just as taxpayers are presently required to currently pay their regular tax liability.

Explantion of provision

Under the bill, the minimum taxes imposed by Code sections 55 and 56 will be included in the estimated tax so that current payment will be required. For purposes of computing the exceptions to the penalty based on annualization, the minimum taxes will be computed by annualizing alternative minimum taxable income, the items of tax preference, and the exemptions. Likewise, in computing the exception related to currently based actual income, the minimum taxes will be based on actual facts up to the computation date.

Effective date

The provision is effective for taxable years beginning after December 31, 1980.

Revenue effect

The provision will increase budget receipts by $200 million in fiscal year 1981, $20 million in 1982, $22 million in 1983, $24 million in 1984 and $27 million in 1985.

E. Increased Duties on Alcohol (Section 271 of the bill)

Present law

Imports of ethyl alcohol for non-beverage purposes are dutiable at a most-favored-nation (MFN) rate of 3 percent *ad valorem* and a non-MFN rate of 20 percent *ad valorem* under item 427.88 of the Tariff Schedules of the United States (TSUS).

Under section 232 of the Crude Oil Windfall Profit Tax Act of 1980 (Act) (Public Law No. 96-223), a pre-existing exemption under section 4041(k) and 4081(c) of the Internal Revenue Code (Code) from the Federal excise taxes on motor fuel (currently 4 cents per gallon) was extended through December 31, 1992, for fuels that are at least 10 percent alcohol. In addition, section 232 of the Act added Code section 44E, which provides that, where alcohol[1] is used as a fuel (either blended or straight) of a type suitable for use in an internal combustion engine, a credit is provided for such alcohol. The amount of the credit is 40 cents per gallon for most alcohol of at least 190 proof, and 30 cents per gallon for alcohol between 150 and 190 proof. The credit reduced by the amount of excise tax exemption applicable to the fuel.[2] The credit generally is available only to a person who blends an alcohol mixture for use as a fuel in a trade or business or who uses straight alcohol as a fuel in a trade or business. The credit applies only to sales or uses after September 30, 1980, and on or before December 31, 1992.

Reasons for change

These tax provisions relating to alcohol for fuel uses (Code secs. 44E, 4041(k), and 4081(c)) were primarily intended to encourage the U.S. production of alcohol for fuel uses so as to reduce reliance on foreign sources of energy. However, under present law, the excise tax exemptions under Code sections 4041(k) and 4081(c) are available for fuels produced by blending gasoline or special fuels with either domestically produced alcohol or imported alcohol. Additionally, the credit available for alcohol used as fuel under Code section 44E is

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[1] For both the excise tax exemption and the income tax credit, the term "alcohol" does not include alcohol produced from petroleum, natural gas, or coal. This means that alcohol produced from such substances, or from any derivative or product of such substances, may not be treated as alcohol which is eligible for the credit (or as alcohol for purposes of the "at least 10 percent alcohol" requirement in the excise tax exemption).

[2] If no excise tax would apply to the fuel because of an exemption (or credit or refund) provision other than the exemption for alcohol fuels, the credit would not be reduced. Thus, if a taxpayer blends 90 gallons of gasoline and 10 gallons of 190 proof alcohol and sells the mixture to a unit of local government, the sale of the fuel would be tax-free by reason of sec. 4221(a)(4)) and the taxpayer could claim the credit on the 10 gallons of alcohol without any reduction. Similarly, if the taxpayer were to sell the alcohol fuel to a farmer for on-farm use, the taxpayer may claim the credit without reduction even though the alcohol fuel was sold free of tax to the farmer. (The basis for the result in the preceding sentence is that if a tax had been imposed on the fuel sold to the farmer, the farmer could have claimed a credit or refund of such tax (see secs. 39 and 6420).)

available to domestically produced alcohol and imported alcohol. This means that imported alcohol as well as domestically produced alcohol is benefiting from the resulting 40-cents-per-gallon subsidy for alcohol used as a fuel. These tax incentives have made the exportation of alcohol to the United States from foreign countries economically attractive and encouraged imports of alcohol for fuel uses to the detriment of domestically produced alcohol. For example, in March 1980, total imports of alcohol for fuel use were approximately 4 million gallons. In May 1980, imports of this alcohol increased in excess of 13 million gallons.

The provisions for tax exemptions and tax credits on alcohol were intended to develop a secure domestic source of liquid motor fuel, which is essential to the defense of this country. It was not intended by Congress to encourage excessive United States dependence on foreign sources of alcohol, in effect to discourage excessive dependence on one foreign energy resource, *i.e.*, petroleum, only to substitute a new dependency on another foreign resource, *i.e.*, alcohol. Increasing dependency on overseas sources of supply for strategical and critical energy resources during periods of world instability gravely endangers the present and future security of the United States.

Given this situation, the committee decided to increase the duty by 40 cents per gallon on imports of ethyl alcohol to be used for mixing with gasoline or special fuels for use as fuel, or to be used as a fuel. The action would offset the 40 cents per gallon subsidy now available to imported alcohol as a result of the excise tax exemptions and credit provisions.

In taking this action, the committee recognizes that the MFN rate of duty provided for this product in the TSUS is "bound" under the General Agreement on Tariffs and Trade (GATT), *i.e.*, the United States has agreed not to impose a duty on this product in excess of the existing duty without following the procedures prescribed by the GATT. However, the GATT, by its terms, does not prevent the United States from taking any actions that are necessary for the protection of its essential security interests. Increasing dependency on overseas sources of alcohol, a strategic and critical energy source, given the circumstances the United States faces today, poses a danger to U.S. security.

Explanation of provision

The committee provision would amend the Appendix to the TSUS to impose, in addition to the existing duty on MFN and non-MFN imports of ethyl alcohol for non-beverage purposes, an additional duty of 40 cents per gallon on such imports from the date of enactment through December 31, 1992.

Effective date

The increased duty will be applicable during the period beginning on the date of enactment and ending on December 31, 1922 (the expiration date of the existing exemptions from the Federal excise tax under Code sections 4041(k) and 4081(c) and the existing credit under Code section 44E).

Revenue effect

It is estimated that this provision will increase revenues by $63 million in fiscal year 1981, $23 million in 1982 and less than $5 million thereafter.

F. Windfall profit tax changes

1. Royalty owners credit

(Sec. 291 of the bill and new secs. 6429 and 280D of the Code)

Present law

Under the Crude Oil Windfall Profit Tax Act of 1980, an excise tax is imposed on the removal of domestic crude oil from the premises on which it was produced. Differing rates and base prices apply to oil depending on whether it is previously controlled oil (tier one), stripper oil (tier two), or newly discovered, heavy or incremental tertiary oil (tier three). In addition, lower rates apply to the first 1,000 barrels a day of tier one and tier two oil produced by an independent producer. Royalty owners, and persons holding similar non-operating mineral interests, are not independent producers eligible for lower rates.

