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HOUSE OF REPRESENTATIVES
REPORT
No. 2543

INTERNAL REVENUE CODE OF 1954

JULY 26, 1954.—Ordered to be printed

Mr. REED of New York, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H. R. 8300]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8300) to revise the internal revenue laws of the United States, having met after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 7, 10a, 12 (4), 41a, 41b, 57a, 67a, 74a, 110a, 129a, 141a, 154, 155, 178, 179, 180, 185a, 220a, 271b, 273a, 281a, 413a, 485a, 486 (1), 486 (2), 486 (3), 494, and 551.

That the House recede from its disagreement to the amendments of the Senate numbered 1 (1), 1 (2), 2 (1), 4, 5, 6, 8, 9, 11, 12 (1), 12 (2), 12 (3), 12 (5), 13, 14, 15, 16, 17 (2), 18, 19, 20, 21, 22, 23 (1), 23 (2), 23 (4), 24, 25, 26, 27, 28, 29, 31, 33, 34, 34a, 35, 36, 37, 38, 39, 40, 41, 42, 44, 46, 47, 48, 49, 51, 52, 53, 54, 55, 56, 58, 59, 60, 61, 61a, 62, 63, 64; 65, 66, 67, 67b, 68 (1), 68 (4), 69, 70, 71, 72, 73 (2), 74, 75, 76, 76a, 77, 78, 80, 81, 84, 85 (1), 86, 87, 88, 89, 90, 91, 92, 93 (2), 94, 95, 96 (1), 97, 98, 100, 102 (2), 102a, 103, 105, 105a, 106, 107, 108, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 156 (1), 156 (2), 157, 158, 159, 160, 161, 162, 163 (1), 163 (3), 163 (4), 164, 165 (1), 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 181, 182, 183, 184, 185, 186 (2), 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220 (1), 220 (2), 220 (3), 220 (4), 221, 222, 223, 224, 225, 226, 227 (2), 228, 229, 230, 231, 232, 232a, 232b, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 244, 245, 247, 248, 249, 250, 251, 252, 253, 253a, 254, 255, 256, 257, 260, 261, 262, 264, 265, 266, 267, 268, 269, 270, 271, 272,

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Amendment numbered 1 (3):

That the House recede from its disagreement to the amendment of the Senate numbered 1 (3), and agree to the same with an amendment as follows:

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

SUBCHAPTER R. Election of certain partnerships and proprietorships as to taxable status.

And the Senate agree to the same.

Amendment numbered 1 (4):

That the House recede from its disagreement to the amendment of the Senate numbered 1 (4), and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out by the Senate amendment and insert the following: *or return of surviving spouse;* and the Senate agree to the same.

Amendment numbered 2 (2):

That the House recede from its disagreement to the amendment of the Senate numbered 2 (2), and agree to the same with an amendment as follows:

On page 3 of the Senate engrossed amendments, strike out line 1 and all that follows through line 11 on page 4, and insert the following:

(2) DEFINITION OF HEAD OF HOUSEHOLD.—For purposes of this subtitle, an individual shall be considered a head of a household if, and only if, such individual is not married at the close of his taxable year, is not a surviving spouse (as defined in section 2 (b)), and either—

(A) maintains as his home a household which constitutes for such taxable year the principal place of abode, as a member of such household, of—

(i) a son, stepson, daughter, or stepdaughter of the taxpayer, or a descendant of a son or daughter of the taxpayer, but if such son, stepson, daughter, stepdaughter, or descendant is married at the close of the taxpayer's taxable year, only if the taxpayer is entitled to a deduction for the taxable year for such person under section 151, or

(ii) any other person who is a dependent of the taxpayer, if the taxpayer is entitled to a deduction for the taxable year for such person under section 151, or

(B) maintains a household which constitutes for such taxable year the principal place of abode of the father or mother of the taxpayer, if the taxpayer is entitled to a deduction for the taxable year for such father or mother under section 151.

For purposes of this paragraph and of section 2 (b) (1) (B), an individual shall be considered as maintaining a household only if over half of the cost of maintaining the household during the taxable year is furnished by such individual.

On page 5 of the Senate engrossed amendments, strike out lines 3 through 6 and insert the following:

(4) LIMITATIONS.—Notwithstanding paragraph (2), for purposes of this subtitle a taxpayer shall not be considered to be a head of a household—

(A) if at any time during the taxable year he is a nonresident alien; or

(B) by reason of an individual who would not be a dependent for the taxable year but for—

(i) paragraph (9) of section 152 (a),

(ii) paragraph (10) of section 152 (a), or

(iii) subsection (c) of section 152.

And the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment as follows:

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

SEC. 2. TAX IN CASE OF JOINT RETURN OR RETURN OF SURVIVING SPOUSE.

(a) RATE OF TAX.—In the case of a joint return of a husband and wife under section 6013, the tax imposed by section 1 shall be twice the tax which would be imposed if the taxable income were cut in half. For purposes of this subsection and section 3, a return of a surviving spouse (as defined in subsection (b)) shall be treated as a joint return of a husband and wife under section 6013.

(b) DEFINITION OF SURVIVING SPOUSE.—

(1) IN GENERAL.—For purposes of subsection (a), the term "surviving spouse" means a taxpayer—

(A) whose spouse died during either of his two taxable years immediately preceding the taxable year, and

(B) who maintains as his home a household which constitutes for the taxable year the principal place of abode (as a member of such household) of a dependent (i) who (within the meaning of

section 152) is a son, stepson, daughter, or stepdaughter of the taxpayer, and (ii) with respect to whom the taxpayer is entitled to a deduction for the taxable year under section 151.

(2) LIMITATIONS.—Notwithstanding paragraph (1), for purposes of subsection (a) a taxpayer shall not be considered to be a surviving spouse—

(A) if the taxpayer has remarried at any time before the close of the taxable year, or

(B) unless, for the taxpayer's taxable year during which his spouse died, a joint return could have been made under the provisions of section 6013 (without regard to subsection (a) (3) thereof) or under the corresponding provisions of the Internal Revenue Code of 1939.

And the Senate agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with the following amendments:

Restore the matter proposed to be stricken out by the Senate amendment, omit the matter proposed to be inserted by the Senate amendment, and on page 9, in section 34, of the House bill, strike out subsection (a) and insert the following:

(a) GENERAL RULE.—Effective with respect to taxable years ending after July 31, 1954, there shall be allowed to an individual, as a credit against the tax imposed by this subtitle for the taxable year, an amount equal to 4 percent of the dividends which are received after July 31, 1954, from domestic corporations and are included in gross income.

On page 9, in section 34 (b) (2), of the House bill, strike out subparagraphs (B) and (C) and insert the following:

(B) 4 percent, in the case of a taxable year ending after December 31, 1954.

On page 9, in section 34 (d), of the House bill, strike out paragraph (1).

On page 9, in section 34 (d) (2), of the House bill, strike out "(2)" and insert the following: *(1)*

On page 9, in section 34 (d) (3), of the House bill, strike out "(3)" and insert the following: *(2)*

And the Senate agree to the same.

Amendment numbered 17 (1):

That the House recede from its disagreement to the amendment of the Senate numbered 17 (1), and agree to the same with an amendment as follows:

Restore the matter proposed to be stricken out by the Senate amendment, strike out the matter proposed to be inserted by the Senate amendment, and on page 13, in section 62 (5), of the House bill, after "following)", insert the following: *, by section 212 (relating to expenses for production of income),*; and the Senate agree to the same.

Amendment numbered 23 (3):

That the House recede from its disagreement to the amendment of the Senate numbered 23 (3), and agree to the same with an amendment as follows:

On page 14 of the Senate engrossed amendments, strike out lines 11 and 12 and insert *amount certificate, as defined in section 2 (a) (15) of the Investment Company Act of 1940 (15 U. S. C., sec. 80a–2), issued after December 31, 1954.*; and the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment as follows:

Restore the matter proposed to be stricken out by the Senate amendment and after the matter so restored insert the matter proposed to be inserted by the Senate amendment; and the Senate agree to the same.

Amendment numbered 32:

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

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

SEC. 105. AMOUNTS RECEIVED UNDER ACCIDENT AND HEALTH PLANS.

(a) AMOUNTS ATTRIBUTABLE TO EMPLOYER CONTRIBUTIONS.—Except as otherwise provided in this section, amounts received by an employee through accident or health insurance for personal injuries or sickness shall be included in gross income to the extent such amounts (1) are attributable to contributions by the employer which were not includible in the gross income of the employee, or (2) are paid by the employer.

(b) AMOUNTS EXPENDED FOR MEDICAL CARE.—Except in the case of amounts attributable to (and not in excess of) deductions allowed under section 213 (relating to medical, etc., expenses) for any prior taxable year, gross income does not include amounts referred to in subsection (a) if such amounts are paid, directly or indirectly, to the taxpayer to reimburse the taxpayer for expenses incurred by him for the medical care (as defined in section 213 (e)) of the taxpayer, his spouse, and his dependents (as defined in section 152).

(c) PAYMENTS UNRELATED TO ABSENCE FROM WORK.—Gross income does not include amounts referred to in subsection (a) to the extent such amounts—

(1) constitute payment for the permanent loss or loss of use of a member or function of the body, or the permanent disfigurement, of the taxpayer, his spouse, or a dependent (as defined in section 152), and

(2) are computed with reference to the nature of the injury without regard to the period the employee is absent from work.

(d) WAGE CONTINUATION PLANS.—Gross income does not include amounts referred to in subsection (a) if such amounts constitute wages or payments in lieu of wages for a period during which the employee is absent from work on account of personal injuries or sickness; but this subsection shall not apply to the extent that such amounts exceed a weekly rate of $100. In the case of a period during which the employee is absent from work on account of sickness, the preceding sentence shall not apply to amounts attributable to the first 7 calendar days in such period unless the employee is hospitalized on account of sickness for at

least one day during such period. If such amounts are not paid on the basis of a weekly pay period, the Secretary or his delegate shall by regulations prescribe the method of determining the weekly rate at which such amounts are paid.

(e) ACCIDENT AND HEALTH PLANS.—For purposes of this section and section 104—

(1) amounts received under an accident or health plan for employees, and

(2) amounts received from a sickness and disability fund for employees maintained under the law of a State, a Territory, or the District of Columbia,

shall be treated as amounts received through accident or health insurance.

(f) RULES FOR APPLICATION OF SECTION 213.—For purposes of section 213 (a) (relating to medical, dental, etc., expenses) amounts excluded from gross income under subsection (c) or (d) shall not be considered as compensation (by insurance or otherwise) for expenses paid for medical care.

And the Senate agree to the same.

Amendment numbered 43 (1):

That the House recede from its disagreement to the amendment of the Senate numbered 43 (1), and agree to the same with an amendment as follows:

Restore the matter proposed to be stricken out by the Senate amendment and on page 37, in section 163 (b) (1), of the House bill, strike out "as including" and insert *for purposes of this section as if they included*; and the Senate agree to the same.

Amendment numbered 43 (2):

That the House recede from its disagreement to the amendment of the Senate numbered 43 (2), and agree to the same with an amendment as follows:

On page 27, line 14, of the Senate engrossed amendments, strike out "(b)" and insert (*c*); and the Senate agree to the same.

Amendment numbered 45:

That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment as follows:

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

(D) In the case of any sale of real property, if the taxpayer's taxable income for the taxable year during which the sale occurs is computed under an accrual method of accounting, and if no election under section 461 (c) (relating to the accrual of real property taxes) applies, then, for purposes of subsection (a), that portion of such tax which—

(i) is treated, under paragraph (1) of this subsection, as imposed on the taxpayer, and

(ii) may not, by reason of the taxpayer's method of accounting, be deducted by the taxpayer for any taxable year,

shall be treated as having accrued on the date of the sale.

And the Senate agree to the same.

Amendment numbered 50:

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

On page 30, of the Senate engrossed amendments, strike out lines 14 through 17 and insert the following:

(1) the construction, reconstruction, or erection of which is completed after December 31, 1953, and then only to that portion of the basis which is properly attributable to such construction, reconstruction, or erection after December 31, 1953, or

(2) acquired after December 31, 1953, if the original use of such property commences with the taxpayer and commences after such date.

And the Senate agree to the same.

Amendment numbered 55a:

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

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

Any contribution made by a corporation in a taxable year to which this section applies in excess of the amount deductible in such year under the foregoing limitation shall be deductible in each of the two succeeding taxable years in order of time, but only to the extent of the lesser of the two following amounts: (i) the excess of the maximum amount deductible for such succeeding taxable year under the foregoing limitation over the contributions made in such year; and (ii) in the case of the first succeeding taxable year the amount of such excess contribution, and in the case of the second succeeding taxable year the portion of such excess contribution not deductible in the first succeeding taxable year.

And the Senate agree to the same.

Amendment numbered 57:

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

On page 32, lines 20 and 21, of the Senate engrossed amendments, strike out "corportation" and insert *corporation*; and the Senate agree to the same.

Amendment numbered 68 (2):

That the House recede from its disagreement to the amendment of the Senate numbered 68 (2), and agree to the same with an amendment as follows:

Strike out the matter proposed to be stricken out by the Senate amendment, and in lieu of the matter proposed to be inserted by the Senate amendment insert the following: *household (as defined in section 1 (b) (2)) and not a surviving spouse (as defined in section 2 (b))*

And the Senate agree to the same.

Amendment numbered 68 (3):

That the House recede from its disagreement to the amendment of the Senate numbered 68 (3), and agree to the same with an amendment as follows:

On page 44, line 24, of the Senate engrossed amendments after "(2))", insert *or a surviving spouse (as defined in section 2 (b))*; and the Senate agree to the same.

Amendment numbered 73 (1):

That the House recede from its disagreement to the amendment of the Senate numbered 73 (1), and agree to the same with an amendment, as follows:

On page 49, in lines 4 and 5, of the Senate engrossed amendments, strike out "or iron ore"; and the Senate agree to the same.

Amendment numbered 79:

That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with the following amendments:

On page 51, line 13, of the Senate engrossed amendments, strike out "OR IRON ORE"

On page 51, line 14, of the Senate engrossed amendments, strike out "or iron ore"

On page 51, line 16, of the Senate engrossed amendments, after "making", insert *and administering*

On page 51, line 20, of the Senate engrossed amendments, strike out "or iron ore"

And the Senate agree to the same.

Amendment numbered 82:

That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with the following amendments to the Senate engrossed amendments:

On page 61, in line 7, strike out "distribution." and insert *distribution, unless such stock so acquired from the distributee is redeemed in the same transaction.*

On page 70, strike out lines 16 and 17, and insert:

(iii) terminates the entire stock interest of the shareholder in the corporation (and for purposes of this clause, section 318 (a) shall apply).

On page 71, in line 2, strike out "sale or"

On page 71, in line 16, strike out "section," and insert *subchapter,*

On page 72, in line 16, strike out "if" and insert *to the extent that*

On page 75, in line 1, strike out "is the" and insert *is*

On page 75, in line 22, strike out "June 18," and insert *June 22,*

On page 77, after line 12, strike out "June 18," and insert *June 22,*

On page 83, in line 13, strike out "June 18," and insert *June 22,*

On page 88, in line 19, strike out "June 18," and insert *June 22,*

On page 92, in line 16, strike out "trust." and insert *trust, unless such beneficiary's interest in the trust is a remote contingent interest. For purposes of the preceding sentence, a contingent interest of a beneficiary in a trust shall be considered remote if, under the maximum exercise of discretion by the trustee in favor of such beneficiary, the value of such interest, computed actuarially, is 5 percent or less of the value of the trust property.*

On page 94, after line 15, strike out "section 306 (b) (1) (A) (ii)" and insert *section 306 (b) (1) (A)*

On page 99, in line 11, strike out "June 18," and insert *June 22,*

On page 99, in line 23, strike out "August 15, 1950," and insert *January 1, 1954,*

On page 102, beginning in line 4, strike out "August 15, 1950," and insert *December 31, 1953,*

On page 102, in line 13, strike out "August 15, 1950;" and insert *December 31, 1953;*

On page 103, in line 24, strike out "June 18," and insert *June 22,*

On page 104, in line 16, strike out "proper reduction" and insert *under regulations prescribed by the Secretary or his delegate, proper adjustment*

On page 104, in line 19, strike out "liquidation." and insert *liquidation, for any money received, for any liabilities assumed or subject to which the property was received, and for other items.*

On page 106, in line 13, strike out "June 18," and insert *June 22,*

On page 107, in line 22, after "paragraph (1)", insert *which is attributable to a trade or business of the corporation*

On page 109, in line 1, strike out "(reduced by any reduction" and insert *(adjusted for any adjustment*

On page 113, in line 24, after "corporation", insert *(and governmental obligations described in section 1221 (5))*

On page 116, beginning in line 7, strike out "June 18," and insert *June 22,*

On page 117, after line 6, insert:

For purposes of section 562 (b) (relating to the dividends paid deduction) and section 6043 (relating to information returns), a partial liquidation includes a redemption of stock to which section 302 applies.

On page 117, in line 14, strike out "ending on the date of" and insert *immediately before*

On page 119, in line 10, strike out "the other" and insert *such other*

On page 121, in line 12, strike out "whether" and insert *(whether*

On page 122, in line 11, strike out "both," and insert *both (but the mere fact that subsequent to the distribution stock or securities in one or more of such corporations are sold or exchanged by all or some of the distributees (other than pursuant to an arrangement negotiated or agreed upon prior to such distribution) shall not be construed to mean that the transaction was used principally as such a device),*

On page 124, beginning in line 6, strike out "within 5 years of its distribution, in a transaction" and insert *by reason of any transaction which occurs within 5 years of the distribution of such stock and*

On page 125, in line 14, strike out "and"

On page 125, in line 18, strike out "part." and insert *part, and*

On page 125, strike out lines 19 to 25, inclusive, and insert:

(D) control of a corporation which (at the time of acquisition of control) was conducting such trade or business—

(i) was not acquired directly (or through one or more corporations) by another corporation within the period described in subparagraph (B), or

(ii) was so acquired by another corporation within such period, but such control was so acquired only by reason of transactions in which gain or loss was not recognized in whole or in part, or only by reason of such transactions

combined with acquisitions before the beginning of such period.

On page 127, in line 13, strike out "and" and insert *but for the fact that*

On page 136, in line 4, strike out "June 18," and insert *June 22,*

On page 137, in line 5, strike out "June 18," and insert *June 22,*

On page 137, in line 11, strike out "June 18," and insert *June 22,*

On page 155, in lines 12 and 13, strike out "unless a change to a different method is approved by the Secretary or his delegate." and insert *unless different methods were used by several distributor or transferor corporations or by a distributor or transferor corporation and the acquiring corporation. If different methods were used, the acquiring corporation shall use the method or combination of methods of taking inventory adopted pursuant to regulations prescribed by the Secretary or his delegate.*

On page 159, in line 2, strike out "(8)" and insert (7)

On page 160, after line 19, insert:

(19) CHARITABLE CONTRIBUTIONS IN EXCESS OF PRIOR YEARS' LIMITATION.—Contributions made in the taxable year ending on the date of distribution or transfer and the prior taxable year by the distributor or transferor corporation in excess of the amount deductible under section 170 (b) (2) in such taxable years shall be deductible by the acquiring corporation in its first two taxable years which begin after the date of distribution or transfer, subject to the limitations imposed in section 170 (b) (2).

On page 162, after line 25, insert:

(4) DEFINITION OF PURCHASE.—For purposes of this subsection, the term "purchase" means the acquisition of stock, the basis of which is determined solely by reference to its cost to the holder thereof, in a transaction from a person or persons other than the person or persons the ownership of whose stock would be attributed to the holder by application of paragraph (3).

On page 164, after line 21, insert:

(5) ATTRIBUTION OF OWNERSHIP.—If the transferor corporation or the acquiring corporation owns (immediately before the reorganization) any of the outstanding stock of the loss corporation, such transferor corporation or acquiring corporation shall, for purposes of this subsection, be treated as owning (immediately after the reorganization) a percentage of the fair market value of the acquiring corporation's outstanding stock which bears the same ratio to the percentage of the fair market value of the outstanding stock of the loss corporation (immediately before the reorganization) owned by such transferor corporation or acquiring corporation as the fair market value of the total outstanding stock of the loss corporation (immediately before the reorganization) bears to the fair market value of the total outstanding stock of the acquiring corporation (immediately after the reorganization).

(6) STOCK OF CORPORATION CONTROLLING ACQUIRING CORPORATION.—If the stockholders of the loss corporation (immediately before the reorganization) own, as a result of the reorganization, stock in a corporation controlling the acquiring corporation, such stock of the controlling corporation shall, for purposes of this subsection, be treated as stock of the acquiring corporation in an amount valued at an equivalent fair market value.

On page 165, in line 3, strike out "June 18," and insert *June 22,*
On page 165, in line 5, strike out "June 18," and insert *June 22,*
On page 165, in line 10, strike out "June 18," and insert *June 22,*
On page 165, in line 12, strike out "June 18," and insert *June 22,*
On page 166, after line 21, insert:

(3) PLANS OF LIQUIDATION ADOPTED AFTER DECEMBER 31, 1953, AND BEFORE JUNE 22, 1954.—If the plan of complete liquidation was adopted after December 31, 1953, and before June 22, 1954, then, at the election of the corporation (made at such time and in such manner as the Secretary or his delegate may by regulations prescribe)—

(A) the 12-month period beginning on the date of the adoption of such plan shall be (i) the period for distribution (in lieu of the requirement in paragraph (1) (A) of this subsection that the assets be distributed before January 1, 1955), and (ii) the period during which, by reason of paragraph (1) of this subsection, gain or loss to the corporation is not recognized (in lieu of nonrecognition of gain or loss during the calendar year 1954); and

(B) notwithstanding paragraph (2) (A) of this subsection, any determination required by section 337 (b) to be made by reference to the date of the adoption of the plan of liquidation shall be made by reference to such date (and not by reference to January 1, 1954).

On page 169, in line 7, strike out "June 18," and insert *June 22,*
And the Senate agree to the same.