Reasons for change

The committee believes imposition of the windfall profit tax on small amounts of royalty oil income may impose a hardship on many low and middle income taxpayers who are not the recipients of the large oil company profits which led, in part, to the windfall profit tax. During the committee's hearings on the impact of the tax on royalty owners, the committee learned that many of these royalty owners receive very modest incomes of which their oil royalties are a vital portion. The credit provided in the committee bill will give significant relief to these royalty owners. However, the provision will not have a major impact on the larger producers who were the primary focus of the Crude Oil Windfall Profit Tax Act.

Explanation of provision

The bill provides royalty owners with a credit (or refund) of up to $1,000 against the windfall profit tax imposed on the removal of their royalty oil during calendar year 1980. The credit is available only to individuals, estates and family farm corporations and not to other corporations or trusts. The credit may be claimed during the first part of 1981 in the manner provided by Treasury regulations.

The credit is only for taxes paid on production from a royalty interest held by a person other than a trust or corporation. (However, royalties received by a family farm corporation are eligible.) For this purpose, a royalty interest is an economic interest in oil production which is not a working or operating interest (within the meaning of section 614(d)). Whether an interest is an economic interest is determined by reference to the income tax rules, including section 636 just as in the windfall profit tax itself. Similarly, the income tax definitions of royalty interest and working interest are used. Thus, a royalty interest includes a net profits interest, an overriding royalty, a landowner royalty, and similar interests. An overriding

royalty interest that may be converted into a working interest is treated as a royalty interest until conversion to a working interest occurs. Taxes paid with respect to working interests, including working interests owned by independent producers and working interests created by the conversion of a qualified overriding royalty, are not eligible for the credit. If a producer owns oil production from both a working interest and a royalty interest, only taxes paid with respect to the royalty interest are eligible for the credit.

The credit is available to any producer (other than a trust or a corporation other than a qualified family farm corporation) subject to windfall profit tax on crude oil from a qualified royalty interest. In the case of a partnership which owns a royalty interest, each partner is entitled to the credit for his share of windfall profit tax paid on royalty oil. (However, a partner that is a corporation other than a family farm corporation or a trust is not eligible for the credit.) In the case of a family, the committee bill follows the treatment accorded families for windfall profit tax and percentage depletion purposes by treating a husband, wife and their minor children as one taxpayer for purposes of the $1,000 limit on the credit. For purposes of the rule that trusts are not eligible royalty owners, a guardianship or conservatorship will not be treated as a trust (unless it constitutes a trust under local law) since all of the royalty income actually belongs to the individual ward.

A qualified family farm corporation that is eligible for the credit is one which (1) was in existence on June 25, 1980, (2) all the outstanding stock of which was on that date, and all times thereafter is held by members of the same family, and (3) 80 percent of the assets of which were used by the corporation on June 25, 1980, for farming purposes (within the meaning of section 2032A(e)(5)). For purposes of the definition of qualified family farm corporation, the term family has the same meaning as in section 2032A(e)(2). Thus, members of the same family are an individual and that individual's ancestors and lineal descendants, the lineal descendants of the grandparents of such individual, the spouse of such individual and the spouse of any descendant. The amount of the credit available to a qualified family farm corporation is limited to the same $1,000 amount that applies with respect to individuals and estates. When a qualified family farm corporation is allowed a credit, the shareholders of that corporation are required to reduce their $1,000 credit limit by their proportionate share of the credit allowable to the corporation. Any shareholder's proportionate share of the corporation's credit will be determined on the basis of the shareholder's stock ownership in the corporation. If at any time after June 24, 1980, any individual owns stock in two or more qualified family farm corporations, a single $1,000 credit must be allocated between all such corporations in proportion to their respective qualified royalty production. The allocation of the $1,000 credit between qualified family farm corporations the stock in which is held by the same individual is made first, then the shareholders reduce their $1,000 credit limit as appropriate.

Under present law, both percentage depletion and the special windfall profit tax rates for independent producers generally are denied in cases of properties transferred from one person to another. The com-

mittee bill does not contain general provisions denying the credit in cases of the transfer of royalty interests. The committee believes no provision is necessary because the denial of percentage depletion on transferred properties will generally outweigh the benefits of the one-year credit contained in the bill. If the credit were extended beyond 1980, however, the committee would consider whether special rules relating to transfers of royalty interests after June 24, 1980, or some other date are appropriate.

In calculating the amount of the income tax deduction for the windfall profit tax net income for percentage depletion purposes, and oil-related income for the minimum tax on intangible drilling costs, a taxpayer must reduce the gross amount of windfall profit tax paid or withheld during the taxable year by the amount of the credit allowable against that tax. Thus, for example, a qualified royalty owner who in 1980 has $800 of windfall profit tax paid or withheld on qualified royalty production, but whose final liability for qualified royalty oil removed in 1980 is $1,100, will have no income tax deduction in 1980 for the windfall profit tax. The $800 of paid or withheld taxes is offset by the $800 of allowable credit. When the taxpayer files a windfall profit tax return in 1981, that return will show a tax liability of $1,100, payments of $800, a credit of $1,000 and a net liability of $100. The Internal Revenue Service will apply the credit against the tax liability and refund to the royalty owner $700 of payments in excess of the net liability ($800 payment less the $100 net liability). For 1981 income tax purposes, the taxpayer's windfall profit tax deduction will include the $100 of liability paid in 1981 but not the $200 offset by the credit. This reduction of the income tax deduction must be made regardless of whether the taxpayer actually claims the credit to which he is entitled.

The availability of the credit has no effect upon the withholding and other payment requirements of the Crude Oil Windfall Profit Tax Act because the credit does not affect directly the amount of the royalty owner's windfall profit tax liability, but instead permits a refund or credit for that liability.

Effective date

The royalty owner credit applies to oil removed in calendar year 1980.

Revenue effect

The revenue loss is expected to be $190 million in fiscal year 1981.

2. Modification of inflation adjustment

(Sec. 291 of the bill and sec. 4989 of the Code)

Present law

Under the Crude Oil Windfall Profit Tax Act of 1980, an excise tax is imposed on the removal of domestic crude oil from the premises from which it was produced. The tax is imposed on the difference between the selling price of each barrel of domestic crude oil and its adjusted base price for the calendar quarter during which it is removed. The adjusted base price is determined by taking into account inflation between the second quarter of 1979 and the second quarter prior to the quarter for which the adjusted base price is being determined. In the case of newly discovered oil, heavy oil and incremental tertiary oil, the adjusted base price is determined by using the rate of inflation plus 2 percent per year.

Reasons for change

To compensate for the revenue loss in fiscal year 1981 attributable to the royalty owner credit provided in the committee bill, the committee has decided to make an adjustment to the otherwise applicable adjusted base price for each calendar quarter in fiscal year 1981. The amount of this adustment is intended to raise an amount of revenue in fiscal year 1981 equal to the expected revenue loss from the royalty owner credit minus the revenue gain from the increased duty on imported alcohol.

Explanation of provision

The otherwise applicable adjusted base price for each calendar quarter in fiscal year 1981 would be adjusted by subtracting an amount equal to 0.8 percent of that adjusted base price. This adjustment to the adjusted base price would be made only for calendar quarters occurrying in fiscal year 1981; i.e., for the fourth quarter of calendar year 1980 and the first three quarters of calendar year 1981.