Amendment numbered 83:

That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with the following amendments:

On page 170 of the Senate engrossed amendments, at the end of the table of sections to part I, strike out "annuity plan" and insert *annuity plan and compensation under a deferred-payment plan*

On page 178, beginning in line 18, of the Senate engrossed amendments, strike out "in a year prior to the calendar year in which any such distributions are made," and insert *before the date of enactment of this title,*

And the Senate agree to the same.

Amendment numbered 85 (2):

That the House recede from its disagreement to the amendment of the Senate numbered 85 (2), and agree to the same with an amendment as follows:

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

(ii) in case the purchase price of the stock under the option is fixed or determinable under a formula in which the only variable is the value of the stock at any time during a period of 6 months which includes the time the option is exercised, the option price (computed as if the option had been exercised when granted) is at least 85 percent of the value of the stock at the time such option is granted; and

And the Senate agree to the same.

Amendment numbered 93 (1):

That the House recede from its disagreement to the amendment of the Senate numbered 93 (1), and agree to the same with an amendment as follows:

On page 199, line 2, of the Senate engrossed amendments, strike out "1953," and insert *1953 (whether or not such taxable year ends after the date of enactment of this title),*; and the Senate agree to the same.

Amendment numbered 96 (2):

That the House recede from its disagreement to the amendment of the Senate numbered 96 (2), and agree to the same with an amendment as follows:

On page 200, line 20, of the Senate engrossed amendments, strike out "made—" and insert *made.—*; and the Senate agree to the same.

Amendment numbered 99:

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

On page 202, line 10, of the Senate engrossed amendments strike out "subtitle" and insert *section*; and the Senate agree to the same.

Amendment numbered 101:

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

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

Amendment numbered 102 (1):

That the House recede from its disagreement to the amendment of the Senate numbered 102 (1), and agree to the same with an amendment as follows:

On page 205, in line 12, of the Senate engrossed amendments, strike out "504, or 505" and insert the following: *or 504*; and the Senate agree to the same.

Amendment numbered 104:

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

Restore the matter proposed to be stricken out by the Senate amendment, omit the matter proposed to be inserted by the Senate amendment, and on page 121, in section 501 (f), of the House bill, strike out "(f)" and insert the following: (*e*); and the Senate agree to the same.

Amendment numbered 109:

That the House recede from its disagreement to the amendment of the Senate numbered 109, and agree to the same with an amendment as follows:

On page 207, line 16, of the Senate engrossed amendments, strike out "trust a" and insert *a trust*; and the Senate agree to the same.

Amendment numbered 133a:

That the House recede from its disagreement to the amendment of the Senate numbered 133a, and agree to the same with an amendment as follows:

On page 223, of the Senate engrossed amendments, strike out line 14 and all that follows through line 25 and insert:

(2) a corporation organized and doing business under the banking and credit laws of a foreign country if it is established (annually or at other periodic intervals) to the satisfaction of the Secretary or his delegate that such corporation is not formed or availed of for the purpose of evading or avoiding United States income taxes which would otherwise be imposed upon its shareholders. If the Secretary or his delegate is satisfied that such corporation is not so formed or availed of, he shall issue to such corporation annually or at other periodic intervals a certification that the corporation is not a foreign personal holding company.

Each United States shareholder of a foreign corporation which would, except for the provisions of paragraph (2), be a foreign personal holding company, shall attach to and file with his income tax return for the taxable year a copy of the certification by the Secretary or his delegate made pursuant to paragraph (2). Such copy shall be filed with the taxpayer's return for the taxable year if he has been a shareholder of such corporation for any part of such year.

And the Senate agree to the same.

Amendment numbered 156 (3):

That the House recede from its disagreement to the amendment of the Senate numbered 156 (3), and agree to the same with the following amendments:

On page 234, line 21, of the Senate engrossed amendments strike out "OR IRON ORE".

On page 234, beginning in line 23, of the Senate engrossed amendments, strike out "or iron ore (if from deposits in the United States),".

On page 235 of the Senate engrossed amendments, in lines 2, 3, 7, 9, 11 and 12, 13, 14, and 15 strike out "or iron ore".

And the Senate agree to the same.

Amendment numbered 156a:

That the House recede from its disagreement to the amendment of the Senate numbered 156a, and agree to the same with an amendment as follows:

Restore the matter proposed to be stricken out by the Senate amendment, omit the matter proposed to be inserted by the Senate amendment, and on page 161 of the House bill, at the end of section 642 (a) (3), insert the following: *For purposes of determining the time of receipt of dividends under section 34 and section 116, the amount of dividends properly allocable to a beneficiary under section 652 or 662 shall be deemed to have been received by the beneficiary ratably on the same dates that the dividends were received by the estate or trust.*

And the Senate agree to the same.

Amendment numbered 163 (2):

That the House recede from its disagreement to the amendment of the Senate numbered 163 (2), and agree to the same with an amendment as follows:

On page 242, line 3, of the Senate engrossed amendments strike out "10" and insert *9*; and the Senate agree to the same.

Amendment numbered 165 (2):

That the House recede from its disagreement to the amendment of the Senate numbered 165 (2), and agree to the same with an amendment as follows:

On page 243, line 19, of the Senate engrossed amendments, strike out "determined." and insert *determined, except that proper adjustment of such ratio shall be made, in accordance with regulations prescribed by the Secretary or his delegate, for amounts which fall within paragraphs (1) through (4) of section 665 (b).*

And the Senate agree to the same.

Amendment numbered 177:

That the House recede from its disagreement to the amendment of the Senate numbered 177, and agree to the same with the following amendments to the Senate engrossed amendments:

On page 253, lines 1 and 2, strike out "a deduction is allowable" and insert the following: *there is provided a credit under section 34, an exclusion under section 116, or a deduction*

On page 261, strike out lines 23 and 24 and insert *taxable year.*

On page 262, strike out lines 3 and 4 and insert the following: *, under regulations prescribed by the Secretary or his delegate, for the period ending with such sale, exchange, or liquidation.*

On page 264, strike out line 24, and on page 265, line 1, strike out "section (c)," and insert:

(1) GENERAL RULE.—For purposes of subsection (a),

On page 265, line 7, strike out "other disposition" and insert *exchange*

On page 265, strike out lines 9 and 10, and insert:

(2) SPECIAL RULES.—

On page 265, line 14, strike out "paragraph (1) (B)," and insert *this section,*

On page 265, beginning in line 24, and in line 1 on page 266, strike out "the purpose of paragraph (1) (B)," and insert *purposes of this section,*

On page 266, strike out lines 3 through 6.

On page 270, strike out lines 4 through 21 and insert:

(d) SPECIAL PARTNERSHIP BASIS TO TRANSFEREE.—For purposes of subsections (a), (b), and (c), a partner who acquired all or a part of his interest by a transfer with respect to which the election provided in section 754 is not in effect, and to whom a distribution of property (other than money) is made with respect to the transferred interest within 2 years after such transfer, may elect, under regulations prescribed by the Secretary or his delegate, to treat as the adjusted partnership basis of such property the adjusted basis such property would have if the adjustment provided in section 743 (b) were in effect with respect to the partnership property. The Secretary or his delegate may by regulations require the application of this subsection in the case of a distribution to a transferee

partner, whether or not made within 2 years after the transfer, if at the time of the transfer the fair market value of the partnership property (other than money) exceeded 110 percent of its adjusted basis to the partnership.

On page 276, strike out lines 14 through 23 and insert:

(1) increase the adjusted basis of the partnership property by the excess of the basis to the transferee partner of his interest in the partnership over his proportionate share of the adjusted basis of the partnership property, or

(2) decrease the adjusted basis of the partnership property by the excess of the transferee partner's proportionate share of the adjusted basis of the partnership property over the basis of his interest in the partnership.

On page 277, strike out "only" in line 2 and all that follows through "time." in line 8 and insert *only. A partner's proportionate share of the adjusted basis of partnership property shall be determined in accordance with his interest in partnership capital and, in the case of an agreement described in section 704 (c) (2) (relating to effect of partnership agreement on contributed property), such share shall be determined by taking such agreement into account.*

On page 278, strike out lines 10 through 22 and insert:

(1) GENERAL RULE.—To the extent a partner receives in a distribution—

(A) partnership property described in subsection (a) (1) or (2) in exchange for all or a part of his interest in other partnership property (including money), or

(B) partnership property (including money) other than property described in subsection (a) (1) or (2) in exchange for all or a part of his interest in partnership property described in subsection (a) (1) or (2),

such transaction shall, under regulations prescribed by the Secretary or his delegate, be considered as a sale or exchange of such property between the distributee and the partnership (as constituted after the distribution).

On page 284, beginning in line 16, strike out "agreed to by all the partners, or" and insert *made prior to, or at, the time prescribed by law for the filing of the partnership return for the taxable year (not including extensions) which are agreed to by all the partners, or which are*

On page 284, in line 22, strike out "distribution" and insert *distribution, or a series of distributions,*

On page 285, strike out lines 8 through 10, and insert:

(B) any part of a partner's taxable year falling within such partnership taxable year.

On page 285, strike out lines 18 and 19, and insert:

(B) any part of a partner's taxable year falling within such partnership taxable year.

On page 286, after line 7, insert the following:

For the purpose of applying this paragraph, section 708 (relating to the continuation of a partnership) shall be effective for taxable years beginning after April 1, 1954.

On page 286, after line 22, insert:

(4) PARTNER RECEIVING INCOME IN RESPECT OF DECEDENT.—Section 753 (relating to income in respect of a decedent) shall apply only in the case of payments made with respect to decedents dying after December 31, 1954.

(c) *OPTIONAL TREATMENT OF CERTAIN DISTRIBUTIONS.—In the case of a partnership taxable year beginning after December 31, 1953, and before January 1, 1955, a partnership may elect, under regulations prescribed by the Secretary or his delegate, with respect to distributions made during such year to any partner, other than in liquidation of the partner's interest, to apply the rules in sections 731, 732 (a), (c), and (e), 733, 735, and 751 (b), (c), and (d) (and, to the extent applicable, the rules provided in sections 705, 752, and 761 (d)). If a partnership so elects, such rules shall be effective for the partnership and all members of such partnership with respect to such distributions.*

And the Senate agree to the same.

Amendment numbered 186 (1):

That the House recede from its disagreement to the amendment of the Senate numbered 186 (1), and agree to the same with an amendment as follows:

On page 290, line 3, of the Senate engrossed amendments strike out "the exclusion under section 116 and" and insert the following: *the credit under section 34, the exclusion under section 116, and*; and the Senate agree to the same.

Amendment numbered 220 (5):

That the House recede from its disagreement to the amendment of the Senate numbered 220 (5), and agree to the same with the following amendments:

On page 299, line 24, of the Senate engrossed amendments, strike out "or iron ore".

On page 300, line 2, of the Senate engrossed amendments, strike out "subsection;" and insert *subsection.*

And the Senate agree to the same.

Amendment numbered 227 (1):

That the House recede from its disagreement to the amendment of the Senate numbered 227 (1), and agree to the same with an amendment as follows:

On page 302, line 7, of the Senate engrossed amendments after "destroyed by" insert *or on account of*; and the Senate agree to the same.

Amendment numbered 243:

That the House recede from its disagreement to the amendment of the Senate numbered 243, and agree to the same with an amendment as follows:

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

(2) TIMBER OR COAL.—Such term includes timber and coal with respect to which section 631 applies.

And the Senate agree to the same.

Amendment numbered 246:

That the House recede from its disagreement to the amendment of the Senate numbered 246, and agree to the same with an amendment as follows:

On page 311, line 11, of the Senate engrossed amendments strike out "evidenced by" and insert *to*; and the Senate agree to the same.

Amendment numbered 248a:

That the House recede from its disagreement to the amendment of the Senate numbered 248a, and agree to the same with the following amendments:

On page 313, in line 22, of the Senate engrossed amendments after "(a)", insert *if the lot or parcel is held by the taxpayer for a period of 10 years and*

On page 314 of the Senate engrossed amendments, strike out lines 9 through 12 and insert:

> *(C) the taxpayer elects, in accordance with regulations prescribed by the Secretary or his delegate, to make no adjustment to basis of the lot or parcel, or of any other property owned by the taxpayer, on account of the expenditures for such improvements. Such election shall not make any item deductible which would not otherwise be deductible.*

And the Senate agree to the same.

Amendment numbered 258:

That the House recede from its disagreement to the amendment of the Senate numbered 258, and agree to the same with an amendment as follows:

On page 317, in line 6, of the Senate engrossed amendments, after "section 1503 (c)", insert *without regard to paragraph (2) thereof*; and the Senate agree to the same.

Amendment numbered 259:

That the House recede from its disagreement to the amendment of the Senate numbered 259, and agree to the same with the following amendments:

On page 317 of the Senate engrossed amendments, strike out all that follows line 10, down to and including the heading to part II on page 321, and insert:

Subchapter R—Election of Certain Partnerships and Proprietorships as to Taxable Status

On page 322 of the Senate engrossed amendments, at the end of line 15, insert *and*

On page 322 of the Senate engrossed amendments, strike out lines 16 through 20.

On page 322, line 21, of the Senate engrossed amendments, strike out "(5)" and insert *(4)*

On page 324, line 12, of the Senate engrossed amendments, strike out "subsections (b) (4) and" and insert *subsection*

On page 327 of the Senate engrossed amendments, strike out lines 18 through 21.

And the Senate agree to the same.

Amendment numbered 263:

That the House recede from its disagreement to the amendment of the Senate numbered 263, and agree to the same with the following amendments:

On page 335, in lines 23 and 24, of the Senate engrossed amendments, strike out "95" and insert the following: *80*

On page 336, in lines 5 and 6, of the Senate engrossed amendments, strike out "95" and insert the following: *80*

On page 337 of the Senate engrossed amendments, strike out lines 5 and 6, and in line 7 strike out "(8)" and insert *(7)*

On page 338 of the Senate engrossed amendments, immediately before line 6, insert:

Sec. 1552. Earnings and profits.

On page 339 of the Senate engrossed amendments, after line 17, insert:

SEC. 1552. EARNINGS AND PROFITS.

(a) GENERAL RULE.—Pursuant to regulations prescribed by the Secretary or his delegate the earnings and profits of each member of an affiliated group required to be included in a consolidated return for such group filed for a taxable year beginning after December 31, 1953, and ending after the date of enactment of this title, shall be determined by allocating the tax liability of the group for such year among the members of the group in accord with whichever of the following methods the group shall elect in its first consolidated return filed for such a taxable year:

(1) The tax liability shall be apportioned among the members of the group in accordance with the ratio which that portion of the consolidated taxable income attributable to each member of the group having taxable income bears to the consolidated taxable income.

(2) The tax liability of the group shall be allocated to the several members of the group on the basis of the percentage of the total tax which the tax of such member if computed on a separate return would bear to the total amount of the taxes for all members of the group so computed.

(3) The tax liability of the group (excluding the tax increases arising from the consolidation) shall be allocated on the basis of the contribution of each member of the group to the consolidated taxable income of the group. Any tax increases arising from the consolidation shall be distributed to the several members in direct proportion to the reduction in tax liability resulting to such members from the filing of the consolidated return as measured by the difference between their tax liabilities determined on a separate return basis and their tax liabilities (determined without regard to the 2 percent increase provided by section 1503 (a)) based on their contributions to the consolidated taxable income.

(4) The tax liability of the group shall be allocated in accord with any other method selected by the group with the approval of the Secretary or his delegate.

(b) FAILURE TO ELECT.—If no election is made in such first return, the tax liability shall be allocated among the several members of the group pursuant to the method prescribed in subsection (a) (1).

And the Senate agree to the same.

Amendment numbered 271a:

That the House recede from its disagreement to the amendment of the Senate numbered 271a, and agree to the same with an amendment as follows:

On page 344, line 1, of the Senate engrossed amendments after "termination" insert the following: *before the date prescribed for the filing of the estate tax return*; and the Senate agree to the same.

Amendment numbered 415 (1):

That the House recede from its disagreement to the amendment of the Senate numbered 415 (1), and agree to the same with an amendment as follows:

On page 375, line 12, of the Senate engrossed amendments, after "(2))", insert *or a surviving spouse (as defined in section 2 (b))*; and the Senate agree to the same.

Amendment numbered 415 (2):

That the House recede from its disagreement to the amendment of the Senate numbered 415 (2), and agree to the same with an amendment as follows:

On page 375, line 15, of the Senate engrossed amendments, after "(2))", insert *or a surviving spouse (as defined in section 2 (b))*; and the Senate agree to the same.

Amendment numbered 545 (2):

That the House recede from its disagreement to the amendment of the Senate numbered 545 (2), and agree to the same with an amendment as follows:

On page 410 of the Senate engrossed amendments, strike out lines 6 through 10 and insert:

> *(D) Effective with respect to taxable years ending after March 31, 1954, and subject to tax under chapter 1 of the Internal Revenue Code of 1939—*
>
> *(i) Sections 13 (b) (3), 26 (b) (2) (C), 26 (h) (1) (C) (including the comma and the word "and" immediately preceding such section), 26 (i) (3), 108 (k), 207 (a) (1) (C), 207 (a) (3) (C), and the last sentence of section 362 (b) (3) of such Code are hereby repealed; and*
>
> *(ii) Sections 13 (b) (2), 26 (b) (2) (B), 26 (h) (1) (B), 26 (i) (2), 207 (a) (1) (B), 207 (a) (3) (B), 421 (a) (1) (B), and the second sentence of section 362 (b) (3) of such Code are hereby amended by striking out "and before April 1, 1954" (and any accompanying punctuation) wherever appearing therein.*

And the Senate agree to the same.

Amendment numbered 552:

That the House recede from its disagreement to the amendment of the Senate numbered 552, and agree to the same with an amendment as follows:

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

MISCELLANEOUS TITLE

SEC. 201. (a) Section 3748 (a) of the Internal Revenue Code of 1939 (relating to periods of limitations applicable to criminal prosecutions) is amended by inserting after "within three years next after the commission of the offense," the following: "except that the period of limitation shall be five years for offenses enumerated in section 4047 (e) (relating to unlawful acts of revenue officers or agents) and".

(b) The amendment made by this section shall be effective with respect to offenses committed on or before the date of enactment of this Act, if on such date prosecution therefor is not barred by provisions of law in effect before such date.

And the Senate agree to the same.

DANIEL A. REED,
THOMAS A. JENKINS,
RICHARD M. SIMPSON,
Managers on the Part of the House.

E. D. MILLIKIN,
EDWARD MARTIN,
WALTER F. GEORGE,
HARRY F. BYRD,
Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8300) to revise the internal revenue laws of the United States, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The following Senate amendments made technical, clerical, clarifying, or conforming changes (including changes made necessary to conform to the Excise Tax Reduction Act of 1954, Public Law 324, 83d Cong.): 1, 4, 5, 6, 8, 9, 10a, 11, 12 (4), 14, 15, 16, 17, 18, 20, 21, 22, 23 (1), 23 (2), 23 (4), 25, 26, 27, 30, 33, 34, 37, 41, 41a, 42, 43 (2), 44 (2), 47 (1), 52, 53, 54, 56, 57a, 64, 65, 66, 67b, 68; 70, 72, 73, 74, 74a, 76a, 90, 91, 93 (2), 94, 95, 101, 102 (1), 102a (1), 103, 104, 105, 106, 111, 112, 113, 114, 115, 117 (2), 118, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141a, 142, 143, 144, 145, 146, 154, 155, 156a, 158, 160, 161, 164, 168, 170, 173, 183, 184, 185, 185a, 187, 188, 189, 190, 191, 192, 193, 194, 199, 200, 201, 202, 203, 204, 205, 206, 213, 214, 215, 216, 217, 219, 220, 220a, 221, 222, 223, 224, 225, 226, 229, 230, 231, 232, 232b, 233, 234, 235, 236, 237, 239, 240, 241, 242, 243, 249, 250, 255, 256, 257, 260, 270, 271b, 273a, 274, 275, 276, 278, 279, 281a, 282, 283, 284, 285, 286, 287, 288, 289, 290–301, 302–326, 327 (1), 327 (3), 327 (4), 328, 329, 330, 331, 333–347, 348 (1), 349 (1), 349 (2), 349 (4), 350 (2), 351, 353, 354, 355, 356, 357 (2), 358–403, 405, 406, 406a, 408, 409, 410, 411, 412, 413, 413a, 414, 415, 416, 417 (3), 420, 421, 422, 423, 425, 426, 427, 428, 429, 430, 432, 433, 434, 435, 437, 438, 439, 440, 441, 442, 443, 444, 445, 448, 450, 451, 452, 454, 455, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 471, 472, 473, 476, 480, 481, 482, 483, 484, 485, 489, 490, 491, 492, 493, 500, 504, 505 (1), 509, 512, 513, 514, 516, 517, 519, 520, 522, 523, 525, 527, 529, 531, 532, 533, 534, 536, 538, 539, 540, 542, 543, 544, 547, 549, and 553. With respect to these amendments (1) the House either recedes or recedes with amendments which are technical, clerical, clarifying, or conforming in nature, or (2) the Senate recedes in order to conform to other action agreed upon by the committee of conference.

Amendments Nos. 2 and 3: Under the House bill, the benefits of full income splitting were extended to those taxpayers who could qualify as "head of family." In order to qualify, a taxpayer must have supported a son, daughter, father, mother, brother, or sister, or certain relatives of his wife if she were dead and he had not remarried. It was not necessary for such dependents to live in the taxpayer's household in order to qualify him as head of family.

Under the Senate amendment, the provisions of existing law relating to head of household were restored. Thus, a head of household would continue to receive half (rather than full) benefits of income splitting and the dependents qualifying the taxpayer must actually live in his household. The taxpayer would not be required to support his children and their earnings would not be subject to the $600 limitation (unless such children were married).

The House recedes with amendments. Under the conference agreement, the provisions of the Senate amendment are retained with three exceptions. Under the first exception, a taxpayer may qualify as head of household through his support as a dependent (within the meaning of sec. 151) of either his mother or father even though they do not live in his home, if he maintains a household (by providing more than half the cost of maintenance) for either of them and such household constitutes such parent's principal place of abode.

Under the second exception, a taxpayer may obtain the full benefits of income splitting for a period of 2 years after the year in which occurs the death of his spouse, if he has not remarried and if he maintains as his home a household which is the principal place of abode of a son, stepson, daughter, or stepdaughter and with respect to whom the taxpayer is entitled to a deduction under section 151. If the taxpayer does not qualify as a "surviving spouse", he may still qualify as a "head of household" if he meets the statutory requirements. Thus a taxpayer on the calendar year basis whose spouse died in 1952, may, for the taxable year 1954, qualify as a "surviving spouse". However, in 1955, he must determine whether he can meet the requirements of "head of household".

The third exception adds a limitation that a taxpayer may not be a head of a household by reason of a dependent who would not be a dependent but for the new categories provided under paragraphs (9) and (10) of section 152 (a), and subsection (c) of section 152, of the House bill.

Amendment No. 7: This is a technical amendment relating to the effective date of the corporate tax rate. Under the conference agreement on amendment No. 545 (2), this provision is covered in the effective date section of the title. The Senate recedes.

Amendment No. 10: Section 34 (a) of the House bill provided for a credit against the income tax of an individual of a percentage of the dividends received from certain domestic corporations which are included in gross income. It provided a credit of 5 percent of those dividends received after July 31, 1954, and before August 1, 1955, and a credit of 10 percent after July 31, 1955. Subsection (b) of the House bill, however, limited the credit against tax provided by subsection (a) to 2 percent of the individual's taxable income for his taxable year ending before January 1, 1955, 7 percent for his taxable year ending after December 31, 1954, and before January 1, 1956, and 10 percent for his taxable year ending after December 31, 1955.

Senate amendment No. 10 struck out all of the provisions of section 34 of the House bill and in lieu thereof directed the Secretary of the Treasury to make a study of questions involving the inclusion in gross income of dividends received by individuals and to report to Congress on or before January 15, 1955.

The House recedes with an amendment. The conference agreement, in general, restores the provisions of the House bill, except that the amount of the credit is to be 4 percent of the amount of dividends received to which the section applies, and is to be limited to 2 percent of the individual's taxable income in the case of taxable years ending before January 1, 1955, and to 4 percent of the individual's taxable income for all succeeding taxable years.

Amendments Nos. 12 (1), 12 (2), 12 (3), 12 (5), and 13: These amendments make clarifying, clerical, technical, and conforming

changes and also the following substantive changes in the section which allows a credit against tax for retirement income:

(1) The credit is allowed for individuals under age 65 with respect to pensions and annuities received under a public retirement system (as defined in the amendment).

(2) The credit is not reduced on account of income earned after attaining age 75.

(3) The credit is not allowed to nonresident aliens.

The House recedes.

Amendment No. 19: Paragraph (1) of this amendment provides that the provision of the House bill (sec. 71 (a) (2)), relating to the inclusion in gross income of amounts received under a written separation agreement, applies to agreements executed after the date of enactment of the bill. The House recedes.

Paragraph (2) of amendment No. 19 adds a new provision providing that periodic payments received by a wife under a decree (entered after March 1, 1954) requiring the husband to make the payments for her support or maintenance shall be included in the gross income of the wife (the amount so includible in the wife's gross income being allowed as a deduction to the husband under sec. 215). It is the understanding of the committee of conference that in determining whether a decree was entered after March 1, 1954, any decree which is altered or modified by a court order entered after March 1, 1954, shall be treated as a decree entered after March 1, 1954, for purposes of the application of this provision (sec. 71 (a) (3)). The House recedes.

Amendment No. 23 (3): This amendment provides that for purposes of section 72 (relating to annuities and certain proceeds of endowment and life-insurance contracts) face-amount certificates shall be treated the same as endowment contracts. The House recedes with an amendment providing that the section shall be applicable only to face-amount certificates issued after December 31, 1954.

Amendment No. 24: This amendment strikes out section 76 of the House bill which provided specific statutory rules for determining when the discharge of indebtedness results in gross income. The effect of this amendment is that such determination will be made, as under existing law, by applying the general rules for determining gross income. The House recedes.

Amendment No. 28: Section 101 (a) of the House bill exempted in full life-insurance proceeds payable at death on contracts transferred for a valuable consideration. This amendment restores existing law which taxes the amount received to the extent that it exceeds the consideration for the policy and the premiums paid by the transferee except where the policy is transferred in a nontaxable exchange. The amendment further extends the exception of existing law in case of the following types of transfers: The transferee is the insured, a partner of the insured, a partnership in which the insured is a partner, or a corporation in which the insured is a shareholder or officer. The House recedes.

Amendment No. 29: Section 101 (b) (2) (B) of the House bill exempts employee death benefits up to $5,000 if paid under a qualified employee profit-sharing or stock-bonus plan, even though the employee had a nonforfeitable right to receive such amounts while living. Paragraph (1) of this amendment extends the same treatment to lump-

sum distributions paid under an exempt employees' pension plan or annuity plan. The House recedes.

Section 101 (d) of the House bill in effect limits the exclusion from gross income of interest earned on life-insurance installment proceeds after the death of the insured to $500 per year for a widow of the decedent and $250 a year for certain other beneficiaries. Paragraph (2) of amendment No. 29 increases the exclusion in the case of a widow to $1,000 a year and provides for no exclusion for other beneficiaries. The House recedes.

Amendment No. 31: This amendment provides that gross income does not include pensions, annuities, or similar allowances for personal injuries or sickness resulting from active service in the Coast and Geodetic Survey or the Public Health Service. The House recedes.

Amendment No. 32: Under existing law amounts received by employees through insured employer accident and health plans are excludable from gross income, while amounts received through noninsured plans are generally considered fully taxable. Section 105 of the House bill provided that amounts received through qualified plans (whether insured or noninsured) would be fully excluded if received as compensation for sickness or injuries, and would be excludable up to $100 a week if received as compensation for loss of wages during a period of absence from work due to sickness or injury. The Senate amendment provided an exclusion from gross income with respect to (1) amounts received as reimbursement for medical expenses, (2) amounts received as compensation for the loss of a bodily member or function, and (3) amounts received (not in excess of $100 a week) as, or in lieu of, wages. The Senate amendment applied to amounts paid out by employee associations and by employer noninsured plans as well as insured plans. The amendment also contained rules for determining when receipt of amounts under section 105 would not make the taxpayer ineligible for a medical deduction under section 213.

The House recedes with an amendment. Under the conference agreement a clarifying change has been made in section 105 (a) in order to make clear that, except as otherwise provided in section 105, amounts received by an employee through accident or health insurance for personal injuries or sickness shall be included in gross income not only when such amounts are attributable to contributions by the employer which were not includible in the gross income of the employee, but also when such amounts are paid by the employer. Section 105 (e) provides that, for purposes of sections 104 and 105, amounts received under an accident or health plan for employees, and amounts received from a sickness and disability fund for employees maintained under the law of a State, Territory, or the District of Columbia, shall be treated as amounts received through accident or health insurance. The phrase "accident or health plan for employees" thus includes a plan of an employer, or of an employee association, or any other plan which pays accident or health benefits to employees.

Section 105 (b) provides that except in the case of amounts attributable to (and not in excess of) deductions allowed under section 213 (relating to medical, etc., expenses) for any prior taxable year, amounts referred to in subsection (a) shall not be included in gross income if they are paid, directly or indirectly, to the taxpayer to reimburse the

taxpayer for expenses incurred by him for the medical care of himself, his spouse, and his dependents. Subsection (b) applies only to amounts which are paid specifically to reimburse the taxpayer for the prescribed medical expenses. Such reimbursements are excludable from gross income without limitation as to their amount. An amount will be considered to have been paid indirectly to the taxpayer to reimburse him for medical care if, for example, payment is made to the hospital which rendered the prescribed services to the taxpayer, his spouse, or his dependents. Also, payment to the taxpayer's spouse or dependents will constitute indirect payment to the taxpayer.

Under the conference agreement subsection (c) is identical with the corresponding provision of the Senate amendment. It provides that amounts described in subsection (a) shall not be included in gross income if they constitute payment for permanent loss, or permanent loss of use, of a member or function of the body, or the permanent disfigurement of the taxpayer, his spouse, or a dependent, and the payments are computed with reference to the nature of the injury and without regard to the period the employee is absent from work.

Subsection (d) provides that gross income does not include amounts referred to in subsection (a) if such amounts constitute wages or payments in lieu of wages for a period during which the employee is absent from work on account of personal injuries or sickness, but only to the extent that such amounts do not exceed a weekly rate of $100. It is further provided that, in the case of a period during which the employee is absent from work on account of sickness, the exclusion shall not apply to amounts attributable to the first 7 calendar days in such period unless the employee is hospitalized on account of sickness for at least 1 day during such period. For example, if, on the 10th day of the period during which the employee is absent from work on account of sickness, he is admitted to a hospital on account of sickness, and is discharged from the hospital 2 days later, the employee may exclude from gross income (subject to the $100 per week limitation) any amount to which subsection (a) applies attributable to the entire period of absence from work. On the other hand, if an employee ie absent on account of sickness for a period of 3 days, and at no tims during such period is hospitalized on account of sickness, he would not be entitled to exclude any amount from gross income under subsection (d) with respect to such 3-day period of absence from work due to sickness. The 7-day waiting period imposed by subsection (d) in the case of absence from work on account of sickness does not apply to any period during which the employee is absent from work on account of personal injury. For example, if the employee is absent from work (without being hospitalized) for 3 days on account of sickness, and on the 4th day he incurs an injury which necessitates his being absent from work for an additional period of 5 days, he would not be entitled to any exclusion for amounts attributable to the 3 days during which he was absent from work on account of sickness, but he would be permitted to exclude (subject to the $100 per week limitation) amounts attributable to the 5-day period during which he was absent from work on account of injury. If amounts to which subsection (d) applies are not paid on the basis of a weekly pay period the Secretary or his delegate shall by regulations prescribe the method of determining the weekly rate at which such amounts are paid.

Subsection (f) provides special rules for the application of section 213 (relating to medical, dental, etc., expenses) and provides that amounts excluded from gross income under subsections (c) or (d) shall not be considered as compensation (by insurance or otherwise) for expenses paid for medical care.

Section 105 does not apply to amounts received under workmen's compensation acts as workmen's compensation. Such amounts are excluded from gross income under section 104. Amounts to which section 105 (a) applies, which are not excluded from gross income under subsections (b), (c), or (d), must be included in gross income.

Amendment No. 34a: The House bill provided that an individual could exclude from gross income the first $50 of dividends received from certain domestic corporations during taxable years ending after July 31, 1954, and before August 1, 1955, and could exclude the first $100 of such dividends received during taxable years ending after July 31, 1955. The Senate amendment reduced the amount of the exclusion to $50 for all taxable years ending after July 31, 1954. The House recedes.

Amendment No. 35: This amendment makes clear that the provisions of section 117 of the House bill, relating to the exclusion from gross income of amounts received as scholarship and fellowship grants, apply to the value of contributed services and accommodations received under a fellowship grant. The House recedes.

Amendment No. 36: The House bill provided that amounts received as scholarships and fellowship grants be excluded from gross income, but the exclusion did not apply to (1) amounts representing compensation for part-time teaching or research services, and (2) amounts received by an individual (not a candidate for a degree) if the annual amount of the grant, plus certain other compensation, equaled or exceeded 75 percent of the recipient's earned income during the prior 12-month period. The Senate amendment provides that in the case of individuals who are candidates for degrees, the exclusion provisions of section 117 (a) shall not apply to any amount which represents payment for teaching, research, or other services in the nature of part-time employment required as a condition to receiving the scholarship or the fellowship grant, other than services required of all degree candidates (whether or not recipients of scholarships or fellowship grants). With respect to nondegree candidates, the Senate amendment provides that the exclusion shall apply (1) only if the grantor is a tax-exempt organization or a governmental body, and (2) only to the extent of $300 a month for a maximum of 36 months. The House recedes.

Amendment No. 38: The House bill provided that there shall be excluded from the gross income of an employee the value of any meals or lodging furnished by the employer (whether or not furnished as compensation) but only if such meals or lodging are furnished at the place of employment, and are required to be accepted at the place of employment as a condition of the employment. The Senate amendment provides that meals or lodging furnished for the convenience of the employer are excluded, but only if (1) such meals are furnished on the business premises of the employer, or (2) the employee is required to accept such lodging on the employer's business premises as a condition of his employment. The Senate amendment also provides that in determining whether meals or lodging are furnished for the con-

venience of the employer, the provisions of an employment contract or of a State statute fixing the terms of employment shall not be determinative of whether the meals or lodging are intended as compensation. The term "business premises of the employer" is intended, in general, to have the same effect as the term "place of employment" in the House bill. For example, lodging furnished in the home to a domestic servant would be considered lodging furnished on the business premises of the employer. Similarly, meals furnished to a cowhand while herding his employer's cattle on leased lands, or on national forest lands used under a permit, would also be regarded as furnished on the business premises of the employer. Amounts excluded from gross income under this amendment will not, in general, be subject to income tax withholding. The House recedes.

Amendment No. 39: Under existing law a dependency exemption may be taken for a dependent only if he has gross income of less than $600. The House bill provided that the earnings test would not apply if the dependent is the taxpayer's child who is under the age of 19 or is a full-time student in an educational institution during at least 5 months of the year. This amendment extends the House provision to a child who is pursuing a full-time course of institutional on-farm training. The House recedes.

Amendment No. 40: Under existing law and the House bill a citizen or subject of a foreign country may not qualify as a dependent unless he is a resident of the United States, of a country contiguous to the United States, or of certain other designated countries, even though he is also a citizen of the United States. Under amendment No. 40 the disqualification would apply only to individuals who are not citizens of the United States. The House recedes.

Amendment No. 41b: As under existing law, section 162 of the House bill allows as a deduction all ordinary and necessary expenses, including rentals, paid or incurred during the taxable year in carrying on a trade or business. Senate amendment No. 41b provided, in the case of a lease of property which is owned by a tax-exempt organization described in section 501 (c) (4) (relating to civic leagues or organizations for promotion of social welfare) and which is subject to a mortgage or other similar lien securing indebtedness incurred in the acquisition or improvement of such property, that the deduction for rent could be in annual amounts sufficient to discharge the indebtedness over a 5-year period. The Senate recedes.

Amendment No. 43 (1): This amendment strikes out the provision of the House bill which permitted an interest deduction for carrying charges on installment purchases where the carrying charges were separately stated, but the interest could not be ascertained. Under the conference agreement, the provisions of the House bill are restored with a clarifying amendment.

Amendment No. 44 (1): Under the House bill, taxes assessed against local benefits of a kind tending to increase the value of the property assessed are deductible only to the extent properly allocable to maintenance or interest charges. Amendment No. 44 (1) provides a further exception which allows a deduction of taxes levied by a special taxing district if the district covers the whole of at least 1 county, at least 1,000 persons are subject to the taxes levied by the district, and the district levies its assessments annually at a uniform

rate on the same value used for purposes of the real property tax generally. The House recedes.

Amendment No. 45: The House bill provided that, in the case of a sale of real property during any real property tax year, the real property tax be apportioned between the seller and purchaser for purposes of section 164 (a) (relating to allowance of deduction for taxes paid or accrued within the taxable year) on the basis of the period before and after the date of the sale. The Senate amendment provided that this apportionment would not apply in the case of any sale of real property if either of the parties to the transaction computes his taxable income under an accrual method of accounting and has not made the election (provided by Senate amendment No. 96) under section 461(c) of the House bill to accrue real property taxes ratably over the period to which the tax relates.

The House recedes with an amendment. The conference agreement permits an apportionment of the real property tax between the purchaser and seller in a transaction described in the preceding paragraph, and provides that a party to such a transaction who is on the accrual method and has not made the election under section 461 (c) shall be treated as having accrued on the date of sale that portion of the real property tax which would be allocable to him under the House bill and which he could not deduct for any taxable year under his method of accounting. If a cash-basis taxpayer, or an accrual-basis taxpayer who has not made the election provided in section 461(c), has deducted for any taxable year prior to the sale an amount in excess of the portion of the tax treated as imposed upon him under section 164 (d), the excess will be includible in gross income for the year of the sale subject to the provisions of section 111 (relating to recovery of bad debts, prior taxes, and delinquency amounts).

Amendment No. 46: In determining whether a corporation is an affiliated corporation for the purpose of ascertaining the treatment to be given to security losses, the House bill changed the stock ownership requirements specified in existing law from 95 percent to 80 percent. This amendment restores existing law. The House recedes.

Amendment No. 47 (2): This amendment adds to the section on bad debts a subsection which provides that certain payments of part or all of taxpayer's obligations as a guarantor, endorser, or indemnitor on certain noncorporate obligations shall be treated as a debt becoming worthless and deductible as a business bad debt. The House recedes.

Amendment No. 48: This amendment to the House bill makes it clear that a taxpayer may use different methods of depreciation with respect to different properties or classes of property. The House recedes.

Amendment No. 49: This amendment adds to the methods of depreciation provided in 167 (b) of the House bill the "sum of the years-digits method" for property described in section 167 (c). The House bill provided for depreciation under any consistent method which would not result in allowances productive of a reserve greater than would have been accumulated under the declining balance method, at any point in the property's life. The Senate amendment provides that the limitation should apply only during the first two-thirds of the property's life. The Senate amendment also provides specifically that the new methods will in no way restrict or reduce an

allowance which is allowable under subsection (a), which subsection in substance is the same as existing law. The House recedes.

Amendment No. 50: Section 167 (c) of the House bill provided that the new methods of depreciation provided in section 167 (b) would apply to property acquired after December 31, 1953, which is new in use after December 31, 1953. In the case of property constructed, reconstructed, or erected by the taxpayer, the House bill provided that the new methods would apply to construction, reconstruction, or erection completed after December 31, 1953, but only to that portion of the basis of such property which is attributable to the period after December 31, 1953. The Senate amendment restricts the liberalized depreciation provided in section 167 (b) to property with a useful life of 3 years or more. This amendment also provided that the methods of depreciation provided in section 167 (b) apply to the entire cost of property which is completed and first put into use after December 31, 1953. The House recedes with an amendment. The conference agreement provides for the limitation of the new methods of depreciation to property with a useful life of 3 years or more but restores the limitation in the House bill that only that portion of the basis of the property which is attributable to the construction, reconstruction, or erection after December 31, 1953, is subject to the new depreciation methods described in section 167 (b) (2), (3), and (4).

Amendment No. 51: The "10-percent leeway" rule contained in section 167 (e) of the House bill has been eliminated by Senate amendment No. 51. This amendment added a new subsection (e) to section 167 of the House bill providing that a taxpayer may change (under regulations prescribed by the Secretary) from the declining-balance method to the straight-line method. The House recedes.

Amendment No. 55: The House bill provided for an increase in the charitable contribution limitation from 20 percent to 30 percent of adjusted gross income, the added 10 percent to be allowed only for charitable contributions to certain hospitals, educational institutions, and churches. A technical amendment is made to insure that the additional 10 percent is to be applied to the aggregate gifts to such charities and not to each gift. An amendment is also made in the definition of churches for purposes of the additional 10 percent limitation. The words "a religious order" in the House bill have been deleted. The House bill also contained a liberalization of the existing unlimited charitable deduction where the taxpayer's charitable contributions and income tax in the current taxable year and in each of the 10 preceding taxable years equals 90 percent or more of his taxable income. Under the House provision this test had to be met in only 9 of the 10 preceding years. The amendment further liberalizes the provision by extending the unlimited deduction if the test is met in the current taxable year and 8 of the 10 preceding taxable years. The House recedes.

Amendment No. 55a: Under the House bill, charitable contributions are deductible by a corporation only to the extent of 5 percent of taxable income (as computed for purposes of this section). Amendment No. 55a permits a carryover to succeeding taxable years of charitable contributions in excess of the limitation. The House recedes with an amendment which limits the carryover to the 2 taxable years next succeeding the taxable year of the excess contribution.

Amendment No. 57: This amendment inserts a new provision providing that contributions to certain nonprofit cemetery and burial companies shall qualify as charitable deductions. The House recedes with a clerical amendment.

Amendments Nos. 58 and 59: These amendments relate to the deduction for amortizable bond premium. Under the House bill the premium on callable bonds (issued after January 22, 1951, and acquired after January 22, 1954) may be amortized to nearest call date only if that date is more than 3 years from date of original issue. Amendment 58 restricts this provision to fully taxable bonds. Amendment 59 (1) permits, in effect, an ordinary loss for the amount of premiums denied under the House bill if the bond is in fact called prior to maturity. Amendment 59 (2) extends the amortizable bond premium provision to bonds which are not issued with interest coupons or in registered form. The House recedes.

Amendments Nos. 60, 61, 61a, 62, and 63: These amendments make certain changes in section 172 (relating to the net operating loss deduction) of the bill as passed by the House. Section 172, as passed by the House, applied only to net operating losses sustained in taxable years beginning after December 31, 1953. Under the Senate amendments, the new net operating loss provisions in section 172 in general are to be applicable to taxable years ending after December 31, 1953.

Under the bill as passed by the House (as is likewise the case under existing law), the deduction for depletion, where it is material with respect to the net operating loss provisions, could not exceed the amount which would be allowable if computed without regard to percentage depletion. Under the Senate amendments, this limitation is removed.

Under the bill as passed by the House (as in effect is likewise the case under existing law), no deduction was allowed in connection with the net operating loss provisions for any dividends received by corporations or for dividends paid on preferred stock of public utilities. Under the Senate amendments, the deductions allowed under sections 243 (relating to dividends received by corporations), 244 (relating to dividends received on certain preferred stock of public utilities), 245 (relating to dividends received from certain foreign corporations), and 247 (relating to dividends paid on certain preferred stock of public utilities) will be allowed in computing a net operating loss. The deductions provided in sections 243, 244, and 245, moreover, are to be computed for this purpose without regard to the limitation provided in section 246 (b) on the aggregate amount of the deductions, and the deduction provided in section 247 will be computed without regard to subsection (a) (1) (B) of section 247. In determining the income for any year which must be subtracted from a net operating loss to determine the portion of such loss which will still be available to carry to a subsequent year, however, the deductions allowed by sections 243, 244, and 245 will be computed by taking into account the limitation provided in section 246 (b) and the deduction allowed by section 247 will be computed by taking into account subsection (a) (1) (B) of section 247.