Revenue effect

The revenue gain will be $124 million in fiscal year 1981, and there will be a revenue loss of $15 million in 1982.

IV. REGULATORY IMPACT OF THE BILL AND OTHER MATTERS TO BE DISCUSSED UNDER SENATE RULES

A. Regulatory Impact

Pursuant to rule XXVI of the Standing Rules of the Senate, as amended, the committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the provisions of this bill.

1. *Numbers of individuals and businesses who would be regulated.*—The bill does not regulate individuals or businesses but generally changes tax provisions that relate to individuals and businesses.

2. *Economic impact of regulation on individuals, consumers and businesses affected.*—The bill provides modifications of existing tax law that primarily affect the size of estimated income tax payments. In addition, other changes were made in tax law that affect tax liability. None of the changes involve regulatory changes.

3. *Impact on personal privacy.*—The bill will have no significant impact on the personal privacy of taxpayers.

4. *Determination of the amount of paperwork.*—The bill will require additional tax computations in some cases. Most of the paperwork will require only the assembly of information that is already in the taxpayer's records. The cost of submitting such information and the time needed to assemble it will vary among taxpayers depending on their individual tax situations and how the amendments affect them.

B. Other Matters

Consultation with Congressional Budget Office on budget estimates

In accordance with section 403 of the Budget Act, the committee advises that the Director of the Congressional Budget Office has examined the committee's budget estimates (as shown in part II of this report) and agrees with the methodology used to arrive at the full year budget effects.

New budget authority

In compliance with section 308(a)(1) of the Budget Act, the committee states that the bill consists of revenue provisions which, with the exception of section 241 relating to the inclusion in wages of employee social security taxes, do not provide new budget authority. That section, inasmuch as it will increase appropriations to the social security trust funds by an amount equal to the increased revenues, will result in new budget authority of $45 million in fiscal year 1981, $77 million in fiscal year 1982, $119 million in fiscal year 1983, $217 million in fiscal year 1984, and $328 million in fiscal year 1985. The reconcilia-

tion instructions in H. Con. Res. 307 indicate that a $900 million reduction in budget authority for fiscal year 1981 is required to bring Finance Committee programs into conformity with the overall allocations included in the budget resolution. In its spending program recommendations, which have been incorporated into S. 2885, the Committee recommended reductions in budget authority in excess of this amount (including the impact of enacted legislation—H.R. 3236 and H.R. 3434). This provides adequate room to accommodate the budget authority provided for in this section.

Tax expenditures

In compliance with section 308(a)(2) of the Budget Act with respect to tax expenditures, and after consultation with the Director of the Congressional Budget Office, the committee states that the bill does not provide new or increased tax expenditures.

Vote of the Committee

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made about the vote of the committee in approving the revenue reconciliation provisions. The provisions were approved by voice vote.

1 # V. STATUTORY LANGUAGE OF FINANCE COMMITTEE
2 # RECOMMENDATIONS

3 ## TITLE II—REVENUE MEASURES

4 **SEC. 200. AMENDMENT OF INTERNAL REVENUE CODE OF 1954.**

5 Except as otherwise expressly provided, whenever in this title
6 an amendment or repeal is expressed in terms of an amendment
7 to, or repeal of, a section or other provision, the reference shall be
8 considered to be made to a section or other provision of the Inter-
9 nal Revenue Code of 1954.

10 ## Subtitle A—Taxation of Foreign Investment in United States
11 ## Real Property

12 **SEC. 201. SHORT TITLE.**

13 This subtitle may be cited as the "Foreign Investment in Real
14 Property Tax Act of 1980".

15 **SEC. 202. TAX ON DISPOSITIONS OF FOREIGN INVESTMENT IN**
16 **UNITED STATES REAL PROPERTY.**

17 (a) IN GENERAL.—Subpart C of part II of subchapter N of
18 chapter 1 (relating to miscellaneous provisions with respect to
19 nonresident aliens and foreign corporations) is amended by add-
20 ing at the end thereof the following new section:

21 **"SEC. 897. TAX ON DISPOSITIONS OF FOREIGN INVESTMENT IN UNITED STATES REAL PROPERTY.**

22 "(a) IMPOSITION OF TAX.—

23 "(1) IN GENERAL.—In the case of a nonresident alien in-
24 dividual or foreign corporation, there is hereby imposed for
25 each taxable year a tax of 28 percent of the excess (if any)
26 of—

27 "(A) the amount of the gains realized by the taxpayer
28 during the taxable year from the sale of United States
29 real property interests, over

1 "(B) the amount of the losses realized by the taxpayer
2 during the taxable year from the sale of United States
3 real property interests.
4 "(2) MINIMUM AMOUNT.—The tax imposed by this subsec-
5 tion for any taxable year shall not be less than the increase in
6 the taxpayer's tax for the taxable year under section 871(b)
7 or 882(a) (whichever is appropriate) which would result
8 from increasing the taxpayer's taxable income taken into
9 account under such section for the taxpayer's taxable year by
10 an amount equal to the excess described in paragraph (1).
11 "(b) COORDINATION WITH SECTIONS 871 AND 882.—Any gain or
12 loss realized on the sale of a United States real property interest
13 shall not be taken into account for purposes of applying section
14 871 or 882. The preceding sentence shall not apply to any gain or
15 loss realized by any taxpayer during any taxable year if such tax-
16 payer is exempt from the tax imposed by subsection (a) by reason
17 of subsection (c).
18 "(c) EXCEPTION WHERE TAXPAYER'S NET GAIN FOR YEAR IS
19 LESS THAN $5,000.—
20 "(1) IN GENERAL.—No tax shall be imposed under sub-
21 section (a) on any nonresident alien individual or foreign
22 corporation for any taxable year if the amount of the excess
23 referred to in subsection (a) is $5,000 or less.
24 "(2) RULES FOR APPLYING PARAGRAPH (1).—For purposes of
25 paragraph (1)—
26 "(A) INSTALLMENT SALES.—In the case of a sale to
27 which section 453 applies, the amount to be realized shall
28 be taken into account in the taxable year in which the
29 sale occurs.
30 "(B) HUSBAND AND WIFE.—For purposes of paragraph
31 (1), a husband and wife shall be treated as a single
32 individual.