Since section 172, under the Senate amendments, is to apply to losses sustained in taxable years ending after December 31, 1953, instead of only to losses sustained in taxable years beginning after December 31,1953, as was the case under the House bill, the Senate

amendments have added a new subsection (f) to section 172 with respect to losses sustained in taxable years beginning in 1953 and ending in 1954. The net operating loss for any such taxable year shall not be the amount computed under section 172 (c) (relating to the definition of net operating loss), but shall be the sum of (1) that portion of the net operating loss for such taxable year computed under section 172 (c) which the number of days in such taxable year after December 31, 1953, bears to the total number of days in such year, and (2) that portion of the net operating loss for such taxable year computed under section 122 of the Internal Revenue Code of 1939 as if section 172 had not been enacted which the number of days in the loss year before January 1, 1954, bears to the total number of days in such year. The portion of the net operating loss, if any, for any such taxable year which shall be carried to the second preceding taxable year shall be the amount which bears the same ratio to such net operating loss as the number of days in the loss year after December 31, 1953, bears to the total number of days in such year. In determining the income for such second preceding taxable year which must be subtracted from such net operating loss to determine the portion of such loss which will still be available to carry back or carry over to a year subsequent to such second preceding taxable year, such income for such second preceding taxable year shall not exceed the portion of the net operating loss which may be carried back to such second preceding taxable year. Under the Senate amendments, the special transitional rules to take care of the changeover from the Internal Revenue Code of 1939 to the Internal Revenue Code of 1954 have likewise been amended to conform to the fact that section 172 under the Senate amendments will apply to taxable years ending after December 31, 1953, instead of only to taxable years beginning after December 31, 1953.

Technical amendments have also been made to conform to the several substantive Senate amendments.

The House recedes on each of these amendments.

Amendment No. 67: This amendment relates to soil and water conservation expenditures. It makes clarifying changes, eliminates the provisions relating to adjustments to basis, and provides that certain assessments levied by a soil or water conservation or drainage district may be included as deductible expenses subject to the same limitations as apply with respect to soil and water conservation expenditures made directly by the taxpayer. The House recedes.

Amendment No. 67a: This amendment added a new section which would permit a taxpayer engaged in the business of farming to deduct expenditures paid or incurred (after December 31, 1953, and before January 1, 1956) by him during the taxable year to provide a farm grain-storage facility. The Senate recedes.

Amendment No. 69: This amendment provides for the deduction of expenses paid for the care of certain dependents if the purpose of such care is to permit the taxpayer to be gainfully employed. The amendment follows the provisions of the House bill, section 214, relating to expenses for child care, except that (1) the deduction is allowed to women and widowers while the House bill was limited to widows and widowers; (2) the deduction is allowed with respect to care of a dependent who is (*a*) a child of the taxpayer under the age of 12 or (*b*) is mentally or physically incapable of caring for himself; and (3) the deduction may be claimed by a working wife only if she files a joint

return with her husband. The deduction for the working wife is decreased in the amount by which the adjusted gross income of the taxpayer and her spouse exceeds $4,500. No deduction is allowed if the adjusted gross income of the husband and wife exceeds $5,100. The House recedes.

Amendment No. 71: Under the bill as passed by the House, the deductions allowed by sections 243 (relating to dividends received by corporations), 244 (relating to dividends received on preferred stock), and 245 (relating to dividends received from certain foreign corporations) were not to apply to any dividend received from an insurance company subject to a tax imposed by subchapter L (sec. 801 and following). Under the Senate amendment, this restriction is removed and the deductions allowed by sections 243, 244, and 245 shall apply with respect to such dividends.

Subsection (b) of section 246 provides a limitation on the aggregate amount of the deductions allowed by sections 243, 244, and 245. Under the House bill, the aggregate of such deductions was not to exceed 85 percent of the taxable income of the shareholder corporation computed without regard to the deductions allowed by sections 172, 243, 244, 245, and 247. Under the Senate amendment, the provision of the House bill is retained in paragraph (1) of subsection (b) as the general rule. A new paragraph (2), however, was added to subsection (b) by the Senate amendment. This new paragraph (2) in effect provides that if the shareholder corporation has a net operating loss, as determined under section 172, for any taxable year, then the deductions provided in sections 243, 244, and 245 shall be allowable for all tax purposes to such shareholder corporation for such taxable year without regard to the limitation provided in paragraph (1) of subsection (b). If the shareholder corporation does not have a net operating loss for a given taxable year, however, the limitation provided in paragraph (1) of subsection (b) will be applicable for all tax purposes for such taxable year.

The House recedes.

Amendment No. 75: This amendment adds a new subsection to section 263, relating to capital expenditures, providing that the prohibition against deduction of capital expenditures will not apply to intangible drilling and development costs in the case of oil and gas wells insofar as these expenditures are deducted as expenses under regulations which are to be prescribed under this subtitle corresponding to the regulations which were recognized and approved by the Congress in House Concurrent Resolution 50, 79th Congress. The House recedes.

Amendment No. 76: Section 264 of the House bill extended the rule of section 24 (a) (6) of the 1939 Code (relating to the nondeductibility of interest on indebtedness incurred to purchase a single premium life insurance or endowment contract) to annuity contracts purchased after March 1, 1954. It also provided that a contract shall be treated as a single premium contract if an amount is deposited with the insurer for payment of a substantial number of future premiums on the contract. The Senate amendment limits this rule to amounts deposited after March 1, 1954. The House recedes.

Amendment No. 77: Under the bill as passed by the House, the fact that a substantially disproportionate consideration was paid for the acquisition of a corporation was determinative of the fact that

the principal purpose of such acquisition was evasion or avoidance of Federal income tax unless the taxpayer by a clear preponderance of the evidence proved the contrary. Under the Senate amendment, the fact of the substantially disproportionate consideration is made prima facie evidence of the principal purpose of evasion or avoidance of Federal income tax. The House recedes.

Amendment No. 78: Under present law, if losses from a trade or business exceed $50,000 a year for 5 consecutive taxable years, a recomputation for those years must be made and only $50,000 of the annual loss may be offset against income from other sources, any excess being disallowed. Certain deductions are not taken into account in determining the amount of loss; the House bill adds certain other deductions. The Senate amendment provides in addition that the net operating loss deduction is not to be taken into account in determining whether a taxpayer's losses exceed $50,000 in any taxable year. As under existing law, if a recomputation is made, the net operating loss deduction is not allowed. The amendment also makes it clear that the changes made in this provision are applicable only with respect to taxable years in a period of 5 consecutive years one or more of which is a taxable year beginning after December 31, 1953. The House recedes.

Amendment No. 79: This amendment eliminates section 272 (a) of the House bill, which disallowed certain expenses incurred in connection with the holding and quantity measurement of certain timber. Furthermore, under section 272 (b) of the House bill, where the disposal of coal or timber was covered by section 631 (b), no deduction was allowed for expenditures attributable to the making and administering of the contract under which such disposition occurred and to the preservation of the economic interest retained under such contract. This provision of the House bill did not apply to any taxable year during which there was no income under the contract. The Senate amendment made this provision inapplicable to timber, but extended it to apply to iron ore. The amendment also made this provision inapplicable to expenses attributable to the administering of the contract, and provided that it should not apply to any taxable year during which there is no income under the contract. The House recedes with an amendment to make section 272 inapplicable to iron ore and applicable to expenses attributable to the administering of the contract under which disposition of coal occurs.

Amendment No. 80: This amendment strikes out section 274 of the House bill which provided that no deduction should be allowed with respect to amounts paid to States or other governmental units, or to their political subdivisions, for the use of property acquired or improved out of the proceeds of industrial development revenue bonds (as defined in the House bill) authorized after February 8, 1954.

While it is recognized that a serious abuse may be developing where the Federal income tax exemption granted interest on State and local governmental obligations is used for purposes of attracting new industry, the method proposed in the House bill to check this abuse would have had the unintended result of affecting adversely certain proper governmental functions, such as the operation of municipal wharf and storage facilities, municipal airports, and similar operations.

It is believed that further study should be given to this problem so that the solution adopted to prevent the abuse will not prejudice those activities which properly fall within the scope of the local government units.

The House recedes.

Amendment No. 81: This amendment strikes out section 275 of the House bill which denied a deduction for amounts paid with respect to nonparticipating stock. The House recedes.

Amendment No. 82: This amendment, relating to corporate distributions and adjustments, contains a complete substitute for the provisions of subchapter C of chapter 1 of subtitle A of the House bill.

The Senate amendment is designed to carry out the purposes sought to be accomplished in the House bill. However, objections were raised to some of the provisions of the House bill in this area. These objections were in the main directed toward certain new concepts contained in the House bill, such as those seeking to provide precise classification for all instruments issued by corporations and those distinguishing between "publicly held" and "closely held" corporations. The Senate amendment has largely eliminated these new concepts, while at the same time preserving, to the greatest extent possible, the degree of certainty which was sought in the House bill and which is lacking in existing law.

The House recedes and agrees to the Senate amendment numbered 82 with amendments. Except for certain technical, clerical, and conforming amendments, the text of these provisions, as they are proposed to be amended under the accompanying conference report, is the text of the Senate amendment with the following changes:

(*a*) *Constructive ownership of stock.*—The House bill set forth rules under which the stock of one person would be considered to be the stock of a related person for certain purposes (such as the determination of whether a distribution in redemption of stock would be entitled to capital-gains treatment or would be treated as the receipt of a dividend). In clarifying these rules, the Senate amendment removed the requirement that the stock owned by a beneficiary of a trust would be attributed to the trust only if the beneficiary had an interest of at least 50 percent (computed actuarially) or was the beneficiary with respect to at least 50 percent of the income of the trust. Under the action recommended in the accompanying conference report, section 318 (a) (2) (B) would be amended to make it clear that a trust will not be considered the constructive owner of stock which is owned by one of its beneficiaries, if such beneficiary's interest in the trust is merely a contingent interest which (under the maximum exercise of discretion by the trustee in favor of such beneficiary) does not have a value exceeding 5 percent of the value of the trust property.

Under the action recommended in the accompanying conference report, it is also made clear that stock owned by a trust will be considered as being owned by its beneficiaries only to the extent of the interest of such beneficiaries in the trust. For such purpose, the interest of income beneficiaries, remainder beneficiaries, and other beneficiaries will be computed on an actuarial basis. Thus, if a trust owns 100 percent of the stock of corporation A, and if, on an actuarial basis, W's life interest in the trust is 15 percent, Y's life interest is 25 percent, and Z's remainder interest is 60 percent, under this provision W will be considered to be the owner of 15 percent of the stock

of corporation A, Y will be considered to be the owner of 25 percent of such stock, and Z will be considered to be the owner of 60 percent of such stock.

Under the action recommended in the accompanying conference report, there would also be an amendment to section 302 (c) (2) (B) (ii) to provide that an individual will not be barred from capital-gains treatment on the redemption of all of his stock in a corporation, by reason of stock owned by members of his family to whom he has given or sold part of his stock within the preceding 10 years, if the stock so given or sold to the other members of his family is redeemed in the transaction in which the stock of such person is redeemed.

(*b*) *Preferred stock bailout.*—Under the House bill the problem of the so-called "preferred stock bailout" was treated by imposing a transfer tax on the corporation on the amount distributed in redemption of certain preferred stock. The Senate amendment changes this approach by providing in general for the imposition of a tax in certain cases on the shareholder at the rates applicable to ordinary income when there is a disposition or redemption of preferred stock issued to him as a dividend. The effect of the action recommended in the accompanying conference report is to accept the Senate provisions in this area with certain technical amendments.

An amendment to section 306 (b) (1) (A) rewrites clause (iii) thereof to make clear that the termination of the interest in the corporation to which that provision relates is only the stock interest. Thus, the terminating shareholder is not prohibited from retaining an interest as a director or employee. The amendment also makes clear that the rules of constructive stock ownership in section 318 (a) apply in determining whether the shareholder has disposed of his stock interest in the corporation.

An amendment to section 306 (b) (3) strikes out the words "sale or". The purpose of this amendment is to make clear that section 306 (b) (3) does not apply to sales of section 306 stock. Furthermore, it is intended that, in the case of exchanges which are all or partly nontaxable in nature (such as exchanges under part III of subchapter C or under sec. 1036 (a)), property received which is of a kind which is permitted to be received in the exchange under the applicable sections without the recognition of gain or loss will not be treated as an amount realized to which section 306 (a) applies. For example: Shareholder X exchanges 100 shares of preferred stock which, in his hands, is section 306 stock and has a basis of $10 per share with shareholder Y for 50 shares of preferred stock in the same company with a value of $10 per share and $600 in cash. The transaction is of such a nature that so much of section 1031 (b) as relates to section 1036 (a) provides for the recognition of gain only with respect to the receipt of money. It is the intent that all of the money (that is, $600) will be treated as received from a disposition to which section 306 (a) applies (without regard to the amount of gain which would otherwise be recognized under sec. 1031 (b)). X may receive the 50 shares of preferred stock without the application of section 306 (a), although such stock becomes section 306 stock by reason of section 306 (c) (1) (C).

Section 306 (c) (1) (B), which relates to the characterization of stock received in a reorganization as section 306 stock, is amended by striking the word "if" from clause (ii) and substituting the words "to

the extent that". This amendment is intended to make clear that stock (other than common stock) received in a reorganization may be section 306 stock in part, and the balance may be other than such stock.

(c) *Basis of assets received in certain liquidations of subsidiaries.*—The accompanying conference report contains an amendment to section 334 (b) (2). Under section 334 (b) (2), which relates to the so-called "Kimbell-Diamond" problem, a parent corporation which liquidates its subsidiary (the stock of which was purchased within the time and in the manner prescribed) receives the assets of the subsidiary at the same basis at which the parent held the subsidiary stock, subject to certain adjustments. Under the Senate amendment, the only adjustment expressly provided for was an adjustment for distributions made to the parent with respect to the stock of the subsidiary before the adoption of the plan of liquidation. Under the amendment recommended in the accompanying conference report, it is provided that, under regulations prescribed by the Secretary or his delegate, proper adjustment will be made not only for such distributions, but also for any money received by the parent corporation, for liabilities, and for other items.

(d) *Sales during period of complete liquidation.*—Section 337 of the Senate amendment provided for nonrecognition of gain or loss to a corporation from the sale or exchange of certain property by it within the 12-month period beginning on the date of the adoption of a plan of liquidation. Section 392 (b) of the Senate amendment provided a substantially similar rule applicable (whether or not a plan of liquidation is adopted) with respect to sales or exchanges during the calendar year 1954, but only where the distributions in liquidation are completed before January 1, 1955.

The effect of the action recommended in the accompanying conference report is to adopt these Senate provisions with two changes. The first, which is an amendment to section 337 (b) (2), makes it clear that the sale of inventory (or similar property) will come within the nonrecognition provisions of section 337 if substantially all of such property which is attributable to one trade or business of the corporation is sold to one person in one transaction. For example, if a corporation engages in 2 distinct businesses, it may avail itself of the provisions of section 337 with respect to the inventory attributable to 1 of such businesses by selling such inventory to 1 person in 1 transaction, even though it distributes in kind the inventory which is attributable to the other business.

The second change is contained in an amendment to section 392 (b) and would add a new paragraph (3) thereto. Under this amendment, a corporation which adopts a plan of liquidation after December 31, 1953, and before June 22, 1954, and which elects the nonrecognition of gain or loss for sales or exchanges of property provided by section 392 (b), may make a supplemental election as to the period for nonrecognition. If the supplemental election is not made, the period for nonrecognition will be the calendar year 1954. However, if the supplemental election is made, the period for nonrecognition will be the 12-month period beginning on the date of the adoption of the plan of complete liquidation, and that period will also be the period within which all distributions pursuant to the plan of liquidation must be made.

Section 392 (b) (2) (B) provides that the special rule for sales or exchanges by a corporation being liquidated which is contained in section 392 (b) will not be available if the limitations of section 337 (c) apply (that is, among other limitations, if the liquidation is one to which sec. 112 (b) (6) of the 1939 Code applies, or if the liquidation is one to which sec. 332 of the 1954 Code applies). The limitation of section 392 (b) (2) (B) will, of course, apply whether or not the taxpayer, under section 392 (b) (3), elects the optional 12-month period.

(e) *Collapsible corporations.*—The Senate amendment, in section 341, embodies provisions dealing with the problem of the so-called "collapsible corporation" which are similar to those contained in section 117 (m) of the Internal Revenue Code of 1939, but which contain certain provisions designed to meet more effectively the tax avoidance problems in this area. One of the additional safeguards contained in the Senate amendment, and not contained in existing law, is a presumption that certain corporations holding a large percentage of "section 341 assets" are collapsible corporations. The amendment to section 341 (c) (2) (B) recommended in the accompanying conference report is designed to prevent a corporation from circumventing the new presumption merely by acquiring certain governmental obligations issued on a discount basis which, for purposes of section 341, should be treated the same as cash or capital assets, but which would not (but for this amendment) be so treated.

(f) *Distribution of stock of controlled corporation.*—The accompanying conference report contains an amendment to section 355 (a) (1) (B). Under the Senate amendment, this provision stated that the nonrecognition of gain or loss on distribution of stock or securities of a controlled corporation therein provided would not apply if the transaction was used principally as a device for the distribution of the earnings and profits of the distributing corporation or the controlled corporation, or both. The amendment provides that the mere fact that subsequent to the distribution stock or securities in one or more of such corporations are sold or exchanged by all or some of the distributees (other than pursuant to an arrangement negotiated or agreed upon prior to such distribution) shall not be construed to mean that the transaction was used principally as such a device.

A new subparagraph (D) is added to section 355 (b) (2) in order to insure the effectiveness of the requirement of that section that the active business of the corporation the stock of which is distributed must, in general, have been conducted by, or held in a corporation controlled by, the distributing corporation for a period of 5 years. The new subparagraph adds a new condition for determining when a corporation is engaged in the active conduct of a trade or business. Under clause (i) of the subparagraph, the corporation will not be considered in the active conduct of a business if control of a corporation, which (at the time of acquisition of control) was conducting such business, was acquired directly (or through one or more corporations) by another corporation within the 5-year period ending on the date of the distribution. This requirement will prevent avoidance of the 5-year rule of the Senate amendment, for example, under the following circumstances: The stock of corporation A which owned all of the stock of a subsidiary which was conducting an active business was purchased by corporation B. Before such purchase, corporation B owned only one active business but had

cash and other liquid assets. It desired to distribute the active business under section 355 (a). Without the amendment it might be held that corporation B could merge "downstairs" with corporation A, and A could meet the test of section 355 (b) (1) by reference to the business formerly held by corporation B and its own business even though one of the businesses had, in effect, been purchased less than 5 years prior to the distribution.

In section 355 (a) (3), the phrase "by reason of any transaction which occurs within 5 years of the distribution of such stock" has been inserted in lieu of the phrase "within 5 years of its distribution, in a transaction". The effect of this change is to make certain that, in addition to treating stock of a controlled corporation purchased directly by the distributing corporation as "other property," similar treatment will be given such stock if it is purchased within 5 years through the use of a controlled corporation or of a corporation which, prior to a "downstairs merger", was in control of the distributing corporation. For example, if the parent corporation has held 80 percent of the stock of an active subsidiary corporation for more than 5 years but purchases the remaining 20 percent of such stock within the 5-year period, and distributes all of the stock, gain or loss will not be recognized nor will dividend treatment be accorded the stock distributed to the extent of 80 percent. The 20 percent of the stock will be treated as "other property" for purposes of section 356. Similarly, under the amendment made, where such parent causes another subsidiary to acquire the 20 percent of the stock and then itself acquires such stock in a liquidation in which no gain or loss is recognized to such parent under section 332, or where the subsidiary having held 80 percent of the stock of its subsidiary for more than 5 years, acquires the 20 percent of the stock which has been purchased by the parent within the 5-year period through a nontaxable "downstairs" merger of the parent into the subsidiary, and all of the stock is distributed, such 20 percent of the stock will in either case be treated as "other property."

In the case in which a parent corporation has held 20 percent of the stock for more than 5 years and purchases the remaining 80 percent, and distributes all of the stock at any time within 5 years after such purchase, it is not intended that either section 355 or 356 shall apply to the distribution.

It is the understanding of the managers on the part of the House, in agreeing to the active business requirements of section 355 and of section 346 (defining partial liquidations), that a trade or business which has been actively conducted throughout the 5-year period described in such sections will meet the requirements of such sections, even though such trade or business underwent change during such 5-year period, for example, by the addition of new, or the dropping of old, products, changes in production capacity, and the like, provided the changes are not of such a character as to constitute the acquisition of a new or different business.

Neither the clarification of section 112 (c) (2) of the 1939 code by the House in its bill, nor the return to substantially the language of that section by the Senate in its amendment, nor the recession by the managers on the part of the House in conference, shall be considered in interpreting section 112 (c) (2) of the 1939 code.

(*g*) *Carryovers.*—Section 381 of the House bill provided for the carryover of 16 specific tax attributes or items from one corporation to another in certain nontaxable reorganizations and liquidations. The Senate amendment made conforming and technical changes in the House provisions and added two additional items to the list of carryover items.

The effect of the action recommended in the accompanying conference report would be to accept the text of section 381, as contained in the Senate amendment, with two amendments. The first amendment is to paragraph (5) of section 381 (c) and authorizes the Secretary or his delegate to issue regulations pursuant to which an acquiring corporation shall adopt a method or combination of methods of taking inventory in those cases where the carryover of the method of taking inventory results in the acquiring corporation having more than one such method.