1 "(C) PERSONS UNDER COMMON CONTROL.—Under regula-
2 tions, all persons under common control (within the
3 meaning of section 52(b)) shall be treated as 1 person.
4 "(d) OTHER DISPOSITIONS TREATED AS SALES.—For purposes of
5 this section and section 144, an exchange or other disposition shall
6 be treated as a sale.
7 "(e) UNITED STATES REAL PROPERTY INTEREST.—For purposes
8 of this section—
9 "(1) UNITED STATES REAL PROPERTY INTEREST.—
10 "(A) IN GENERAL.—Except as provided in subpara-
11 graph (B), the term 'United States real property interest'
12 means—
13 "(i) an interest in real property (including an
14 interest in a mine, well, or other natural deposit)
15 located in the United States, and
16 "(ii) any interest (other than an interest solely
17 as a creditor) in any entity which was a real property
18 holding organization at any time during the shorter
19 of—
20 "(I) the period during which the taxpayer
21 held such interest, or
22 "(II) the 5-year period ending on the date of
23 the sale of such interest.
24 "(B) EXCLUSION FOR INTEREST IN CERTAIN ENTITIES.—
25 The term 'United States real property interest' does not
26 include any interest in an entity if—
27 "(i) as of the date of the sale of such interest,
28 such entity did not hold any United States real
29 property interests, and
30 "(ii) all of the United States real property
31 interests held by such entity at any time during the
32 shorter of the periods described in subparagraph
33 (A)(ii) were disposed of in transactions in which
34 gain or loss was recognized.
35

1 "(2) UNITED STATES REAL PROPERTY HOLDING ORGANIZA-
2 TION.—The term 'United States real property holding orga-
3 nization' means any entity (whether domestic or foreign)
4 if—
5 "(A) a controlling interest in such entity is owned by
6 or for not more than 10 persons, and
7 "(B) United States real property interests constitute
8 50 percent or more of the fair market value of the assets
9 of such entity.
10 "(3) SPECIAL RULES FOR APPLICATION OF PARAGRAPH (2)
11 (B).—For purposes of paragraph (2)(B)—
12 "(A) EXCLUSION OF CERTAIN ASSETS.—The term 'assets'
13 does not include cash, amounts described in section 861
14 (c), marketable securities, accounts or notes receivable,
15 or other assets which are readily marketable, in excess of
16 a reasonable amount of working capital.
17 "(B) TREATMENT OF CONTROLLING INTERESTS.—Under
18 regulations, if any person holds a controlling interest in
19 any entity, such person shall be treated as holding a pro
20 rata share of the assets of such entity.
21 "(4) OTHER SPECIAL RULES.—
22 "(A) INTEREST IN REAL PROPERTY.—The term 'interest
23 in real property, includes fee ownership and co-ownership
24 of land or improvements thereon, leaseholds of land or
25 improvements thereon, options to acquire land or im-
26 provements thereon, and options to acquire leaseholds of
27 land or improvements thereon.
28 "(B) CONTROLLING INTEREST.—The term 'controlling
29 interest' means—
30 "(i) in the case of a corporation, 50 percent or
31 more of the total combined voting power of all
32 classes of stock of such corporation or 50 percent or
33 more of the fair market value of all classes of stock
34 of such corporation,
35

1 "(ii) in the case of a partnership, 50 percent or
2 more of the capital or profits interest, or
3 "(iii) in the case of a trust, 50 percent or more of
4 the beneficial interests in such trust (actuarially
5 determined).
6 "(C) CONSTRUCTIVE OWNERSHIP RULES.—For purposes
7 of determining ownership of interests in any corpora-
8 tion, partnership, or trust, rules similar to the rules of
9 subsections (a) and (b)(1) of section 544 shall apply.
10 "(D) REAL PROPERTY INCLUDES ASSOCIATED PERSONAL
11 PROPERTY.—The term 'real property' includes movable
12 walls, furnishings, and other personal property associ-
13 ated with the use of the real property.
14 "(E) ENTITY.—The term 'entity' means a corporation,
15 partnership, or trust.
16 "(f) NONRECOGNITION PROVISIONS NOT TO APPLY.—
17 "(1) IN GENERAL.—Except as provided in paragraph (2),
18 any amount realized on any sale shall be taken into account
19 for purposes of this section and section 1444 notwithstanding
20 any nonrecognition provision.
21 "(2) EXCEPTION.—Under regulations, the Secretary may
22 provide that, for purposes of this section and section 1444,
23 any nonrecognition provision shall be applied as though it
24 also provided for not realizing gain or loss.
25 "(3) NONRECOGNITION PROVISION DEFINED.—For purposes of
26 this subsection, the term 'nonrecognition provision' means
27 any provision of this title for not recognizing gain or loss.".
28 (b) CLERICAL AMENDMENT.—The table of sections for such sub-
29 part C is amended by adding at the end thereof the following new
30 item:
31 "SEC. 897. Tax on dispositions of foreign investment in
32 United States real property.".

1 (c) Cross References.—
2 (1) Subsection (g) of section 871 (relating to tax on income
3 of nonresident alien individuals) is amended by adding at
4 the end thereof the following new paragraph:
5 "(8) For special tax treatment of gain or loss from the
6 disposition by a nonresident alien individual of a United
7 States real property interest, see section 897.".
8 (2) Subsection (a) of section 882 (relating to tax on income
9 of foreign corporation connected with United States busi-
10 ness) is amended by adding at the end thereof the following
11 new paragraph:
12 "(3) For special tax treatment of gain or loss from the
13 disposition by a foreign corporation of a United States
14 real property interest, see section 897.".

15 SEC. 203. WITHHOLDING OF TAX ON DISPOSITIONS OF UNITED
16 STATES REAL PROPERTY INTERESTS.

17 (a) In General.—Subchapter A of chapter 3 (relating to with-
18 holding of tax on nonresident aliens and foreign corporations) is
19 amended by adding at the end thereof the following new section:

20 "SEC. 1444. WITHHOLDING OF TAX ON DISPOSITIONS OF UNITED
21 STATES REAL PROPERTY INTERESTS.

22 "(a) General Rule.—Except as otherwise provided in this
23 section, every purchaser of a United States real property interest
24 (as defined in section 897(e)) from a foreign person shall deduct
25 and withhold a tax equal to whichever of the following is the
26 smallest:
27 "(1) 28 percent of the amount realized on the disposition,
28 "(2) if there is a seller's maximum tax liability (as defined
29 in subsection (g)(3)), the amount of such liability, or
30 "(3) an amount equal to the fair market value of that por-
31 tion of the proceeds of the sale which are within the with-
32 holding agent's control.

1 "(b) PURCHASER MUST KNOW OR HAVE NOTICE THAT THE IN-
2 VESTMENT WAS FOREIGN.—
3 "(1) IN GENERAL.—Subsection (a) shall not apply to a pur-
4 chaser with respect to an acquisition unless the purchaser—
5 "(A) knew that the seller was a foreign person, or
6 "(B) had received the notice provided for in subsection
7 (c).
8 "(2) TIME FOR APPLYING PARAGRAPH (1).—
9 "(A) IN GENERAL.—Except as provided in subpara-
10 graph (B), paragraph (1) shall be applied as of the time
11 for settling the transaction.
12 "(B) WITHHOLDING IN CASE OF INSTALLMENT SALES,
13 ETC.—If the withholding agent has any portion of the
14 proceeds from the sale in his control after the time for
15 settling the transaction, paragraph (1) shall be applied
16 as of the time immediately before the payment of such
17 portion is made to the seller.
18 "(c) REQUIREMENTS TO FURNISH NOTICE.—
19 "(1) SELLER MUST FURNISH NOTICE TO PURCHASER.—If the
20 seller is a foreign person, he shall notify the purchaser at
21 such time and in such manner as may be prescribed by
22 regulations.
23 "(2) SELLER'S AGENT.—
24 "(A) IN GENERAL.—If any seller's agent has at any
25 time before the time specified in subsection (b)(2) rea-
26 son to believe that the seller may be a foreign person, he
27 shall notify the purchaser at such time and in such man-
28 ner as may be prescribed by regulations.
29 "(B) ONLY 1 NOTICE REQUIRED.—Under regulations,
30 the requirements of paragraph (1) and of subparagraph
31 (A) of this paragraph shall be treated as met with re-
32 spect to any transaction if at least one notice which meets
33 the requirements of paragraph (1) or subparagraph (A)
34 is furnished.