The second amendment is necessary to conform section 381 to section 170 (b) (2). This amendment (which adds a new paragraph (19) to section 381 (c)) provides for the carryover to the acquiring corporation of the right to deduct, subject to the limitations in section 170 (b) (2), charitable contributions made in the taxable year ending on the date of distribution or transfer, or made in the prior taxable year, by the distributor or transferor corporation in excess of the 5-percent limitation. Such contributions made in the taxable year preceding the taxable year ending on the date of distribution or transfer will be deductible by the acquiring corporation, subject to the limitations in section 170 (b) (2), only in the first taxable year beginning after the date of distribution or transfer. Such contributions made in the taxable year ending on the date of distribution or transfer will be deductible by the acquiring corporation, subject to the limitations in section 170 (b) (2), in the first taxable year and the second taxable year beginning after the date of distribution or transfer. Thus, unlike the carryover of a net operating loss or a capital loss under paragraph (1) or (3) of section 381 (c) (where, if the date of distribution or transfer is on other than the last day of the acquiring corporation's taxable year, the amount deductible in the first taxable year is limited by a ratio), the amount deductible in the first taxable year of the acquiring corporation under paragraph (19) is not limited by a ratio because such first taxable year does not begin until after the date of distribution or transfer. For example, if corporation X merges into corporation Y on July 1, 1955, and corporation X, in its taxable year ending on July 1, 1955, has made charitable contributions exceeding the limitation in section 170 (b) (2) by $5,000, such excess will be deductible by Y, subject to the limitations in section 170 (b) (2), in Y's first and second taxable years beginning after July 1, 1955.

Section 382 of the House bill contained a special limitation reducing the carryover of a corporate net operating loss if, during two consecutive taxable years, there was a 50 percent or more change in the ownership of the participating stock of the corporation by reason of a purchase or redemption of the stock.

The Senate amendment modified the limitation in the House bill and added a new limitation which was applicable in certain nontaxable reorganizations. In the case of a 50 percent or more change of ownership by reason of a purchase or redemption of stock, the Senate amendment completely eliminated the net operating loss carryovers

provided the corporation did not continue to carry on a trade or business substantially the same as that conducted before the change of ownership. If the corporation continued to carry on substantially the same trade or business, the limitation would not be applicable even though the corporation also added a new trade or business. In the case of certain nontaxable reorganizations, the Senate amendment provided for a reduction in the net operating loss carryovers if the stockholders of the loss corporation owned, as a result of owning stock in the loss corporation, less than 20 percent of the stock of the acquiring corporation. The Senate amendment also made some changes to conform section 382 to other changes which it made in the House provisions. These changes included the elimination of the term "participating" from the definition of stock. The definition of stock in the Senate amendment excluded ordinary preferred stock but is intended to include stock having substantially the attributes of common stock even though nonvoting.

The effect of the action recommended in the accompanying conference report would be to accept the text of section 382, as contained in the Senate amendment, with two changes. The first adds to section 382 (a), a paragraph (4), definition of purchase, which is similar to the definition in section 382 of the House bill. The second change adds paragraphs (5) and (6) to section 382 (b). Under paragraph (5), if one of the corporate stockholders of the loss corporation is also a party to a reorganization specified in section 382 (b) (1), even though such stockholder disappears in the reorganization or becomes the acquiring corporation in the reorganization (and hence, in either case, would not own stock in the acquiring corporation immediately after the reorganization), such stockholder will be considered to own a percentage of the stock of the acquiring corporation. Such percentage will be determined by the following ratio:

> X (the percentage of stock of the acquiring corporation considered to be owned by such stockholder immediately after the reorganization) is to the percentage of stock of the loss corporation owned immediately before the reorganization as the value of the total outstanding stock of the loss corporation immediately before the reorganization is to the value of the total outstanding stock of the acquiring corporation immediately after the reorganization.

Paragraph (6) added to section 382 (b) permits stockholders of the loss corporation who own, as a result of the reorganization, stock of a corporation controlling the acquiring corporation to treat such stock as if it were an equivalent amount (measured by value) of stock of the acquiring corporation for the purpose of applying the limitation in section 382 (b). This is not intended to permit a corporation desiring the benefits of a net operating loss carryover from another corporation to water down the 20 percent requirement by first combining a subsidiary which can meet the 20 percent test with the loss corporation and then completely liquidating the enlarged subsidiary. The requirement that the shareholders of a loss corporation have a 20 percent continuity of interest is intended to apply to an interest in the corporation desiring to use the net operating loss carryover.

(*h*) *Effective date.*—The Senate amendment contained a June 22, 1954, effective date for the reorganization provisions. When this was added on the floor of the Senate, the June 18, 1954, effective date for

liquidations, for distributions of section 306 stock, and for certain other provisions of subchapter C, was not changed. Because it is imperative that all of the provisions in this highly interrelated field be coordinated and that the transactions, at the corporate and the shareholder level, be provided for to the maximum extent practicable by the same statute, the remaining effective date provisions of subchapter C which heretofore were stated in terms of June 18, 1954, have been changed also to June 22, 1954.

The accompanying conference report also contains three amendments to section 333 (the provision of the bill which corresponds to section 112 (b) (7) of the 1939 Code). The effect of these amendments is to change from August 15, 1950, to January 1, 1954, the date for determining whether a corporate shareholder shall be excluded from the benefits of section 333, and the date for determining whether securities shall be taxed as if cash were distributed.

(*i*) *Liquidation followed by reincorporation.*—The House bill in section 357 contained a provision dealing with a device whereby it has been attempted to withdraw corporate earnings at capital gains rates by distributing all the assets of a corporation in complete liquidation and promptly reincorporating the business assets. This provision gave rise to certain technical problems and it has not been retained in the bill as recommended by the accompanying conference report. It is the belief of the managers on the part of the House that, at the present time, the possibility of tax avoidance in this area is not sufficiently serious to require a special statutory provision. It is believed that this possibility can appropriately be disposed of by judicial decision or by regulation within the framework of the other provisions of the bill.

Amendment No. 83: Sections 401, 402, 403, and 501 (e) of the House bill made basic revisions in the provisions of the 1939 Code relating to qualification of stock bonus, pension, and profit-sharing plans; taxability of distributions from employees' trusts; taxability of employee annuities; and deductions for contributions of an employer to an employees' trust or annuity plan. Senate amendment No. 83 restored the provisions of the 1939 Code which govern these areas, with certain exceptions, most of which were contained in the House bill.

The Senate amendment added to section 401, relating to requirements for qualification of an employees' trust, a provision which was not contained in the House bill but which is identical to existing law, relating to certain retroactive changes in a plan (sec. 401 (b) of the Senate amendment). Under this provision, a stock bonus, pension, profit-sharing, or annuity plan is considered as satisfying certain qualification requirements for employees' trusts for the period beginning with the date on which it was put into effect and ending with the 15th day of the 3d month following the close of the taxable year of the employer in which the plan was put in effect, if all provisions of the plan which are necessary to satisfy such requirements are in effect by the end of such period and have been made effective for all purposes with respect to the whole of such period.

The provisions of the House bill relating to the treatment of trusts created or organized outside the United States were retained in the Senate amendment (secs. 401 (a) and 404 (a) (4) of the Senate amendment). In addition, the Senate amendment added a section 402 (c)

which provides that, for purposes of taxing the beneficiary, an employees' trust which would qualify for exemption from tax under section 501 (a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501 (a).

The House bill retained the provision of existing law which grants capital-gains treatment for lump-sum distributions from employees' trusts on death or other separation from service, and also provided capital-gains treatment for lump-sum distributions from employees' trusts on death after separation from service. Similar capital-gains treatment for lump-sum distributions on death or other separation from service and death after separation from service was provided by the House bill in connection with employee annuities. These provisions were retained by the Senate amendment (secs. 402 (a) (2) and 403 (a) (2)). For purposes of these provisions, the lump-sum distributions entitled to the capital-gains treatment are defined to mean the balance to the credit of an employee which becomes payable to a distributee on account of the employee's death or other separation from the service or on account of his death after separation from the service. This will insure that a partial distribution, for example, annuity payments received after retirement, will not defeat application of the capital-gains treatment to a lump sum received at death. Another example would be a profit-sharing plan which provides that an employee is to receive 50 percent of the amount in his account on separation from service and the balance will be payable to his estate or named beneficiary on death. Capital-gains treatment will be allowed on the distribution made at the employee's death. It should also be noted that the distribution on separation from service would not receive capital-gains treatment since the balance to the credit of the employee means the total amount in his account on separation from service.

The Senate amendment, like the House bill, provided capital-gains treatment in certain cases where distributions are made on termination of a plan if such termination is incident to the complete liquidation of the corporate employer (sec. 402 (e)). However, the Senate amendment restricted the provision so that the provision would apply only in the case of distributions made after December 31, 1953, and before January 1, 1955, as a result of the complete termination of a stock bonus, pension, or profit-sharing plan of an employer which is a corporation, if the termination of the plan is incident to the complete liquidation, occurring in a year prior to the calendar year in which any such distributions are made, of the corporation, whether or not such liquidation is incident to a reorganization as defined in section 368 (a). Under the conference agreement the provision will apply if the complete liquidation of the corporation occurs prior to the date of the enactment of this title.

The Senate amendment contained a provision, which was also in the House bill, relating to the shifting, under certain circumstances, of deductions for contributions among members of an affiliated group of corporations which has a common profit-sharing plan and, in certain cases, a common stock bonus plan (sec. 404 (a) (3) (B) of the Senate amendment). The amendment is identical to the provision in the House bill except (1) it has been extended to stock bonus plans in which contributions are determined with reference to profits, and

(2) allocation of the contributions among the profit members are not required where a consolidated return is filed.

The Senate amendment provided, like the House bill, that for purposes of paragraphs (1), (2), or (3) of section 404 (a) an accrual basis taxpayer shall be deemed to have made a payment under a plan on the last day of the year of accrual if the payment is on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof) (sec. 404 (a) (6) of the Senate amendment).

The Senate amendment contained a provision, which was not in the House bill, providing that if contributions are paid by an employer under a plan under which (1) such contributions are held in a welfare trust providing at least (*a*) payments for medical or hospital care for employees and their families and dependents and (*b*) pensions on retirement or death of employees, and (2) such plan is established prior to January 1, 1954, as a result of an agreement between employee representatives and the Government of the United States during a period of Government operation under seizure powers of a major part of the productive facilities of the industry in which such employer is engaged, then such contributions shall be deductible under section 162 (relating to trade or business expenses) (sec. 404 (c) of the Senate amendment). The enactment of this provision is not intended to have any effect on the interpretation of the 1939 Code.

The expression in the Senate amendment "as a result of an agreement" is intended primarily to cover a trust established under the terms of such an agreement. It will also include a trust established under a plan of an employer, or group of employers, who are in competition with the employers whose facilities were seized by reason of producing the same commodity, and who would therefore be expected to establish such a trust as a reasonable measure to maintain a sound position in the labor market producing the commodity. Thus, for example, if a trust was established under such an agreement in the bituminous coal industry, a similar trust established about the same time in the anthracite coal industry would be covered by this provision.

If any such trust becomes qualified for exemption under section 501 (a), the deductibility of contributions by an employer to such trust on or after the date of such qualification would no longer be governed by this provision, even though the trust may later lose its exemption under section 501 (a).

The Senate amendment contained a provision which was also in the House bill preserving for employers a carryover of unused deductions and contributions in excess of deductible amounts for taxable years to which part I of subchapter D does not apply and which would have been deductible in later years if section 23 (p) of the 1939 Code, providing for such carryovers, were continued in effect in taxable years to which such part applies (sec. 404 (d) of Senate amendment). However, the House bill was changed by the Senate amendment by adding a sentence which will insure that duplicate deductions will not be allowed.

The House recedes with a clerical amendment and with the amendment to section 402 (e) relating to certain plan terminations.

Amendments Nos. 84, 85, 86, 87, and 88: These amendments make clerical and conforming changes in section 421 of the House bill, re-

lating to restricted stock options, and the following substantive changes in such section:

(1) The issuance of a new option, or the assumption of an old option, by the employer corporation, or a parent or subsidiary of such corporation, as a result of certain corporate reorganizations or liquidations will not be treated as a modification of the option, provided the employee does not otherwise benefit from such issuance or assumption. Furthermore, the employment requirement of section 421 (a) is met if the employee is employed, when the option is exercised, by a corporation issuing or assuming such option.

(2) The House provision, which permitted certain options to qualify even though the employee owned more than a 10-percent interest in the employer, has been extended to apply to such options if they are exercised within 1 year after the enactment of the new code.

(3) The House provision that options granted after December 31, 1953, must be exercisable only within a 10-year period in order to qualify was changed so that the effective date of such provision is June 18, 1954.

(4) The definitions of "parent corporation" and "subsidiary corporation" have been changed so as to qualify corporations in an unbroken chain where one owns 50 percent or more of the voting rights in another.

(5) When an estate transfers the stock which it acquired by the exercise of a restricted stock option, such transfer is to be treated as a disposition, and the estate will report the gain, if any, required by section 421 (b) to be treated as ordinary income.

(6) The distinction between options which are exercisable after 10 years, and those which are not, has been removed in applying the rules for determining what is a modification, extension, or renewal of the option; and the higher value test has been restored except in situations in which there has been a prolonged decline in the value of the stock.

(7) The provision, which enables options with a variable price to qualify when granted, was modified so that it was applicable just to options in which the only variable is the value of the stock.

The House recedes with an amendment. Under the conference agreement the provision relating to variable price options has been modified to provide that such options may qualify when granted if the price is determinable by a formula in which the only variable is the value of the stock at any time during a period of 6 months which includes the time when the option is exercised. Under such provision, an option can qualify where the price is determined by reference to the value of the stock on any particular day during such 6-month period, or by reference to an average value of the stock over either the entire 6-month period or over any shorter period included in such 6-month period. Such 6-month period may begin with, end with, or in any other manner span the day on which the option is exercised. The formula for determining the price may depend upon factors other than the value of the stock, but if the formula involves any variable other than the value of the stock at any time during such 6-month period, the option cannot qualify under the new provision. Whether a formula does qualify under such provision is to be deter-

mined when the option is granted and does not depend upon the facts as they subsequently develop.

Amendment No. 89: The House bill permits corporations to elect to use as an annual accounting period a fiscal year varying from 52 to 53 weeks. Paragraphs (1) and (2) of the amendment accord the privilege of the election to use a 52–53-week year to any taxpayer. Paragraph (2) also makes the election available with respect to any year ending after the date of enactment. Paragraph (3) is a technical amendment pertaining to computation of the tax when the rates change during a taxable year. The House recedes.

Amendment No. 92: The amendment adds a provision to section 452 of the House bill, relating to prepaid income. Under the amendment prepaid income related to a liability covering an indefinite period may, under regulations prescribed by the Secretary or his delegate, be includible in taxable income as it is earned in the year of receipt and subsequent years. The House recedes.

Amendment No. 93 (1): The House bill provides that in the case of sales of real property or casual sales of personal property the installment method of reporting taxable income may be used if in the year the payments were first received such payments do not exceed 30 percent of the selling price. The Senate amendment provides that such sales may qualify for reporting under the installment method if in the year of sale either no payments are received, or the payments in that year do not exceed 30 percent of the selling price. The House recedes with a technical amendment.

Amendment No. 96: The House bill provides that an accrual-basis taxpayer must accrue real property taxes ratably over the period for which the property tax is imposed. Under the Senate amendment this rule is optional with the taxpayer. The House recedes with a clerical amendment.

Amendments Nos. 97 and 98: These amendments relate to the deductions provided in the House bill for additions to reserves for estimated expenses. Section 462 (a) of the House bill provides that there shall be taken into account a reasonable addition to each reserve for estimated expenses to which the section applies. Senate amendment No. 97 adds the words "(in the discretion of the Secretary or his delegate)" after "taken into account". This conforms to the provisions in the House bill and in existing law relating to deductions for additions to reserves for bad debts. Amendments Nos. 98 (1) and (3) are conforming amendments. Amendment No. 98 (2) provides that deductions for estimated expenses must be attributable to income of the taxable year or prior taxable years for which an election to estimate expenses is in effect. Amendment No. 98 (4) clarifies the deductibility of expenses incurred in 1954 and in subsequent years which are related to income of taxable years preceding the first year of election. The House recedes.

Amendment No. 99: This amendment and amendment No. 100 pertain to adjustments required by changes in methods of accounting. The House bill provides that adjustments in the year of change arising out of a change of method of accounting, whether voluntary or involuntary, may be made in order to prevent the omission or duplication of income, as contrasted to certain court decisions under present law which bar any such adjustments on the grounds that they relate to years closed by the statute of limitations. Amendment No. 99

limited transitional adjustments (whether voluntary or involuntary) to those in respect of any taxable year to which the new code applies. The House recedes with a technical amendment.

Amendment No. 100: The House bill in case of a change in method of accounting provided that, if the transitional adjustments increase taxable income by more than $3,000, the net transitional adjustments shall be spread ratably over the year of change and the 2 preceding taxable years, or the year of the change, whichever resulted in the lesser income tax liability. The Senate amendment provides an additional limitation so that if a taxpayer's records are adequate and can support an allocation of the transitional adjustments to years prior to the year of change (but not including any year to which the 1954 Code does not apply) then the tax resulting from the adjustments in the year of change cannot exceed the aggregate of the taxes computed on the taxable income resulting from the allocation of the transitional adjustments to the prior years. The House recedes.

Amendment No. 102 (2): The House bill provides for exemption from income tax of certain corporations and foundations organized and operated exclusively for religious, charitable, scientific, or educational purposes. The Senate amendment extends the exemption to an organization engaged in testing for public safety if it meets the same requirements imposed on tax-exempt scientific, educational, etc., organizations. The House recedes.

Amendment No. 102a (2): The House bill provided that certain organizations (corporations, funds, etc., organized and operated exclusively for religious, charitable, etc., purposes) described in section 501 (c) (3) will lose their tax-exempt status if any substantial part of the activities is carrying on propaganda, or otherwise attempting to influence legislation. The Senate amendment provides that such organizations will lose their tax-exempt status if they participate or intervene (including the publishing or distributing of statements) in a political campaign on behalf of any candidate for public office. The House recedes.

Amendment No. 105a: The Senate amendment provides that the denial under section 503 of the House bill of exemption to organizations which engage in prohibited transactions will not be applicable to an organization whose principal purpose or function is to provide agricultural research. The House recedes.

Amendment No. 107: The House bill provided that an employees' trust would lose its tax-exempt status if the trust engaged in certain specified activities, including the lending of its income or corpus without adequate security and a reasonable rate of interest.

This amendment is consistent with the House provision but allows up to December 31, 1955, to arrange refinancing for a period not extending beyond December 31, 1955, in cases where the employees' trust had such a loan outstanding as of March 1, 1954. In the case of notes payable on demand the continuation of the notes beyond December 31, 1955, without adjusting the terms to meet the requirements of adequate security and reasonable interest will be considered a prohibited transaction. The House recedes.

Amendment No. 108: The House bill placed employees' trusts under the operation of certain rules in existing law which deny exemption to organizations (which would otherwise be tax-exempt) if they unreasonably accumulate income. The Senate amendment restores

existing law and thus removes employees' trusts from the provisions dealing with unreasonable accumulations of income. The House recedes.

Amendment No. 109: Under the House bill, paragraph (1) of section 504 (a) which continues present law, specifies as a cause for the denial of exemption accumulations of income which are unreasonable in amount or duration for carrying out the function or purpose of the organization claiming the exemption.

This amendment provides that paragraph (1) of section 504 (a) shall not apply to income attributable to property of a decedent dying before January 1, 1951, which is transferred under his will to a trust. This amendment further provides that in the case of a trust created by the will of a decedent dying on or after January 1, 1951, where income is required to be accumulated under the mandatory terms of the will creating the trust, the rule of paragraph (1) shall apply only to income accumulated during a taxable year of the trust beginning more than 21 years after the date of death of the last life in being designated in the trust instrument. The House recedes.

Amendment No. 110: This amendment strikes out section 505 of the House bill which established rules as to investments which employees' trusts might make. The House recedes.

Amendment No. 110a: This amendment provides for the denial of exemption from the income tax in the case of organizations making donations to subversive organizations or individuals and the disallowance of the charitable deduction for gifts to certain organizations. Subsection (a) (1) defines a subversive organization as any organization which (A) advocates, abets, advises, or teaches the duty, necessity, desirability, or propriety of overthrowing or destroying the Government of the United States by force or violence, or (B) is on the list of organizations furnished by the Attorney General pursuant to section 3 of part III of Executive Order No. 9835 of March 21, 1947, or (C) is registered (or required by final order of the Subversive Activities Control Board to register) with the Attorney General under section 7 of the Subversive Activities Control Act of 1950. Subsection (a) (2) defines a subversive individual.

The organization which the Secretary or his delegate determines has made a donation (other than a donation of necessities, and medical and hospital services) to a subversive organization or individual would have lost its exempt status for at least the taxable year in which the determination is made and the following year. If the donee organization or individual signed a sworn statement that the donee was not subversive, the section would be inapplicable unless one of the donor organization's agents, employees or officers, who actively participated in the making of the donation, knew or had reason to know that the donee was subversive.

To a large extent this amendment introduced new concepts although present law reaches the same result in many instances. Under section 11 of the Subversive Activities Control Act of 1950 organizations required to register under section 7 of such act (or required by a final order of the Subversive Activities Control Board to register) are not exempt and contributions to these organizations are not deductible for income-tax purposes. Furthermore, an organization devoted to subversive activities would not qualify for the exemption under present law since its objectives would not be charitable or educational

(or any of the other listed purposes), and the organization could not meet the test that no substantial part of the activities is carrying on propaganda or otherwise attempting to influence legislation. The practical application of this principle is illustrated by the fact that none of the organizations on the Attorney General's list are on the list of exempt organizations published by the International Revenue Service.

The amendment would have introduced two new concepts. The amendment would have removed the tax-exempt status of any organization that makes a donation to any subversive organization or individual. A large foundation could lose its exemption unless every foreign farmer to which it furnished fertilizer signed the sworn statement and all the sworn statements were secured by agents of the foundation who were not themselves subversive. The burden imposed upon the organization of determining who is a "subversive" imposes tremendous difficulties and any mistake, however minor, would seriously curtail the philanthropic activities of the organization.

This amendment also denied tax-exempt status to organizations placed on the Attorney General's list pursuant to Executive Order No. 9835. The standards relied on by the Attorney General in placing organizations on this list are established by the Executive order and not by statute, for the purpose of guiding the executive department in its employee loyalty program. To make the tax-exempt status of an organization dependent upon action by the executive department not guided by statutory standards and safeguarded by court review raises a serious constitutional issue.

The present law may not be the most efficient method of preventing subversive organizations from benefiting from the tax-exempt status conferred on religious, charitable, scientific, and other organizations who contribute so heavily to the general welfare of the country. It is recognized that abuses may exist. A distinct anomaly is presented when an organization actually devoted to antisocial action is able to pay less income tax than legitimate business activities on the ground that the organization professes to be devoted to philanthropic work of a type which Congress has seen fit to give special recognition. The chairman of the Joint Committee on Internal Revenue Taxation has instructed the committee staff to make a study to determine the faults in the present law and to explore the possible ways of removing this loophole. The Senate recedes.

Amendment No. 116: Under the House bill there is imposed a tax on rental income received by certain tax-exempt organizations to the extent that property, subject to a lease for more than 5 years, was obtained with borrowed funds. There is provided an exception for certain leases of more than 5 years, in case of property occupied by more than one tenant under short-term leases. This amendment provides that a lessor coming within the terms of this exception may renew a short-term lease during the last half of its term without having the unexpired portion of the first lease added to the second lease for purposes of determining whether the second lease is for more than 5 years. The House recedes.

Amendments Nos. 117 (1) and (3): The House bill extended the provisions subjecting to tax certain leaseback income received by exempt organizations to exempt pension and profit-sharing trusts. Paragraph (1) of this amendment provides an effective date for the application

to employee trusts (or wholly owned exempt holding corporations acquired by such trusts prior to March 1, 1954) of the provisions taxing rental income received by certain tax-exempt organizations to the extent that borrowed funds are used to acquire the property. If such an employees' trust, prior to March 1, 1954, incurs what would otherwise be business-lease indebtedness in connection with real property which is leased before March 1, 1954, such indebtedness shall not be deemed business-lease indebtedness. The amendment further provides that if any indebtedness is incurred by such a trust on or after March 1, 1954, necessary to carry out the terms of a lease made before March 1, 1954, it shall not be deemed business-lease indebtedness.

Paragraph (3) of amendment No. 117 provides a rule regarding amounts borrowed by an exempt pension, profit-sharing, or stock-bonus trust of an employer from another exempt trust of the same employer. These will only be treated as indebtedness of the borrowing trust to the extent that the lending trust was forced to borrow to make the loan. The House recedes.

Amendments Nos. 119, 120, 121, 122, 123, 124, 125, and 126: These amendments apply to part I of subchapter G, which relates to the tax oncorporations improperly accumulating surplus. Under the bill as passed by the House, publicly held corporations were exempt from the corporate accumulated earnings tax. This exemption is deleted by the Senate amendment.

The Senate amendment provides that the shift in the burden of proof under section 534 from the taxpayer to the Government applies not only in determining whether the earnings and profits of the corporation have been permitted to accumulate beyond the reasonable needs of the business, but also in determining the extent to which the earnings and profits of a corporation have accumulated during the taxable year beyond the reasonable needs of the business.

In computing accumulated taxable income on which the accumulated earnings tax is imposed, the bill as passed by the House allowed as a deduction the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year (determined without regard to the capital loss carryover provided in sec. 1212). A technical amendment by the Senate allows the capital-gains tax as a deduction in computing accumulated taxable income but reduces the amount of the deduction for capital gains by the taxes attributable to such gains. This amendment conforms to existing law.

Under the Senate amendment, the accumulated earnings credit provided in subsection (c) of section 535 has been amended by increasing from $30,000 (the amount provided in the House bill) to $60,000 the minimum amount of earnings and profits which a corporation may accumulate before being subject to the accumulated earnings tax. The accumulated earnings credit also has been expanded, in general, to include the portion of the earnings for the current year which are retained for the reasonable needs of the business.

A new section 537 has been added by the Senate amendment to provide that for the purposes of part I of subchapter G the term "reasonable needs of the business" includes the reasonably anticipated needs of the business. References to such term in other sections of part I of subchapter G have been deleted. Various other technical amendments were also made by the Senate.

The House recedes.

Amendment No. 127: Section 542 (b) provides that in a case of certain affiliated corporations filing or required to file a consolidated return the personal holding company tax shall not apply to the group or to any member of the group unless the group as a whole meets the gross income requirement. Under present law, this treatment is available only to railroad corporations. Under the House bill, this treatment was extended to other corporations with certain limitations. Under the Senate amendment, this treatment is extended, with two exceptions, to any group of affiliated corporations, filing or required to file a consolidated return. The Senate amendment provides that the consolidated treatment is not available to an affiliated group of corporations other than a railroad group if any member of the group (including the common parent) derives 10 percent or more of its gross income from sources outside the affiliated group and if 80 percent or more of such income from outside sources consists of personal holding company income under section 543. In applying section 543 for this purpose, the income from outside the group shall be treated as if it were the entire income of such corporation. For the purpose of applying these income tests to the common parent corporation, there shall be disregarded dividends from any other corporation in which the common parent owns more than 50 percent of the voting stock if such other corporation is not a personal holding company. The Senate amendment deletes a requirement of the House bill that, in order to qualify for the consolidated treatment, the common parent of an affiliated group of corporations, other than a railroad group, must derive 80 percent or more of gross income from other members of the group for a 3-year period. The Senate amendment also permits a corporation in the group to receive an insignificant amount of personal holding company income from outside the group without disqualifying the group. The House recedes.

Amendment No. 128: This amendment excludes from personal holding company income interest on amounts set aside in a reserve fund under section 511 or 607 of the Merchant Marine Act, 1936. The House recedes.

Amendment No. 129a: This amendment to section 543 (b) of the House bill would have provided a special exclusion from gross income for purposes of determining whether or not 80 percent of a corporation's gross income is personal holding company income and, therefore, whether or not a corporation is a personal holding company. The amendment provided that, for purposes of part II (relating to personal holding companies) of subchapter G, gross income was not to include nonpersonal holding company gross income derived from real property to the extent indebtedness with respect to the real property is secured by stock or securities representing 50 percent or more of the value of the indebtedness. Thus, in effect this income is ignored in determining whether or not a corporation meets the 80-percent test.

The committee of conference recognized that this amendment was intended to block a loophole whereby some companies avoid the personal holding company tax by purchasing sufficient real property (by pledging securities held by the company) so that the gross income from the property brings down to less than 80 percent, the percent of their total gross income which is personal holding company income. While approving of the purpose of the amendment, the managers both

on the part of the House and of the Senate were concerned about a number of problems which it raises. It is believed that the amendment might not only close the loophole with which the Senate was concerned but also subject to the personal holding company tax firms carrying on substantial operating business activities. The reference to income derived from real property, for example, would appear to cover almost any type of business operation. While this phrase appears too broad, a satisfactory substitute has not been evolved. Under the conference agreement, the Senate recedes on this amendment, but the Staff of the Joint Committee on Internal Revenue Taxation has been directed to study this problem with the view toward subsequent legislative action on this subject.

Amendment No. 133a: The Senate amendment provided that the term "foreign personal holding company" shall not include a corporation which is organized and doing business under the banking and credit laws of a foreign country if the Comptroller of the Currency certifies that (except for a prohibition against receiving deposits imposed by the laws of the foreign country) the corporation would, if it were a national bank incorporated and doing business in the District of Columbia, meet in substance the requirements imposed by the laws of the United States on such bank. There was no comparable provision in the bill as passed by the House.

The House recedes with a modification which provides that the term "foreign personal holding company" shall not include a corporation organized and doing business under the banking and credit laws of a foreign country only if it is established to the satisfaction of the Secretary of the Treasury or his delegate that such corporation was not formed or availed of for the purpose of evading or avoiding United States income taxes which would otherwise be imposed upon the shareholders of the corporation. The conference agreement requires the certification at certain intervals that the corporation is not so formed or availed of.

Amendment No. 141: This amendment, for which there is no corresponding provision in the House bill, adds a new section 565 (relating to consent dividends) which provides a method whereby a corporation may obtain a dividends paid deduction without the necessity of making an actual distribution. Section 565 corresponds, in general, to section 28 of the 1939 Code (relating to consent dividends). The House recedes.

Amendment No. 147: Under paragraphs (1), (2), (3), (4), and (5) of section 613 (b) of the House bill, varying rates of percentage depletion were provided for a number of specifically named minerals. In the case of such specifically named minerals, the rates indicated for the particular minerals named applied regardless of the use to which such minerals were put. For example, section 613 (b) (3) of the House bill provided a 15-percent rate of allowance to chemical grade and metallurgical grade limestone and slate; section 613 (b) (4) similarly applied the 10-percent rate to such minerals as brucite, coal, and perlite; and section 613 (b) (5) specified a 5-percent rate in the case of such minerals as granite, marble, and stone. Section 613 (b) (6) of the House bill specified that "all other minerals" (that is, all minerals not otherwise specifically named) are entitled to percentage depletion at a 15-percent rate except that a 5-percent rate was provided for in the case of any other mineral when used or sold for use by the

mine owner or operator as riprap, ballast, road material, rubble, concrete aggregates, dimension stone, ornamental stone, or for similar purposes. This is designated as the "general use test". The House bill also provided that the term "all other minerals" does not include minerals from sea water, the air, or from sources which, by commonly accepted economic standards, are regarded as inexhaustible.

Under the Senate amendment, uranium was specifically designated under subsection (b) (2) as entitled to percentage depletion at a 23-percent rate. In addition, a new subparagraph (b) (2) (B) was added which applies a 23-percent rate to the following minerals if from deposits in the United States: anorthosite (to the extent that alumina and aluminum compounds are extracted therefrom), asbestos, bauxite, beryl, celestite, chromite, corundum, fluorspar, graphite, ilmenite, kyanite, mica, olivine, quartz crystals (radio grade), rutile, block steatite talc, and zircon, and ores of the following metals: antimony, bismuth, cadmium, cobalt, columbium, lead, lithium, manganese, mercury, nickel, platinum and platinum group metals, tantalum, thorium, tin, titanium, tungsten, vanadium, and zinc.

The amendment added bentonite to the list of minerals specifically named at the 15-percent rate and the rate of percentage depletion in the case of sodium chloride was increased from 5 percent to 10 percent. The amendment also provided a 15-percent rate of depletion in the case of stone used or sold for use by the mine owner or operator as dimension stone or ornamental stone. In addition, the amendment also placed in subsection (b) (6) within the scope of the term "all other minerals," a list of specific minerals, including such minerals as dolomite, granite, magnesite, marble, limestone, slate, and soapstone, to which a 15-percent rate of depletion is applicable unless used for purposes specified in the "general use test" provided for in that subsection. However, the "general use test" was modified by the amendment so as to exclude from this test the use of minerals as dimension stone or ornamental stone. The amendment also provides that the "general use test" does not apply to a mineral sold on bid in direct competition with a bona fide bid to sell a mineral listed in subsection (b) (3). Thus when limestone is sold for use as road material within an area in which rock asphalt is a competitor and a bid was submitted based on using rock asphalt rather than limestone for road material under the contract, the limestone would be entitled to depletion at the 15-percent rate.

The Senate amendment also removed chemical grade limestone, metallurgical grade limestone and slate from the list of minerals in subsection (b) (3) entitled to a depletion allowance of 15 percent regardless of use and placed those minerals in subsection (b) (6) so that the use thereof will determine whether the 15-percent or the 5-percent rate of depletion applies.

The Senate amendment also made a clarifying change in subsection (b) (6) (A) and (B) relating to the minerals not included within the scope of the term "all other minerals."

The action on this section applies only to years subject to the 1954 Code. No inference can be drawn from the reclassification of certain minerals and other actions as to the meaning of present law.

The House recedes.

Amendment No. 148: The House bill provided the following ordinary treatment processes in the case of coal: Cleaning, breaking,

sizing, and loading for shipment. The Senate amendment extends this list to include dust allaying and treating to prevent freezing. The House recedes.

Amendment No. 149: This amendment provides that sintering and nodulizing are ordinary treatment processes in the case of phosphate rock. The House recedes.

Amendment No. 150: Under the House bill, taxpayers were permitted to aggregate certain separate operating mineral interests, but only for the purpose of computing percentage depletion. Paragraph (1) of this amendment provides that such an aggregation shall be effective for all purposes of the income-tax subtitle. Paragraph (2) of amendment No. 150 is a technical amendment. The House recedes.

Amendment No. 151: This amendment eliminates paragraph (4) of section 614 (b) of the House bill which provides a rule for apportioning depletion allowances in cases where there had been an aggregation for purposes of percentage depletion. The House recedes.

Amendment No. 152: The House bill made no provision for the aggregation of nonoperating mineral interests. Under this amendment the Secretary or his delegate may, on showing of undue hardship, permit the taxpayer to aggregate (for all purposes of the income-tax subtitle) certain separate nonoperating mineral interests. The House recedes.

Amendment No. 153: Paragraph (1) of this amendment increases the amount of exploration expenditures which may be deducted or deferred, from $75,000 per annum (as allowed under present law and the House bill) to $100,000 per annum. Paragraph (2) of this amendment contains conforming changes. The House recedes.

Amendment No. 156: The House bill provided that in determining the gain or loss to be recognized upon timber which was cut during the taxable year the deductions disallowed under section 272 of the House bill were to be added to the adjusted depletion basis of such timber. Paragraph (1) of amendment No. 156 eliminates this provision because section 272 has been amended so as to be applicable to timber. The House recedes.

Paragraph (2) of amendment No. 156 provides that for purposes of section 631 (a) and (b), the term "timber" includes evergreen trees which are more than 6 years old at the time severed from the roots and are sold for ornamental purposes. The House recedes.

Section 631 (b) of the House bill corresponded to section 117 (k) (2) of the 1939 Code, with certain amendments, and applied to both timber and coal. Paragraph (3) of amendment No. 156 divides section 631 (b) of the House bill into two subsections, the first of which (subsec. (b)) applies to timber. The Senate amendment eliminates the provision of the House bill which provided that in determining the gain or loss from the disposal of timber the expenditures of the owner for which deductions were disallowed under section 272 (b) of the House bill, attributable to the making and administering of the contract under which the timber was disposed of, and attributable to the preservation of the economic interest which such owner retained under the contract, should be added to the adjusted depletion basis of the timber disposed of. The amendment also adds a provision that the date of disposal of such timber shall be deemed to be the date such timber is cut, but if payment is made to the owner under the contract before such timber is cut the owner may elect to treat the

date of such payment as the date of disposal of such timber. The amendment also provides that the term "owner" includes a sublessor of timber and a holder of a contract to cut timber.

In section 631 (c) the amendment incorporated the provisions of section 631 (b) of the House bill which applied to coal, and also extended these provisions to iron ore from deposits in the United States. The House recedes with an amendment which limits the applicability of section 631 (c) to coal.

Amendment No. 157: The House bill provided that if upon the termination of an estate or trust there remained any unused capital-loss carryover or net operating-loss carryover or deductions in excess of gross income, such carryovers or deductions would be allowed to beneficiaries succeeding to the estate or trust property. While this provision is in substance retained, this amendment makes clear that the excess of deductions over gross income of the estate or trust to be allowed to the succeeding beneficiaries is only the excess for the last taxable year, i. e., the year of termination, of the estate or trust. For clarity, this amendment also shifts the provision from section 662 to section 642. The House recedes.

Amendment No. 159: This amendment changes the definition of distributable net income to insure that where capital gains must be or are added to principal, they will be taxed to the estate or trust. But where capital gains are paid, credited, or required to be distributed to any beneficiary, or paid, permanently set aside, or to be used for the purposes specified in section 642 (c), such gains are to be included in the computation of distributable net income. This amendment also clarifies the treatment of capital losses and makes other technical and clarifying changes.

The House recedes.

Amendment No. 162: In section 663 the House bill provided rules pertaining to sections 661 and 662 which excluded from the additional deduction allowed a trust or estate for distributions under section 661 and from the corresponding inclusion of amounts in the income of beneficiaries under section 662 certain distributions, such as charitable contributions, final distributions, and gifts or bequests not to be paid at intervals and not paid solely out of income.

This amendment substantially revises section 663. Subsection (a) (1), relating to gifts, bequests, etc., which are excluded from the application of sections 661 and 662, has been clarified in order more clearly to define the distributions which are to be excluded as gifts or bequests. In general, a gift or bequest of a specific sum of money or specific property which is paid in a lump sum or in not more than three installments is excluded unless it can be paid only from income. Technical and clarifying changes are also made in subsections (a) (2) and (a) (3) of the House bill.

Subsection (b) as added by this amendment is new and gives the right to the fiduciaries of certain trusts which were in existence prior to January 1, 1954, to make an irrevocable election to treat amounts properly paid or credited within the first 65 days of any taxable year of a trust as paid or credited on the last day of the preceding taxable year.

Subsection (c) is also new and provides that in the case of a trust which has two or more beneficiaries and is to be administered in well-defined and separate shares, such shares are to be treated as separate

trusts for the purpose of determining the amount of distributable net income available for allocation to the beneficiaries.

The House recedes.

Amendment No. 163: This amendment revises section 665 of the House bill.

Paragraph (1) of section 665 (b) is revised so that amounts paid, credited, or required to be distributed to a beneficiary as income accumulated before such beneficiary attains the age of 21 will not be included in determining whether there has been an accumulation distribution. In this respect, this paragraph of the House bill only excluded income accumulated during minority.

Paragraph (2) of section 665 (b) is revised so that an amount properly paid or credited to a beneficiary to meet the emergency needs of such beneficiary will not be included in determining whether there has been an accumulation distribution. This paragraph of the House bill excluded amounts properly paid or credited for the support, maintenance, or education of the beneficiary.

Section 665 (b) is further revised by this amendment so that amounts properly paid or credited to a beneficiary upon such beneficiary attaining a specified age or ages will not be included in the determination of an accumulation distribution, if the total number of such distributions cannot exceed 4 with respect to such beneficiary, the period between each such distribution is 4 years or more, and as of January 1, 1954, such distributions are required by the specific terms of the governing instrument.

This amendment also adds paragraph (4) to section 665 (b) to provide that a final distribution of a trust shall not be included in the determination of an accumulation distribution if it is made more than 10 years after the date of the last transfer to the trust.

Subsection (d) of section 665 is revised so that this subpart will apply to a preceding taxable year of a trust with respect to which it qualified under subpart B.

This amendment also makes technical changes in section 665.

The House recedes with an amendment changing the period of 10 years in section 665 (b) (4) to 9 years.

Amendment No. 165: This amendment revises the first sentence of section 668 (a) of the House bill so as to make certain that a beneficiary receiving a distribution in a taxable year which is subject to the provisions of this subpart will be subject to the application of this subpart as if such amount had been distributed in any preceding taxable years in accordance with section 666 even though during any of such preceding taxable years such beneficiary would not have been a beneficiary if such distribution had actually been made in such preceding taxable years.

In addition, this amendment adds a sentence at the end of the first sentence of section 668 (a) of the House bill so that it is clear that the total of the amounts treated under section 666 as having been distributed by the trust in preceding taxable years and included in the income of a beneficiary in the taxable year in respect of which the accumulation distribution is determined shall be based upon the same ratio as determined under the second sentence of section 662 (a) (2) for such taxable year.

The House recedes with an amendment providing that proper adjustment of such ratio shall be made, in accordance with regulations pre-

scribed by the Secretary or his delegate, for amounts which are not included in the determination of an accumulation distribution since such amounts fall within paragraphs (1), (2), (3), or (4) of section 665 (b).

Amendment No. 166: Section 668 (b) of the House bill is revised by this amendment to permit the credit provided by this section to be applied against the entire tax imposed on the beneficiaries for the year in which the amounts specified in section 668 (a) are included in the income of such beneficiary, rather than as provided in the House bill to limit the credit to the taxes applicable to such amounts included in the income of such beneficiaries. The House recedes.

Amendment No. 167: This amendment revises section 672 (a) of the House bill so as to insure that a person possessing a general power of appointment over the trust property will be treated as having a beneficial interest in the trust for purposes of determining whether he is an adverse party within the meaning of such section. In addition this amendment deletes the word "clear" from subsection (c) of section 672. The House recedes.

Amendment No. 169: These amendments amend exceptions to the general rule, stated in section 674 (a), providing for taxability to the grantor of income of a trust where the beneficial enjoyment of the trust corpus or the income is subject to a power of disposition, exercisable by the grantor or by a nonadverse party or both.

Section 674 (b) (6) (A) of the House bill excepted from the general rule a power to distribute or accumulate income for distribution to the beneficiary provided that any accumulated income must be ultimately payable to the beneficiary from whom the distribution is withheld, to his estate, to his appointees pursuant to a general power of appointment in the beneficiary or to named alternate takers in default of his exercise of the power of appointment. This amendment revises section 674 (b) (6) (A) with respect to the exception for appointees so that the accumulated income may be payable to appointees pursuant to a special power of appointment which does not exclude from the class of possible appointees any person other than the beneficiary, his estate, his creditors, or the creditors of his estate.

Section 674 (b) (8) of the House bill excepted from the general rule a power to allocate receipts between corpus and income even though the power is expressed in broad language. The Senate amendment extends the exception also to a power to allocate disbursements between corpus and income.

This amendment also adds subsection (d), an exception to the general rule that the House bill did not contain. Under this subsection the grantor will not be subject to tax by reason of a power exercisable by a trustee or trustees, other than the grantor or spouse living with the grantor, which enables the trustee to apportion income among a class of beneficiaries, provided that the power is limited by a reasonably definite external standard.

This amendment further adds to the exceptions in subsections (b) (6) and (d) a provision that the exceptions will not apply if any person is enabled to add to the class of beneficiaries except where the action is to provide for after-born or after-adopted children. Under the House bill, only the exceptions in subsection (b) (5) and (7), and in subsection (c) are qualified by this provision. The pro-

vision is equally applicable to the powers in subsections (b) (6) and (d). The amendment also makes clarifying changes.

The House recedes.