1 "(C) SELLER'S AGENT.—For purposes of this para-
2 graph, the term 'seller's agent' means any person who
3 bears any one of the following relationships to a seller
4 who is a foreign person:
5 "(i) a nominee of the seller,
6 "(ii) the broker engaged by the seller,
7 "(iii) the settlement attorney engaged by the
8 seller, and
9 "(iv) any person holding any of the proceeds of
10 the sale.
11 "(3) FAILURE TO FURNISH NOTICE.—
12 "(A) DUTY TO WITHHOLD.—If any seller's agent—
13 "(i) is required by paragraph (2) to furnish
14 notice, but
15 "(ii) fails to notify the purchaser at such time
16 and in such manner as may be prescribed by
17 regulations,
18 such agent shall have the same duty to deduct and with-
19 hold that the purchaser would have if the seller's agent
20 had complied with paragraph (2).
21 "(B) TREATMENT OF COMPENSATION.—In any case to
22 which subparagraph (A) applies, the compensation re-
23 ceived by the seller's agent in connection with the trans-
24 action shall be treated as proceeds from the sale within
25 the seller's agent's control.
26 "(C) REQUIREMENT OF REASONABLE INQUIRY.—For pur-
27 poses of subparagraph (A), a seller's agent who fails to
28 make reasonable inquiry shall be treated as required to
29 furnish notice.
30 "(d) EXEMPTIONS.—
31 "(1) IN GENERAL.—No person shall be required to deduct
32 and withhold any amount under subsection (a) with respect
33 to a transaction if paragraph (2), (3), or (4) applies to the
34 transaction.

1 "(2) SELLER FURNISHES QUALIFYING STATEMENT.—
2 "(A) IN GENERAL.—This paragraph applies to the
3 transaction if the seller (at such time, in such manner,
4 and subject to such terms and conditions as the Secretary
5 may by regulations prescribe) furnishes a qualifying
6 statement to the person who (but for this paragraph)
7 would be required to withhold.
8 "(B) QUALIFYING STATEMENT.—For purposes of sub-
9 paragraph (A), the term 'qualifying statement' means
10 a statement by the Secretary that—
11 "(i) the seller either—
12 "(I) has reached agreement with the Sec-
13 retary for the payment of any tax imposed by
14 section 897 on any gain realized by the seller on
15 the disposition of United States real property
16 interests, or
17 "(II) is exempt from any tax imposed by
18 section 897 on any gain realized by the seller on
19 the disposition of United States real property
20 interests, and
21 "(ii) the seller has satisfied any unsatisfied prior
22 withholding liability or has provided adequate se-
23 curity to cover such liability.
24 "(3) PRINCIPAL RESIDENCE WHERE AMOUNT REALIZED IS NOT
25 MORE THAN $150,000.—This paragraph applies to the trans-
26 action if—
27 "(A) the property being acquired consists of a single
28 family residence,
29 "(B) the amount realized by the seller does not exceed
30 $150,000, and
31 "(C) the property is acquired by the purchaser for
32 use as his principal residence.
33 "(4) STOCK TRANSFERRED ON ESTABLISHED SECURITIES
34 MARKET.—This paragraph applies to a disposition of stock in

1 corporation if the transaction takes place on an established
2 securities market.
3 "(e) RULES RELATING TO CERTAIN PARTNERSHIPS, TRUSTS, AND
4 ESTATES.—Pursuant to such terms and conditions as may be pro-
5 vided by regulations, a domestic partnership, the trustee of a
6 domestic trust, or the executor of a domestic estate shall be required
7 under subsection (a) to deduct and withhold from amounts of
8 which such partnerships, trustees, or executors have custody which
9 are—
10 "(1) attributable to the sale of a United States real property
11 interest (as defined in section 897(e)), and
12 "(2) either—
13 "(A) includible in the distributive share of a partner
14 of the partnership who is a nonresident alien individual
15 or a foreign corporation, partnership, trust, or estate;
16 "(B) includible in the income of a beneficiary of the
17 trust who is a nonresident alien individual or a foreign
18 corporation, partnership, trust, or estate; or
19 "(C) includible in the income of a nonresident alien
20 individual, foreign corporation, partnership, trust, or
21 estate under the provisions of section 671.
22 "(f) AUTHORITY OF SECRETARY TO PRESCRIBE REDUCED AMOUNT
23 OF WITHHOLDING, ETC.—At the request of the seller or of any
24 withholding agent, the Secretary may prescribe a reduced amount
25 to be withheld under this section if the Secretary determines that
26 to substitute such reduced amount will not jeopardize the collec-
27 tion of the tax imposed by this section or section 897.
28 "(g) DEFINITIONS.—For purposes of this section—
29 "(1) SELLER.—The term 'seller' means the person disposing
30 of the United States real property interest.
31 "(2) PURCHASER.—The term 'purchaser' means the person
32 acquiring the United States real property interest.
33 "(3) SELLER'S MAXIMUM TAX LIABILITY.—The term 'seller's
34 maximum tax liability' means, with respect to the disposition

1 of any interest, the maximum amount which the Secretary
2 determines the seller could owe—
3 "(A) as tax under section 897 by reason of such dis-
4 position, plus
5 "(B) any unsatisfied prior withholding liability with
6 respect to such interest.
7 "(4) UNSATISFIED PRIOR WITHHOLDING LIABILITY.—The term
8 'unsatisfied prior withholding liability' means any withhold-
9 ing obligation imposed under this section on any prior acqui-
10 sition of the United States real property interest to the extent
11 such obligation has not been satisfied.".
12 (b) TECHNICAL AMENDMENT.—Paragraph (16) of section 7701
13 (a) (defining withholding agent) is amended by inserting "1444,"
14 after "1443,".
15 (c) CLERICAL AMENDMENT.—The table of sections for sub-
16 chapter A of chapter 3 is amended by adding at the end thereof
17 the following new item:
18 "SEC. 1444.—Withholding of tax on dispositions of United
19 States real property interests.".
20 SEC. 204. CREDIT OF WITHHELD TAX.
21 (a) GENERAL RULE.—Paragraph (1) of section 32 (relating to
22 tax withheld at source on nonresident aliens and foreign corpora-
23 tions and on tax-free covenant bonds) is amended by inserting
24 "or on the disposition of United States real property interest"
25 after "withheld at source".
26 (b) AMENDMENT OF SECTION 6401.—Subsection (b) of section
27 6401 (relating to treatment of excessive credits as overpayment)
28 is amended—
29 (1) by inserting "32 (relating to tax withheld at source on
30 nonresident aliens and foreign corporations and on tax-free
31 covenant bonds)," after "withheld on wages),",
32 (2) by striking out "sections 31" and inserting in lieu
33 thereof "sections 31, 32", and
34 (3) by striking out the last sentence.