Amendment No. 171: Section 676 of the House bill provides that the grantor shall be taxable on the income of a trust where either he, or any person without adverse interest (or both), has the power to revest title to the trust property in the grantor, except where the grantor would not be treated as the owner of a trust under section 673 if the power were a reversionary interest to take effect in possesssion or enjoyment after the expiration of the period specified in section 673. The Senate amendment adds to the House bill a provision to insure that possession of the power after the expiration of this period will subject the grantor to tax in the year in which the power is currently exercisable. The House recedes.

Amendment No. 172: Section 677 (a) of the House bill provided that income of a trust is to be taxed to the grantor by reason of a power to vest the income in him or apply it to his benefit, except in the case of a power the exercise of which can only affect the beneficial enjoyment of the income after the expiration of a period such that the grantor would not be treated as the owner under section 673 if the power were a reversionary interest. This amendment adds a provision which specifies that after expiration of this period the grantor may be treated as the owner of the trust unless the power is relinquished. The House recedes.

Amendment No. 174: This amendment provides that section 681 (c) (1) will not apply in any case to income attributable to property transferred to a trust created under the will of a decedent dying before January 1, 1951. It further provides that in the case of a trust created by the will of a decedent dying on or after January 1, 1951, if the will requires income to be accumulated pursuant to mandatory terms of the will creating the trust, the rule of section 681 (c) (1) applies only to income accumulated during a taxable year beginning more than 21 years after the death of the last life in being designated in the trust instrument. The House recedes with a clerical amendment.

Amendment No. 175: This amendment revises section 683 of the House bill.

The provisions of part I of subchapter J are to be applied only to taxable years beginning after December 31, 1953, and ending after the date of enactment of this title. However, the provisions of part I are not applicable in the case of any beneficiary of an estate or trust with respect to amounts paid, credited, or to be distributed in any taxable year of the estate or trust to which this part does not apply.

This amendment further revises the provisions of the House bill which provided that the 1939 Code would not apply to amounts paid, credited, or required to be distributed within the first 65 days of the first taxable year of an estate or trust to which the new code applies. Under the Senate amendment amounts paid, credited, or required to be distributed within the first 65 days of the first taxable year of an estate or trust with respect to which part I of subchapter J applies will be treated as paid, credited, or required to be distributed on the last day of the preceding taxable year and will be taken into account as provided in the 1939 Code. The House recedes.

Amendment No. 176: This amendment to section 691 (d) of the House bill, relating to recipients of income in respect of decedents,

replaces section 72 (j) of the House bill. The House bill provided that in the case of primary annuitants dying after 1953 the system of present law providing a new start for the survivor in a joint and survivor annuity would be discontinued. Instead an additional deduction was to be allowed to the survivor based upon the estate tax attributable to a part of the estate-tax value of the annuity. This amendment differs in substance from the corresponding provision in the House bill only in the manner of computing the part of the estate-tax value. Under the House bill the part would have corresponded to the relative cost of the survivor feature. Under this amendment the part corresponds to that amount which the survivor expects to receive which is, in fact, interest earned during the lifetime of the primary annuitant. The House recedes.

Amendment No. 177: This amendment incorporates a new subchapter K dealing with partners and partnerships, the provisions of which basically retain the analogous provisions of the House bill with a number of substantial changes and several technical and conforming changes.

1. Summary of major Senate changes accepted by managers on the part of the House

(*a*) *Aggregate rule for contributed property (sec. 704).*—Under present law there is considerable doubt as to the determination of partners' respective shares of partnership gain, loss, depreciation, or depletion with respect to property contributed to the partnership by one of the partners. The House bill, adopting the so-called "entity approach," stated that such items are to be shared by the partners in accordance with the partnership agreement for sharing gain or loss generally.

The Senate amendment adopts the House provision as a general rule, but permits the partners, by agreement, to divide the gain or loss, depreciation, or depletion with respect to contributed property among the partners in a manner which attributes precontribution appreciation or depreciation in value to the contributor. The Senate amendment provides an additional rule which allocates gain, loss, depreciation, or depletion with respect to partnership property in which the partners held undivided interests in the same manner as if there were no partnership, unless the partnership agreement provides otherwise.

(*b*) *Alternative method of determining basis of partner's interest (sec. 705).*—The House bill contained a relatively detailed computation for the determination of the basis of a partner's interest. The Senate amendment retains the House provision in substance, but adds an alternative method of determination, to be permitted under regulations, by reference to the partner's proportionate share of the adjusted basis of partnership property.

(*c*) *Changing or adopting new taxable years (sec. 706).*—The House bill provided that a partnership may not adopt, or change to, a taxable year other than the calendar year except with the approval of the Secretary or his delegate. The Senate amendment permits the partnership to adopt, or change to, any taxable year without such permission if all its principal partners change to the same year. The partnership may, however, adopt or change to a taxable year other

than that of all its principal partners if a business purpose is established therefor.

(*d*) *Transactions between partners and partnerships* (*sec. 707*).—The House provision treated sales of property between a partnership and a partner having an interest of 50 percent or more as a contribution to, and a distribution from, the partnership so that no gain or loss was recognized. In lieu of the House rules, the Senate amendment applies to partnerships the rules used in the case of similar transactions between corporations and controlling shareholders. A deduction for losses is disallowed if the partner has an interest in the partnership of more than 50 percent. Capital gain on the sale of depreciable property is recognized unless the partner has a partnership interest of more than 80 percent, in which case the gain is to constitute ordinary income.

Both the House provisions and the Senate amendment provide for the use of the "entity" approach in the treatment of the transactions between a partner and a partnership which are described above. No inference is intended, however, that a partnership is to be considered as a separate entity for the purpose of applying other provisions of the internal revenue laws if the concept of the partnership as a collection of individuals is more appropriate for such provisions. An illustration of such a provision is section 543 (a) (6), which treats income from the rental of property to shareholders as personal holding company income under certain conditions.

(*e*) *Distributions* (*secs. 731–735*).—The House bill provided that in the case of distributions, whether or not in complete liquidation of a partner's interest, the distributed property was in general to have a basis to the distributee equal to its basis to the partnership, and that gain or loss was to be recognized on the difference between the basis of the distributed property and that of the distributee's partnership interest. The Senate amendment retains the use of the carryover basis for nonliquidating distributions, but provides in the case of liquidating distributions that the distributee's basis for the property received is to be equal to the basis of his partnership interest less any money received. The basis of inventory items and unrealized receivables, however, is limited to the basis for such property to the partnership in the case of both liquidating and nonliquidating distributions. Where the partner receives a basis for the property differing from its basis to the partnership, the partnership is permitted to adjust the basis of its assets to reflect this difference.

(*f*) *Payments to a retiring partner or successor of a deceased partner* (*sec. 736*).—Under both the House bill and the Senate amendment, payments made by a partnership to a retiring partner or a successor of a deceased partner in excess of the value of his capital interest are treated as income to the recipient and a deduction to the remaining partners. The recipient retired partner, estate, or successor is to be treated in the same manner as a partner and, consequently, the payments, determined with respect to a partnership taxable year, are to be treated as income to the recipient for his taxable year with, or within, which such partnership year ends.

Under the House bill, however, the treatment described above for payments other than for a capital interest was to apply only to payments received within 5 years after death or retirement. If received after this period, they were treated as a gift by the remaining partners

to the retiring partner or heirs of the deceased partner. The Senate amendment strikes out the 5-year limitation and treats such payments as income to the recipient and a deduction to the partnership regardless of when paid.

(*g*) *Transfers of an interest in the partnership (secs. 741–743).*—The House bill provides for an elective adjustment to the basis of partnership property on a transfer of a partnership interest. This adjustment would have resulted in tax benefit or detriment to all the partners. Under the Senate amendment the adjustment, to the extent it represents appreciation or depreciation in the value of partnership assets after their contribution to the partnership, is available only to the transferee partner.

(*h*) *Collapsible partnerships and other provisions common to distributions and transfers (secs. 751–755).*—Both the House bill and the Senate amendment provide for the treatment as ordinary income of certain gain from the disposition of an interest in a "collapsible partnership." The Senate amendment, however, made several technical changes in the House bill. Among these is the elimination of a special exclusion for a transferee in such a partnership, which under the House bill can be used to offset certain income from unrealized receivables or inventory items subsequently received by the partnership. Under the Senate amendment, the transferee may, if the partnership so elects, obtain a special basis for such partnership assets under the provisions of section 743 (b).

(*i*) *Effective dates (sec. 771).*—The Senate amendment makes the provisions of subchapter K applicable for partnership years beginning after December 31, 1954, instead of after December 31, 1953, as provided by the House bill. The provisions dealing with collapsible partnerships (sec. 751) and the character of gain or loss on the sale by a partner of unrealized receivables or inventory items distributed to him (sec. 735 (a)) are made effective for transactions after March 9, 1954. The provision dealing with adoption or change of taxable years of partnerships and partners (sec. 706) is made effective for taxable years beginning after April 1, 1954.

2. Modifications of Senate amendment under conference agreement

The House agrees to Senate amendment No. 177 with amendments. Except for clerical and conforming amendments, the changes in the Senate amendment proposed under the conference agreement are explained below:

(*a*) *Closing of partnership year (sec. 706 (c)).*—Section 706 (c) (2), as modified under the conference agreement, makes clear that a partner who sells or exchanges his interest, or who completely retires from a partnership, must include in his return his distributive share of partnership income, gain, loss, or other items described in section 702 (a) for the period ending with the sale, exchange, or liquidation. Thus if the partnership taxable year ends on December 31, 1955, and the partner retires or sells his interest on June 30, 1955, he must, under regulations, include in his taxable income his share of section 702 (a) items accruing to June 30, 1955. In this case, the Secretary may by regulations permit the partner to estimate this share by taking the pro rata part (determined according to the portion of the taxable year of the partnership which has elapsed prior to the sale) of the amount of such items he would have included had he remained a partner until the end

of the partnership year, thereby avoiding the necessity of an interim closing of the partnership books.

The application of section 706 (c) (2), as modified under the conference agreement, may be illustrated as follows: Assume that a partner selling his partnership interest on June 30, 1955, has a basis for his interest of $5,000, that his pro rata share of partnership income and gain up to that date is $15,000, and that he sells his interest for $20,000. His partnership year closes at the time of the sale and the $15,000 is includible in his return as ordinary income or capital gain depending on the nature of the gain to the partnership. This recognition of income and gain increases the basis of the partnership interest to $20,000 so that no further gain is recognized on the transfer. The transferee includes in his income only his distributive share for the remainder of the partnership year.

The paragraph, as modified, also provides that the taxable year of a partner whose interest is liquidated upon his death under the partnership agreement is not to close prior to the end of the partnership year.

(*b*) *Continuation of partnership* (*sec. 708*).—Section 708 under the conference agreement provides that a sale or exchange within a 12-month period of 50 percent or more of the total interest both in partnership capital and partnership profits will be considered as a termination of a partnership. However, a disposition of such interests by gift or on the death of a partner will not result in such a termination.

(*c*) *Special partnership basis of distributed property to a transferee* (*sec. 732 (d)*).—Section 732 (d) under the conference agreement applies only where the partnership has not made an election under section 754 to adjust the basis of partnership property at the time the partner acquired his interest. If such an election were in effect, the transferee would have a special basis adjustment allocable to him for purposes of such a distribution under the provisions of section 743 (b). Under the conference agreement, section 732 (d) permits a transferee partner, receiving a distribution of partnership property (other than money) within 2 years after acquiring his interest, to elect the same treatment he would be accorded if he had a special basis adjustment with respect to the partnership property under section 743 (b) (see the discussion of that section).

The Senate amendment stated that the provisions of section 732 (d) could be made mandatory under regulations when there was a distribution to a transferee partner, whether or not made within 2 years after the transferee acquires his interest, if the fair market value of the distributed property (including money) exceeds 110 percent of its adjusted basis to the partnership immediately before the distribution. Under the conference agreement the provisions of section 732 (d) may be made mandatory only if the fair market value of all the partnership property at the time of the transfer exceeds 110 percent of its adjusted basis at such time.

(*d*) *Optional adjustment to basis of partnership property* (*sec. 743 (b)*).—The conference agreement provides a simplified formula for the determination of the elective special adjustment to the basis of partnership property on the transfer of a partnership interest by a partner. Under the rule provided, a purchaser or heir of an interest in a partnership will generally receive the same special basis with respect to the partnership property regardless of which of the interests is acquired.

The Senate amendment made the amount of the adjustment depend on the difference between the transferee's basis for his interest in the partnership and the transferor's adjusted basis for the interest immediately prior to the transfer. The conference agreement provides that in the case of a transfer, the adjusted basis of partnership property is to be increased or decreased by the difference between the transferee's basis for his partnership interest and his proportionate share of the adjusted basis of all partnership property. The amount of the increase or decrease is to constitute an adjustment affecting the transferee partner only. A partner's proportionate share of the adjusted basis of partnership property is to be determined in accordance with his interest in partnership capital. Thus if a partner's interest in such capital is one-third, his proportionate share of the adjusted basis of partnership property will, in general, be one-third of such basis. Where, however, an agreement with respect to contributed property is in effect, the agreement must be taken into account in determining a partner's proportionate share.

The application of section 743 (b), as agreed to by the conferees, may be illustrated as follows, using an example analogous to that in the report of the Finance Committee (S. Rept. 1622, 83d Cong., 2d sess. p. 398).

Assume that partner A dies when the balance sheet of the ABC partnership is as follows:

Assets			Liabilities and capital		
	Adjusted basis	Market value		Adjusted basis	Market value
Cash	$5,000	$5,000	Liabilities	$10,000	$10,000
Accounts receivable	10,000	10,000	Capital:		
Property X (inventory)	20,000	21,000	A	12,000	22,000
Property Y (depreciable asset)	20,000	40,000	B	15,000	22,000
			C	18,000	22,000
Total	55,000	76,000	Total	55,000	76,000

Assume further that all partners share equally in profits and that the partnership has made the election to adjust the basis of partnership assets upon the transfer of a partnership interest.

The amount of the adjustment under section 743 (b) is determined by comparing the basis of the transferee for his interest in the partnership with his proportionate share of the adjusted basis of partnership properties. The basis of the transferee's interest is $25,333, the value of his capital interest on A's death, $22,000, plus his proportionate share of partnership liabilities, $3,333 ($10,000, the total partnership liabilities, divided by 3). The transferee partner's proportionate share of the adjusted basis of the partnership property is $18,333 ($55,000, the total adjusted basis of partnership property, divided by 3). Thus, the amount to be added to the basis of partnership property under section 743 (b) is $25,333 less $18,333, or $7,000. It should be noted that the amount of the adjustment is not dependent on the basis of the transferor's interest in the partnership. Under the conference agreement, the amount of the adjustment under section 743 (b) is the same whether the transferee acquired his interest from A, B, or C, either as an heir or as a purchaser.

The manner of allocating the $7,000 among the partnership properties and the effect of the transferee's special basis for purposes of computing gain upon the sale of partnership property, depreciation or depletion and for determining the basis of property distributed to the transferee, is the same as under the Senate amendment.

The provision in subsection (b) that a partner's proportionate share of the adjusted basis of partnership property is to be determined by taking into account a partnership agreement described in section 704 (c) (2) with respect to contributed property may be illustrated by the following examples:

(A) Assume that A and B form a partnership AB to which A contributes property X, a depreciable asset worth $1,000, with an adjusted basis to him of $400 and to which B contributes $1,000 in cash. Assume further that during the partnership's first taxable year property X appreciates in value to $1,200, and A sells his half interest in the partnership to C for $1,100.

Under the rule stated in section 743 (b) (1), if there is no agreement under section 704 (c) (2) in effect at the time of the sale, the adjusted basis of the partnership property will be increased by the excess of the transferee partner's basis for his partnership interest, $1,100, over his proportionate share of the adjusted basis of the partnership property, $700 ($400, the basis of property X, plus $1,000, the money, or a total partnership basis of $1,400, divided by 2). The amount of the adjustment therefore is $400, to be applied as an increase in the basis of partnership property. This amount will be allocated to property X with respect to the transferee only. If X is sold for $1,400, the gain to the partnership is $1,000 ($1,400 received, less the partnership basis of $400 for property X). Thus, each partner has gain of $500 on the sale. C, the transferee, however, has special basis with respect to X of $400, which will decrease his gain to $100.

If C purchased his interest from B (the partner contributing cash), C's adjustment under section 743 (b) would also be $400, computed in exactly the same manner as in the case of a purchase from A.

(B) If, in the above example, the original partnership AB had a special agreement with respect to property X, stating that upon the sale of that property, any gain, to the extent attributable to precontribution appreciation, was to be allocated entirely to the contributing partner, A, the computation of C's special basis would differ from that indicated in example A. Under the partnership agreement, A had, in effect, a basis of only $400 in the partnership assets (his basis for property X prior to its contribution to the partnership) and B had a basis of $1,000 (the full basis of his investment). C, who is A's successor, has a proportionate share in the adjusted basis of partnership property of $400 (A's share of partnership basis). The amount of the increase in the adjusted basis of partnership property under section 743 (b) (1) is $700 (the excess of $1,100, C's basis for his interest, over $400, C's share of partnership basis). This amount constitutes an adjustment to the basis of partnership property with respect to C only.

If X is sold by the partnership for $1,400, the gain is $1,000 ($1,400 received, less the partnership basis of $400). Under the partnership agreement, $600 of this gain is allocable to C as A's successor. The remaining $400 gain is not subject to the agreement, and is allocable to B and C equally, i. e., $200 each. However, C has a special basis of $700 under section 743 (b) which reduces his gain from a total of

$800 to $100. B has a gain of $200, and is unaffected by the transfer of A's interest.

(C) If in the preceding illustration C purchased his interest from B instead of from A, his special basis in partnership property would differ from that where he purchased it from A because of the agreement under section 704 (c) (2). In this case, C is a successor to B whose proportionate share of the basis of partnership property is $1,000, instead of A whose proportionate share of the partnership basis is $400. As a result the adjustment under section 743 (b) (1) is the excess of C's basis for his interest, $1,100, over his proportionate share of the basis of partnership property, $1,000, or an adjustment of $100.

In this case, if property X is sold for $1,400, the partnership gain is $1,000 ($1,400 received, less the partnership basis of $400). Six hundred dollars of the gain is allocable to A under the partnership agreement as precontribution appreciation. The remaining $400 is allocable in the amount of $200 to A and $200 to C. Since C has a special transferee basis of $100 under section 743 (b), his gain is reduced to $100.

As indicated by the above examples, where a partnership agreement, described in section 704 (c) (2), with respect to contributed property is in effect, the special adjustment available to a transferee partner will vary depending on which partner's interest he obtained. This treatment preserves the positions of the nontransferee partners with respect to precontribution appreciation or depreciation as provided under the partnership agreement.

Under the Senate amendment, the special section 743 basis adjustment, described above, for a transferee is used in the case of distributions as well as for purposes of determining depreciation, depletion, or gain or loss. This rule is continued under the conference agreement whether the basis adjustment under section 743 (b) is computed by reference to an agreement under section 704 (c) (2), relating to contributed property, or without reference to such an agreement. Accordingly, where a section 704 (c) (2) agreement is in effect, the basis of partnership property for purposes of distributions will be computed in the manner shown in examples (B) and (C) above. The agreement under section 704 (c) (2) is also given effect in determining the basis of distributed property if the provisions of section 732 (d) are applicable, since this subsection provides the same basis for distributed property as would be obtained under section 743 (b). If neither section 743 (b) nor section 732 (d) is applicable, the basis of property distributed to a transferee partner is not affected by a partnership agreement under section 704 (c) (2) with respect to contributed property.

If property with respect to which the transferee has a special basis under section 743 (b) is distributed to a partner other than the transferee, then the transferee partner's special basis allocable to such property is shifted to other property remaining in the partnership (or distributed to the transferee in the same transaction) in the same manner as is described on page 400 of the report of the Committee on Finance with respect to the Senate amendments (S. Rept. 1622, 83d Cong., 2d sess.).

(*e*) *Unrealized receivables and inventory items (sec. 751).*—Section 751 (b) of the Senate amendment provides that certain distributions

to a partner are to be treated as a sale or exchange of property between the partner and the partnership (as constituted after the distribution).

Under the conference agreement, it is made clear that section 751 (b) (1) applies only where a partner receives a distribution of unrealized receivables or substantially appreciated inventory items and such property is received in exchange for the distributee partner's interest in other partnership property. Such a transaction is considered a sale by the partnership (as constituted after the distribution) to the distributee partner of unrealized receivables and inventory items owned by the partnership. The partnership (as constituted after the distribution) realizes ordinary income from such a distribution since it is treated as having exchanged unrealized receivables or inventory items. The distributee partner realizes capital gain (or loss) from such a distribution since he is treated as having exchanged property other than unrealized receivables or inventory items.

It should be noted that section 751 (b) (1) is not applicable to a distribution to a partner of his proportionate share of partnership inventory items or unrealized receivables where such a distribution is not in exchange for his interest in other partnership property. If the distribution is, in part, a distribution of the distributee partner's proportionate share of unrealized receivables or inventory and, in part, is a distribution in exchange for the distributee partner's interest in other partnership property, an allocation must be made, under regulations, between the two categories, both for the purposes of the distributee partner and the partnership.

The conference agreement makes clear that section 751 (b) (2) applies to the converse situation, i. e., a distribution which is equivalent to a disposition by the distributee partner of his interest in unrealized receivables or substantially appreciated inventory items in exchange for other partnership property. The distributee partner realizes ordinary income for the interest in unrealized receivables or inventory items which he gives up. The amount of this gain is determined by reference to his proportionate share of the basis to the partnership of the unrealized receivables or inventory items and the fair market value of the property received in exchange. The partnership realizes capital gain (or loss) with respect to the property distributed to the partner in exchange for his interest in unrealized receivables or inventory items. The gain or loss to the partnership is attributable to the partnership as constituted after the distribution, i. e., to the partners other than the distributee.