1 SEC. 205. REPORTING REQUIREMENTS.
2 (a) GENERAL RULE.—Subpart A of part III of chapter 61 (re-
3 lating to information returns concerning persons subject to special
4 provisions) is amended by inserting after section 6039B the fol-
5 lowing new section:
6 "SEC. 6039C. RETURN OF CERTAIN ENTITIES HOLDING UNITED
7 STATES REAL PROPERTY INTERESTS.
8 "(a) REQUIREMENT.—If this section applies to any entity for
9 any calendar year, such entity shall make a return for such calen-
10 dar year setting forth—
11 "(1) the name and address of any person who held an inter-
12 est in such entity at any time during the calendar year,
13 "(2) the composition of the assets of such entity at such
14 time or times during the calendar year as the Secretary shall
15 by regulations prescribe,
16 "(3) such information with respect to transfers during
17 the calendar year of interests in such entity as the Secretary
18 shall by regulations prescribe,
19 "(4) whether such entity is a United States real property
20 holding organization (within the meaning of section 897(e)
21 (2) at any time during the calendar year), and
22 "(5) such other information as the Secretary shall by
23 regulations prescribe.
24 Any such return shall be made at such time and in such manner
25 as the Secretary shall by regulations prescribe.
26 "(b) STATEMENTS TO BE FURNISHED TO PERSONS HOLDING IN-
27 TERESTS IN THE ENTITY.—Every entity making a return under
28 subsection (a) shall furnish to each person who at any time dur-
29 ing the calendar year held an interest in such entity a written
30 statement showing—
31 "(1) the name and address of the entity making such
32 return,
33 "(2) whether such entity is a United States real property
34 holding organization at any time during the calendar year,
35 and

1 "(3) such other information as the Secretary shall by regu-
2 lations prescribe.
3 The written statement required under the preceding sentence shall
4 be furnished to the person on or before January 31 of the year
5 following the year for which the return under subsection (a) was
6 made.
7 "(c) ENTITIES TO WHICH THIS SECTION APPLIES.—This section
8 applies to any entity for any calendar year if at any time during
9 such year—
10 "(1) one or more of the persons owning an interest in such
11 entity is a foreign person,
12 "(2) a controlling interest in such entity is owned by or for
13 not more than 10 persons, and
14 "(3) United States real property interests constitute more
15 than 40 percent of the fair market value of the assets of such
16 entity.
17 "(d) SPECIAL RULES.—
18 "(1) ENTITY.—For purposes of this section, the term 'en-
19 tity' means any corporation, partnership, or trust.
20 "(2) CERTAIN RULES MADE APPLICABLE.—For purposes of
21 subsection (c), the rules of subsection (e) of section 897 shall
22 apply.".
23 (b) PENALTY FOR FAILURE TO FILE RETURN.—Section 6652 (re-
24 lating to failure to file certain information returns, registration
25 statements, etc.) is amended by redesignating subsection (g) as
26 subsection (h) and by inserting after subsection (f) the following
27 new subsection:
28 "(g) RETURNS REQUIRED UNDER SECTION 6039C.—
29 "(1) IN GENERAL.—In the case of each failure—
30 "(A) to make a return required by section 6039C(a),
31 or
32 "(B) to furnish a statement required by section
33 6039C(b),
34 on the date prescribed therefor (determined with regard to

1 any extension of time for filing), unless it is shown that such
2 failure is due to reasonable cause and not to willful neglect,
3 the amount determined under paragraph (2) shall be paid
4 (upon notice and demand by the Secretary and in the same
5 manner as tax) by the person failing to make such return or
6 furnish such statement.
7 "(2) AMOUNT OF PENALTY.—For purposes of paragraph
8 (1), the amount determined under this paragraph with re-
9 spect to any failure shall be the greater of—
10 "(A) $25 for each day during which such failure con-
11 tinues, or
12 "(B) the amount determined under regulations as the
13 amount of the tax imposed by section 897 which is not
14 paid and which is attributable to transfers occurring
15 during the calendar year for which the return or state-
16 ment was required.
17 The amount determined under subparagraph (A) with re-
18 spect to any calendar year shall not exceed $25,000. Sub-
19 paragraph (B) shall not apply with respect to any transac-
20 tion unless withholding with respect to such transaction was
21 required under section 1444.".
22 (c) CLERICAL AMENDMENT.—The table of sections for subpart
23 A of part III of chapter 61 is amended by inserting after the item
24 relating to section 6039B the following new item:
25 "Sec. 6039C. Return of certain entities holding United
26 States real property interests.".
27 **SEC. 206. MISCELLANEOUS AMENDMENTS.**
28 (a) SOURCES WITHIN UNITED STATES.—Paragraph (5) of sub-
29 section (a) of section 861 is amended to read as follows:
30 "(5) DISPOSITION OF UNITED STATES REAL PROPERTY INTER-
31 EST.—Gains, profits, and income from the disposition of a
32 United States real property interest (as defined in section
33 897(c)).".

(b) RESTRICTION ON EXAMINATION OF TAXPAYERS.—Subsection (b) of section 7605 (relating to restrictions on examinations of taypayers) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any inspection of a taxpayer's books of account for purposes of section 897 or 1444.".

SEC. 207. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this subtitle shall apply to dispositions after December 31, 1979.

(b) SPECIAL RULE FOR TREATIES.—After December 31, 1984, nothing in section 894(a) or 7852(d) of the Internal Revenue Code of 1954 or in any other provision of law shall be treated as requiring an exemption from (or reduction of) any tax imposed by section 897 or section 1444 of such Code by reason of any treaty obligation of the United States.

(c) TAX AND WITHHOLDING NOT TO APPLY IN CASE OF POST-EFFECTIVE DATE BINDING CONTRACT DISPOSITIONS OR PAYMENTS PURSUANT TO PRE-EFFECTIVE DATE TRANSACTIONS.—

(1) BINDING CONTRACTS.—The amendments made by this subtitle shall not apply to dispositions of property pursuant to a written contract which, on December 6, 1979, and at all times thereafter, was binding on the taxpayer.

(2) PREVIOUS TRANSACTIONS.—The amendments made by this subtitle shall not apply with respect to the withholding or deduction of tax in connection with payments or other amounts paid after December 31, 1979, in connection with any disposition before January 1, 1980, of a United States real property interest.

Subtitle B—Inclusion in Wages of FICA Taxes Paid by Employer

SEC. 211. INCLUSION IS WAGES OF FICA TAXES PAID BY EMPLOYERS.

(a) INCLUSION IN WAGES.—

(1) IN GENERAL.—

1 (a)(1) Section 209(f) of the Social Security Act is amended to
2 read as follows:
3 "(f) The payment by any employer (without deduction from
4 the remuneration of the employee)—
5 "(1) of the tax imposed upon an employee under section
6 3101 of the Internal Revenue Code of 1954 for wages paid
7 for domestic service in a private home of the employer or for
8 agricultural labor, or
9 (2) TECHNICAL AND CONFORMING CHANGES.—
10 (A) Section 3121(a)(6) of the Internal Revenue Code of
11 1954 is amended to read as follows:
12 "(6) the payment of an employer (without deduction
13 from the remuneration of the employee)—
14 "(A) of the tax imposed upon an employee under
15 section 3101 for wages paid for domestic service in
16 a private home of the employer or for agricultural
17 labor, or
18 "(B) of any payment required from an employee
19 under a State unemployment compensation law;".
20 (B) Section 3306(b)(6) of the Internal Revenue Code of
21 1954 is amended to read as follows:
22 "(6) the payment of an employer (without deduction
23 from the remuneration of the employee)—
24 "(A) of the tax imposed upon an employee under
25 section 3101 for wages paid for domestic services in
26 a private home of the employer or for agricultural
27 labor, or
28 "(B) of any payment required from an employee
29 under a State unemployment compensation law;".
30 (h) EFFECTIVE DATES.—
31 (1) IN GENERAL.—Except as provided in paragraph (2),
32 the amendments made by this section shall be effective with
33 respect to remuneration paid after December 31, 1980.

(2) REMUNERATION PAID BY CERTAIN STATES.—In the case of remuneration paid by a State (or political subdivision thereof) which, on June 17, 1980, had in effect an arrangement whereby such State or political subdivision paid under an agreement entered into pursuant to section 218 of the Social Security Act (without deduction from the remuneration of the employee) on behalf of its employees in positions of a particular kind, all or a substantial portion of the amounts equivalent to the taxes which would be imposed by section 3101 of the Internal Revenue Code of 1954, the amendments made by this section shall be effective with respect to remuneration paid to employees in such positions after December 31, 1983, and, notwithstanding any provision of law of a State or political subdivision thereof, any payment after such date—

(A) made by a State or interstate instrumentality to the Secretary of the Treasury pursuant to section 218(e)(1)(A) of the Social Security Act;

(B) with respect to an employee whose services are covered pursuant to an agreement under section 218 of such Act;

(C) of amounts equal to all or any portion of the tax which would be imposed on the employee under section 3101 of the Internal Revenue Code of 1954 if the services of such employee constituted employment as defined in section 3121 of such Code; and

(D) without deduction from the remuneration of such employee,

shall be considered wages for purposes of title II of the Social Security Act. With respect to such payments the State shall be liable under section 218(e)(1)(A) of such Act for amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 of such Code on such payments if the services of employees covered by the agreement constituted employment as defined in section 3121 of such Code.

1 ## Subtitle C—Telephone Tax

2 SEC. 231. TELEPHONE TAX CONTINUED AT 2 PERCENT FOR 1981.

3 (a) IN GENERAL.—The table contained in paragraph (2) of sec-
4 tion 4251(a) (relating to imposition of tax on communication serv-
5 ices) is amended by striking out the last 2 lines of such table and
6 inserting in lieu thereof the following:

"During 1980 or 1981	2
During 1982	1".

7 (b) CONFORMING AMENDMENT.—Subsection (b) of section
8 4251 is amended by striking out "January 1, 1982" and inserting
9 in lieu thereof "January 1, 1983".

10 ## Subtitle D—Cash Management

11 SEC. 251. ESTIMATED INCOME TAX PAYMENTS BY CORPORATIONS.

12 (a) GENERAL RULE.—Section 6655 (relating to failure by cor-
13 poration to pay estimated income tax) is amended by adding at the
14 end thereof the following new subsection:

15 "(h) LARGE CORPORATIONS REQUIRED TO PAY AT LEAST 50 PER-
16 CENT OF CURRENT YEAR TAX.—

17 "(1) IN GENERAL.—In the case of a large corporation, the
18 amount treated as the estimated tax for the taxable year under
19 paragraphs (1) and (2) of subsection (d) shall in no event
20 be less than 50 percent of—

21 "(A) the tax shown on the return for the taxable year,
22 or

23 "(B) if no return was filed, the tax for such year.

24 "(2) LARGE CORPORATION.—For purposes of this subsection,
25 the term 'large corporation' means any corporation if such
26 corporation (or any predecessor corporation) had taxable
27 income of $1,000,000 or more for any taxable year during the
28 testing period.

29 "(3) RULES FOR APPLYING PARAGRAPH (2).—

30 "(A) TESTING PERIOD.—For purposes of this subsec-
31 tion, the term 'testing period' means the 3 taxable years
32 immediately preceding the taxable year involved.

1 "(B) MEMBERS OF CONTROLLED GROUPS.—For purposes
2 of applying paragraph (1) to any taxable year in the
3 testing period with respect to corporations which are
4 component members of a controlled group of corporations
5 for such taxable year, the $1,000,000 amount specified in
6 paragraph (1) shall be divided among such members
7 under rules similar to the rules of section 1561.".
8 (b) TECHNICAL AMENDMENT.—Subsection (e) of section 6655
9 is amended by striking out "subsections (b) and (d)" and insert-
10 ing in lieu thereof "subsections (b), (d), and (h)".
11 (c) EFFECTIVE DATE.—The amendments made by this section
12 shall apply to taxable years beginning after December 31, 1980.

13 SEC. 252. INCLUSION OF MINIMUM TAX IN ESTIMATED TAX PAY-
14 MENTS.

15 (a) FOR INDIVIDUALS.—Paragraph (1) of section 6015(c) (re-
16 lating to definition of estimated tax) is amended by striking out
17 "(other than the tax imposed by section 55 or 56)".
18 (b) FOR CORPORATIONS.—Paragraph (1) of section 6154(c)
19 (relating to definition of estimated tax) is amended by inserting
20 ", section 56," after "section 11".
21 (c) CONFORMING AMENDMENTS.—
22 (1) Paragraph (1) of section 6654(f) (relating to tax
23 computed after application of credits against tax) is amended
24 by striking out "(other than by section 55 or 56)".
25 (2) Paragraph (1) of section 6655(e) (relating to defi-
26 nition of tax) is amended by inserting ", section 56," after
27 "section 11".
28 (d) EFFECTIVE DATE.—The amendments made by this section
29 shall apply with respect to taxable years beginning after Decem-
30 ber 31, 1980.

1 SEC. 253. INCREASE IN ESTIMATED INCOME TAX PAYMENT RE-
2 QUIRED FROM CORPORATIONS FROM 80 PERCENT TO
3 85 PERCENT

4 (a) IN GENERAL.—Section 6655 (relating to failure by corpora-
5 tion to pay estimated income tax) is amended by striking out "80
6 percent" in subsections (b)(1) and (d)(3)(A) and inserting in
7 lieu thereof "85 percent".
8 (b) EFFECTIVE DATE.—The amendments made by this section
9 shall apply with respect to taxable years beginning after Decem-
10 ber 31, 1980.

11 ## Subtitle E—Import Duty on Certain Imports of Ethyl Alcohol

12 SEC. 271. IMPOSITION OF DUTY OF ETHYL ALCOHOL IMPORTED
13 TO BE USED AS FUEL.

14 (a) IN GENERAL.—Subpart B of part 1 of the Appendix to the
15 Tariff Schedules of the United States (19 U.S.C. 1202) is
16 amended by adding in numerical sequence the following new item:

"	907. 50	Ethyl alcohol (provided for in item 427. 88, part 2D, schedule 4) when imported to be used in producing a mixture of gasoline and alcohol or a mixture of a special fuel and alcohol for use as fuel, or when imported to be used otherwise as fuel...	Gal.	3% ad val. + 40c per gal.	20% ad val. + 40c per gal.	On or before 12/31/92 ".

17 (b) EFFECTIVE DATE.—The amendment made by subsection (a)
18 shall apply with respect to articles entered, or withdrawn from
19 warehouse, for consumption on or after the date of the enact-
20 ment of this Act.

1 **Subtitle F—Amendments Relating to Crude Oil Windfall**
2 **Profit Tax**
3 **SEC. 291. CREDIT AGAINST CRUDE OIL WINDFALL PROFIT TAX**
4 **FOR ROYALTY OWNERS; DECREASE IN ADJUSTED BASE PRICE.**
5 (a) CREDIT AGAINST WINDFALL PROFIT TAX FOR ROYALTY
6 OWNERS.—
7 (1) IN GENERAL.—Subchapter B of chapter 65 (relating
8 to rules of special application for abatements, credits, and
9 refunds) is amended by adding at the end thereof the follow-
10 ing new section:
11 **"SEC. 6429. CREDIT AND REFUND OF CHAPTER 45 TAXES PAID BY**
12 **ROYALTY OWNERS.**
13 "(a) TREATMENT AS OVERPAYMENT.—In the case of a qualified
14 royalty owner, that portion of the tax imposed by section 4986
15 which is paid in connection with qualified royalty production shall
16 be treated as an overpayment of the tax imposed by section 4986.
17 "(b) CREDITS AND REFUNDS.—
18 "(1) IN GENERAL.—Under regulations prescribed by the
19 Secretary, any amount treated as an overpayment of tax
20 under subsection (a) shall be credited against the tax im-
21 posed by section 4986 or refunded to the qualified royalty
22 owner.
23 "(2) CLAIM FOR CREDIT OR REFUND.—Any claim for credit
24 or refund under this section shall be filed in such form and
25 manner, and at such time, as the Secretary may prescribe by
26 regulations.
27 "(c) $1,000 LIMITATION ON CREDIT OR REFUND.—
28 "(1) IN GENERAL.—The aggregate amount which may be
29 credited or refunded under subsection (a) with respect to any
30 qualified royalty owner shall not exceed $1,000.
31 "(2) ALLOCATION WITHIN FAMILY.—In the case of indi-
32 viduals who are members of the same family (within the
33 meaning of section 4992(e)(3)(C)), the $1,000 amount in

1 paragraph (1) shall be reduced for each such individual by
2 allocating such amount among all such individuals in pro-
3 portion to their respective qualified royalty production.
4 "(3) ALLOCATION BETWEEN CORPORATIONS AND INDIVIDUALS.—In
5 the case of an individual who owns any stock in a qualified family
6 farm corporation, the $1,000 amount in paragraph (1) shall be
7 reduced by the amount which bears the same ratio to the amount
8 of the credit or refund allowable to the corporation under this
9 section as the percentage of shares owned by such individual bears
10 to all shares of the corporation.
11 "(4) ALLOCATION BETWEEN CORPORATIONS.—If at any time after
12 June 24, 1980, any individual owns stock in two or more qualified
13 family farm corporations, the $1,000 amount in paragraph (1)
14 shall be reduced for each such corporation by allocating such
15 amount among all such corporations in proportion to their respec-
16 tive qualified royalty production.
17 "(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this
18 section—
19 "(1) QUALIFIED ROYALTY OWNER.—The term 'qualified
20 royalty owner' means a producer (within the meaning of sec-
21 tion 4996(a)(1)), but only if such producer is an individual
22 an estate, or a qualified family farm corporation.
23 "(2) QUALIFIED ROYALTY PRODUCTION.—The term 'qualified
24 royalty production' means, with respect to any qualified
25 royalty owner, taxable crude oil which—
26 "(A) is attributable to an economic interest of such
27 royalty owner other than an operating mineral interest
28 (within the meaning of section 614(d)), and
29 "(B) is removed from the premises after February 29,
30 1980, and before January 1, 1981.
31 "(3) QUALIFIED FAMILY FARM CORPORATION.—The term 'quali-
32 fied family farm corporation' means a corporation—
33 "(A) which was in existence on June 25, 1980,

1 "(B) all of the outstanding shares of stock of which on
2 such date and at all times thereafter were held by members of
3 the same family (within the meaning of section 2032A(e)
4 (2)), and
5 "(C) 80 percent of the assets of which (other than interests
6 described in paragraph 2(a)) were used by the corporation
7 on such date for farming purposes (within the meaning of
8 section 2032A(e)(5)).
9 "(e) CROSS REFERENCE.—
10 "For the holder of the economic interest in the case of a
11 production payment, see section 636.".
12 (2) TECHNICAL AND CONFORMING AMENDMENTS.—The table
13 of sections for subpart B of chapter 65 is amended by insert-
14 ing at the end thereof the following new item:
15 "Sec. 6429. Credit and refund of chapter 45 taxes
16 paid by royalty owners.".
17 (b) DENIAL OF DEDUCTION.—
18 (1) IN GENERAL.—Part IX of subchapter B of chapter 1
19 (relating to items not deductible) is amended by adding at
20 the end thereof the following new section:
21 "SEC. 280D. PORTION OF CHAPTER 45 TAXES FOR WHICH CREDIT
22 OR REFUND IS ALLOWABLE UNDER SECTION 6429.
23 "No deduction shall be allowed for that portion of the tax im-
24 posed by section 4986 for which a credit or refund is allowable
25 under section 6429.".
26 (2) CONFORMING AMENDMENT.—The table of sections for
27 part IX of subchapter B of chapter 1 is amended by add-
28 ing at the end thereof the following new item:
29 "Sec. 6429. Portion of chapter 45 taxes for which credit or re-
30 fund is allowable under section 6429.".
31 (c) DECREASE IN ADJUSTED BASE PRICE.—Section 4989 (defining
32 adjusted base price) is amended by adding at the end thereof the
33 following new subsection:

1 "(e) SPECIAL RULE FOR FISCAL YEAR 1981.—In the case of any
2 taxable period beginning after September 30, 1980, and before
3 October 1, 1981, the adjusted base price (determined without re-
4 gard to this subsection) shall be reduced by an amount equal to
5 the product of—
6 "(1) such adjusted base price, multiplied by
7 "(2) 0.008.".

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