(*f*) *Definitions (sec. 761).*—Section 761 contains definitions applicable to subchapter K. The conference agreement with respect to section 761 (c), which relates to the definition of a partnership agreement, makes clear that a partnership agreement with respect to a particular taxable year may be made or modified subsequent to the close of the taxable year, but not later than the date prescribed by law for the filing of the partnership return for such year (not including any extension of time). Accordingly, a partnership agreement under section 704 (c) (2) which makes a special allocation among the partners of depreciation, depletion, or gain or loss with respect to contributed property, may be adopted at any time prior to, and including, the day prescribed by law (not including any extension of time) for the filing of the partnership information return. The author-

ization to revise or amend the partnership agreement subsequent to the close of the taxable year is subject, of course, to the provisions of section 704 (b), relating to distributive shares of partnership items of gain, loss, etc.

The conference agreement with respect to section 761 (d), defining the term "liquidation of a partner's interest," indicates that the term includes a liquidation made by means of a series of distributions as well as a single distribution. A series of distributions in pursuance of a plan to terminate the interest of a partner, whether occurring in one or more taxable years, is subject to the provisions of subchapter K which pertain to liquidations. In such a case, the basis to the distributee of the distributed properties will be determined by reference to the basis of the distributee for his interest in the partnership under section 732 (b), rather than under the provisions of section 732 (a), relating to nonliquidating distributions.

(*g*) *Effective date* (*sec. 771*).—Section 771 of the Senate bill contains a general effective date for the application of subchapter K, and special provisions relating to the application of certain sections of subchapter K.

Section 771 (a), as amended by the Senate, provided that, in general, subchapter K would be effective as to (A) partnership taxable years beginning after December 31, 1954, and (B) taxable years of partners in which or with which such partnership years end. The 1939 Code was applicable to preceding taxable years of partnerships and partners.

Section 771 (a) under the conference agreement provides that subchapter K is applicable to any part of a taxable year of a partner falling within a partnership taxable year beginning after December 31, 1954. Thus, if the partnership and the partners are on different taxable years, the provisions of subchapter K will become effective at the same time both for the partnership and the partners. Accordingly, any distribution by the partnership or transaction between the partners and the partnership will be subject to the rules of sections 731–736, and section 707 respectively, both for the partner and the partnership, if the partnership taxable year begins after December 31, 1954, even though the taxable year of the partner affected may commence at a date subsequent to the beginning of such partnership taxable year.

Section 771 (b) (1) of the Senate amendment provides that section 706 (b) (relating to the adoption of a taxable year by a partnership or partner) is to apply to the adoption of, or change to, a taxable year beginning after April 1, 1954. Under the conference agreement, an additional sentence in section 771 (b) (1) provides that, in applying section 706 (b), the rules of section 708 (relating to the continuation of partnerships) are to be applicable without regard to the general effective date for subchapter K. Thus, in the case of a merger of two or more partnerships, the resulting partnership will be a continuation of the dominant partnership under section 708 (b) (2) (A), and may continue to use the taxable year of such predecessor partnership because it is not "adopting" or "changing" a taxable year.

Under the conference agreement a paragraph (4) has been added to section 771 (b) of the Senate amendment. The paragraph restricts the application of section 753 to decedents dying after December 31, 1954, and leaves unchanged the treatment of payments made with respect to prior decedents. No inference is intended as to the inclu-

sion of the value of the right to such payments in the gross estate of decedents dying prior to January 1, 1955.

Under the conference agreement, a subsection (c) has been added to section 771 of the Senate amendment. Subsection (c) provides that in the case of a partnership taxable year beginning after December 31, 1953, and prior to January 1, 1955, a partnership may elect to apply certain rules of subchapter K with respect to nonliquidating distributions. The election is to be made under regulations prescribed by the Secretary or his delegate and is binding on the partnership and all its members.

If an election is made under section 771 (c) the rules of sections 731 (relating to recognition of gain or loss on distributions), 732 (a), (c), and (c) (relating to the basis of distributed property), 733 (relating to the basis of a distributee partner's interest), section 735 (relating to character of gain or loss on disposition of distributed property), and 751 (b), (c), and (d) (relating to unrealized receivables and inventory items) will be applicable to all nonliquidating distributions made during the taxable year. In addition to the sections referred to, the distribution will be subject to the rules of sections 705 (relating to the basis of a partner's interest), 752 (relating to liabilities), and 761 (d) (relating to the definition of the liquidation of a partner's interest) to the extent such sections are applicable to nonliquidating distributions.

Amendments Nos. 178, 179, and 180: Under existing law, in the case of life insurance companies, the definitions and rules for determining such items as gross income, interest paid, and taxable income refer only to items of income received or items of deductions paid. The House bill modified those definitions to permit such items to be treated as "received or accrued" or "paid or accrued" so that insurance companies may conform to the method used in the approved statement for life insurance companies promulgated by the National Association of Insurance Commissioners. The Senate amendment restored the language of existing law. The Senate recedes.

Amendments Nos. 181 and 182: Amendment 182 amends section 851 (e) of the House bill to permit regulated investment companies furnishing capital to development corporations, to include, under certain conditions, among their diversified assets those securities the value of which exceeds 5 percent of the value of the total assets of the taxpayer. Amendment 181 is a conforming amendment necessitated by Amendment 182. The House recedes.

Amendment No. 186 (1): This amendment amends section 854 (b) (2) of the House bill to provide that the amount of any distribution by a regulated investment company which may be treated as a dividend, for the purposes of section 854 (b) (1), shall not exceed the amount so designated by the company in a notice to its shareholders mailed not more than 30 days after the close of the company's taxable year. Section 854 (b) (2), as amended by the Senate, conforms in general to the notice requirements applicable under present law to capital-gains dividends. The House recedes with a conforming amendment.

Amendment No. 186 (2): This amendment amends section 854 (b) (3) (B) of the House bill, relating to the definition of the term "aggregate dividends received." It provides that an investment company is to treat as dividend income only dividends which would qualify for the dividends received exclusion in the hands of a shareholder who is an

individual. The rules of section 116 (b) and (c) are therefore made applicable in determining the total dividend income of the investment company. The amount treated as dividend income to the investment company may, upon distribution to the shareholders of the investment company, be considered by them as dividends for purposes of computing the credit under section 34, the exclusion under section 116, and the deduction under part VIII of subchapter B. However, any amounts, such as foreign dividends, which would not qualify for the exclusion are not to be treated as dividends when distributed to the shareholders of the investment company. The House recedes.

Amendment No. 195: This amendment, together with amendment No. 200, relating to allowance of credit for taxes paid or accrued to foreign countries and United States possessions, restores the provisions of present law and eliminates changes in the House bill which permitted a taxpayer to credit a "principal tax" for each separate trade or business paid or accrued to the national government of a foreign country or a United States possession. The House recedes.

Amendments Nos. 196, 197, and 198: These amendments (1) eliminate changes made by the House bill with respect to the allowance of credit to a domestic corporation for "principal taxes" paid or accrued to the national governments of foreign countries and United States possessions by certain related foreign corporations and (2) restore the provisions of existing law, as contained in section 131 (f) of the 1939 Code. The House recedes.

Amendment No. 207: This amendment strikes out section 923 of the House bill, pursuant to which there would have been allowed against the tax of certain domestic corporations a credit of 14 percent of the taxable income derived from sources within any foreign country (1) as branch income includible in gross income under part IV of subchapter N of the bill, (2) as compensation for the rendition of technical, engineering, scientific, or like services, and (3) under specified circumstances, as dividends and interest from a foreign corporation.

The Senate amendment deleted these provisions on the ground that they raised a number of difficult problems for which a satisfactory solution could not be evolved in the time available.

It is the opinion of the managers on the part of the House that in view of the numerous objections raised to the specific provisions of the House bill, the large amount of revenue involved (approximately $145 million), and the difficulty of working out a satisfactory provision in conference, the foreign income provisions should be omitted from the bill and postponed for a more thorough study. The House recedes.

Amendments Nos. 208, 209, 210, and 211: These amendments revise subpart E of subchapter N of the House bill, relating to China Trade Act corporations, so as to include Hong Kong (in addition to Formosa) within its provisions, and to confine the benefits to taxable income from sources within Formosa and Hong Kong. The House recedes.

Amendment No. 212: This amendment deletes in its entirety part IV of subchapter N of the House bill. Under part IV certain domestic corporations were permitted to elect to defer tax on income allocable to certain foreign branches until such income was withdrawn, thus equating, in general, the tax treatment of foreign branches with that of foreign subsidiaries. To be eligible to elect the deferral of tax on branch income under part IV, the foreign branch was required to be

engaged in the active conduct of a trade or business which met tests similar to those prescribed in section 923 of the House bill for foreign corporations whose dividends would be entitled to the 14 percent foreign income credit. These provisions of the House bill raised the same problems as those discussed in regard to amendment No. 207. The House recedes.

Amendment No. 218: The House bill contained additional provisions relating to the basis of property acquired from a decedent. The principal effect of these additional provisions is to extend the basis rules applicable under existing law in the case of property acquired from a decedent by bequest, devise, or inheritance, to virtually all property acquired from a decedent by reason of death, form of ownership, or other conditions if, by reason thereof, the property would be required to be included in the decendent's gross estate for estate tax. In the application of these rules property acquired by the taxpayer by virtue of or subject to the exercise or nonexercise of a power of appointment possessed by the decedent shall be considered to have been acquired from the decedent if the property covered by the power would be includible in the decedent's gross estate.

The Senate amendment made certain clarifying changes relative to the application of these additional rules. In addition, the amendment provides that in case any property to which the additional rules apply was acquired from the decedent prior to death, the basis otherwise provided for shall be reduced by the amount allowed to the taxpayer as deductions for exhaustion, wear and tear, obsolescence, amortization, and depletion on such property before the decedent's death. The House recedes.

Amendment No. 227: This amendment changes section 1033 of the House bill, relating to involuntary conversions, by adding two new subsections. Subsection (d) provides that the sale or other disposition of property lying within an irrigation project will be deemed an involuntary conversion if the sale is made in order to conform to the acreage limitation provisions of Federal reclamation laws.

Subsection (e) provides that if livestock are destroyed by disease, or are sold or exchanged because of disease, such destruction or sale shall be treated as an involuntary conversion.

The House recedes with a clarifying amendment to specifically include within subsection (e) livestock destroyed because of disease.

Amendment No. 228: This amendment strikes out section 1035 of the House bill, relating to foreclosures on property held as security. The House recedes.

Amendment No. 232a: This amendment to section 1081 of the House bill extends the rule in present law which provides for nonrecognition of gain on exchanges or distributions in obedience to orders of the SEC. Under the amendment, in the case of distributions of rights to acquire certain stock in accordance with an arrangement forming a ground for an order of the SEC that the distributing corporation is exempt from the Public Utility Holding Company Act of 1935, no gain will be recognized. This amendment applies only to distributions completed before January 1, 1958. The House recedes.

Amendment No. 238: Section 1223 (1) of the House bill provides that the holding period of property acquired in certain tax-free exchanges may include the period during which the property exchanged

was held, but only if both the property acquired and that exchanged were capital assets. There is no such restriction in present law. The Senate amendment also allows the adding of holding periods if the property exchanged was property used in the trade or business. The House recedes.

Amendment No. 244: Section 1232 of the House bill provides a new rule for treating as ordinary income a portion of gain realized on bonds and other evidences of indebtedness issued at a discount. This amendment removes from the operation of the rule, and from its necessary calculations, certain cases in which the ordinary income part of the gain is likely to be nonexistent or very small. These cases include any buyer who acquires one of these original discount bonds at a premium, and any bond issued at certain relatively small discounts.

The amendment also clarifies the operation of the discount rule in connection with a particular type of security known as a face-amount certificate. In addition clerical changes are made. The House recedes.

Amendment No. 245: This amendment applies the substance of the rule developed in the House bill for dealing with bonds originally issued at a discount, to cases where there is a sale of a long-term bond from which there have been detached coupons for a number of future years. The House recedes.

Amendment No. 246: This amendment completely rewrites the provision in the House bill dealing with patents. Under the House bill an inventor could sell his interest in a patent under an arrangement whereby his price would be contingent on the profitability or productivity of the patent in the hands of the buyer provided that he received his full payment within 5 years of the date of sale.

This amendment makes three substantive changes. First, the 5-year limitation is eliminated with the effect that all income from an exclusive license of all the substantial rights under a patent will be a capital gain. Second, the requirement of a 6-month holding period is dropped. Third, as under the House bill, the professional inventor is accorded the same treatment as the amateur inventor but the amendment extends this favorable treatment to any individual who purchases an interest in the invention before the time it is actually "reduced to practice." The employer of the inventor and an individual closely related to the inventor, however, are made ineligible for this treatment.

The House recedes with an amendment to make it clear that the section applies to transfers prior to the issuance of the patent.

Amendment No. 247: This amendment strikes section 1237 of the House bill which provided that under certain circumstances a dealer in real estate could obtain long-term capital gains on real property held in a specially designated investment account. The House recedes.

Amendment No. 248: Section 1238 of the House bill (sec. 1237 of Senate bill) provided circumstances under which an individual who held real property for investment could subdivide the property to dispose of it and yet not thereby be held to be a dealer in real property and taxable at ordinary income rates on the entire gain. This amendment clarifies the restriction in the House bill which provides that the taxpayer must not have made substantial improvement on the

property he subdivides and sells. The amendment specifies that to disqualify a property the improvement must substantially enhance the value of the particular lot sold and must have been made, directly or indirectly, by the taxpayer or related persons. The House recedes.

Amendment No. 248a: This amendment adds a new paragraph to subsection (b) of section 1238 of the House bill, dealing with real property subdivided for sale by other than real-estate dealers. It provides an exception to the general rule in the bill that only property held by the taxpayer for 5 years and on which the taxpayer makes no substantial improvement is within the scope of the section. Under the amendment the taxpayer could install water or sewer facilities or roads if the lot or parcel would not have been marketable at the prevailing local price for similar building sites without such improvement and if the taxpayer made no adjustment to the basis of the property or other property for the cost of such improvements.

The House recedes with two amendments. The first amendment requires the taxpayer, if he makes such improvements, to hold the property involved for 10 years after his acquisition of it before this exception to the substantial improvement rule will apply. The second amendment requires the taxpayer to make the election implicit in the Senate amendment in accordance with regulations and specifically denies any deductibility, under such election, of the cost of such improvements with respect to the real property in question.

Amendment No. 251: This amendment strikes from the bill those provisions added by the House that would have attempted to settle some conflicting court decisions dealing with the transfer of property in exchange for a private annuity. To provide an opportunity for further study of this matter, the House recedes.

Amendment No. 252: This amendment adds a provision not in the House bill but having the effect of restoring the provision of present law which allows capital-gains treatment on distributions on the termination of certain employment contracts. It is provided that this provision will only apply, however, to contracts entered into before the date of enactment of this provision. The House recedes.

Amendment No. 253: This amendment adds a section not appearing in the House bill, with respect to the treatment of gain on the cancellation of certain contracts as capital gains. The items covered are (1) the receipt by a lessee of a payment for the cancellation of a lease, and (2) the receipt by a distributor of goods of a payment for the cancellation of his distributor's agreement, but the latter applies only if he has a substantial capital investment in the distributorship. The House recedes.

Amendment No. 253a: The House bill provided that where an individual receives in a single year 80 percent of his compensation for a particular job in which he, or a partnership of which he is a member, was engaged for more than 36 months, he may, in computing his tax, spread this compensation over the period during which the job was performed. A member of a partnership was entitled to the benefits of this provision under the House bill only if he was such a member continuously for a period of 36 months, or for the period during which the job was performed, prior to receipt or accrual of the compensation. A partner who qualifies by being a partner for 36 months prior to receipt or accrual of the compensation, although not a partner for the full period during which the job was performed,

may spread such compensation only over the period in which he was a partner.

This amendment provides that for the purpose of applying the above rules, a partner shall be deemed to have been a member of the partnership for any period immediately prior to becoming a partner in which he was an employee of the partnership, if he receives or accrues compensation during the current year attributable to a job performed by the partnership during the period when he was an employee. The House recedes.

Amendment No. 254: The House bill provided for the spreading, subject to certain restrictions, of income received with respect to a particular invention or artistic work on which the taxpayer worked for 36 months or more. The Senate amendment reduces to 24 months the minimum period during which the taxpayer must have worked on the invention or artistic work, and also makes clerical changes. The House recedes.

Amendment No. 258: Under the House bill section 1341 (claim of right) does not apply to sales or other dispositions of stock in trade or of inventories. This amendment provides that the exception for refunds arising from inventory sales will not apply to refunds or repayments made by a regulated public utility (as defined in sec. 1503 (c)) if such refunds or repayments are required to be made by the regulatory agency. The House recedes with a technical amendment.

Amendment No. 259: This amendment adds a new subchapter R, consisting of section 1351 which gives certain corporations an election to be treated as partnerships for tax purposes, and section 1361 which allows certain proprietorships an election to be taxed as corporations.

The election permitting corporations to be treated as partnerships applies only in the case of corporations, having only one class of stock, organized after December 31, 1953, owned by not more than 10 shareholders, all of whom are active in the business, and all of whom consent to the election. The election, once made, may not be revoked unless there is a change in stock ownership of more than 20 percent. Shareholders of an electing corporation who are also employees may not participate in tax-exempt pension or profit-sharing plans.

The election permitting proprietorships and partnerships to be taxed as corporations applies only in the case of business enterprises where capital is a material income-producing factor, or where 50 percent or more of its income is derived from trading as a principal or from certain types of brokerage commissions. Partnerships with more than 50 members may not qualify for the election. A proprietor or a member of a partnership subject to this election will nevertheless be taxed in his individual capacity with respect to any personal holding company income and such income will not be taxed to the business enterprise. The election, once made, is irrevocable unless there is a change of ownership of more than 20 percent.

The House recedes with the following amendments:

Section 1351 which gives certain corporations an election to be treated as partnerships is stricken.

Amendment Nos. 261 and 262: These amendments require the withholding of tax at source upon certain specified amounts which are considered to be gains from the sale or exchange of capital assets and which, under amendments Nos. 188 and 190, are subject to tax when received by nonresident alien individuals not engaged in trade or

business within the United States and by nonresident foreign corporations. The House recedes.

Amendment No. 263: The House bill combined the rules stated in section 141 of the Internal Revenue Code of 1939 and in the consolidated returns regulations (Regulations 129) with conforming changes. In addition the House bill (1) lowered the stock ownership affiliation test from 95 to 80 percent; (2) provided that the expiration of a provision of law would have the same effect as an amendment in determining whether an affiliated group gets a new election to join in the filing of a consolidated return; (3) contained four alternative elective methods for determining the reduction in the accumulated earnings of each member of the affiliated group because of the tax imposed on the group; (4) contained a provision (similar to section 15 (c) of the Internal Revenue Code of 1939) for the disallowance of the $25,000 surtax exemption in certain cases, and a provision for the disallowance of the $30,000 accumulated earnings credit provided in section 535 (c) of the House bill in similar situations.

The Senate amendment eliminated the consolidated returns regulations from the statute and thus returned substantially to the provisions of section 141 of the 1939 Code. A provision was added which would eliminate the 2-percent tax on the consolidated taxable income attributable to those members of the affiliated group which are regulated public utilities. The term "regulated public utility" is defined as a corporation engaged in the furnishing of electric energy, gas, water, etc., whose rates are established or approved by a governmental agency. The term also includes certain lessor railroad corporations and certain common parent corporations which are common carriers subject to part I of the Interstate Commerce Act. In addition (1) the 95-percent stock ownership affiliation test of existing law is restored; (2) businesses electing, under subchapter R of chapter 1, the alternative partnership or corporate tax treatment are not allowed to join in the filing of a consolidated return; and (3) a conforming change is made in the provision disallowing the accumulated earnings credit in certain cases to reflect the increase from $30,000 to $60,000 in the amount of such credit made by the Senate amendment to section 535 (c).

The House recedes with the following amendments: (1) The stock ownership affiliation requirement is lowered to 80 percent as provided in the House bill. (2) For purposes of allocating the tax on the consolidated taxable income in determining the earnings and profits of each member of the affiliated group, the four alternative elective methods provided in the House bill will apply.

Amendment No. 264: This amendment clarifies section 2013 (a) of the House bill to make certain that the benefits of the section apply to property passing to the decedent as a result of the exercise or nonexercise of a power of appointment when the property is includible in the gross estate of the donee of the power. The amendment also modifies this section to cover property transferred to the decedent by a person who died within 2 years subsequent to the death of the decedent. The House recedes.

Amendment No. 265: This amendment makes a clerical change in the heading of subsection (c) (2) of section 2013 of the House bill and completely revises subsection (d) of that section so as to provide that the value of property transferred to the decedent shall be deter-

mined in the same manner as the value of property interests passing to a surviving spouse under section 2056. This amendment is designed to provide for greater certainty in the provision of the House bill. This amendment also makes it clear that the term "property" denotes any beneficial interest in property transferred to the decedent. The House recedes.

Amendment No. 266: This amendment clarifies section 2015 of the House bill so that the section only applies where an election is made under section 6163 (a) to postpone payment of the estate tax attributable to a reversionary or remainder interest. The House recedes.

Amendment No. 267: This amendment adds to section 2016 of the House bill a provision that no interest shall be assessed or collected on any amount of tax due as the result of the recovery by an executor of death taxes paid to a foreign country where credit has been previously allowed under section 2014 for any period before the receipt of such refund. This provision, however, specifies that interest may be assessed and collected to the extent interest was paid by such foreign country on such refund. The House recedes.

Amendment No. 268: This amendment removes the limitation provided by the House bill which would have restricted the right of the executor to elect the benefits of section 2032 to cases where the aggregate value of all items in gross estate declined to 66⅔ percent of the value of the aggregate of all such items as of the date of the decedent's death. The House recedes.

Amendment No. 269: This amendment amends section 2039 of the House bill by revising subsection (a) so as to make it clear that the provisions of section 2039 apply not only to cases where an annuity was payable to a decedent but also to contracts or agreements under which a lump-sum payment is payable to the decedent or the decedent possesses the right to receive such a lump-sum payment in lieu of an annuity.

This amendment also makes a change in subsection (c) of that section as stated in the House bill so as to provide that the exemption will apply not only to an annuity or other payment payable under a qualified employees' trust but also under a contract purchased by such an employees' trust. This subsection is further revised so that the exemption will apply if the particular plan under which the annuity or other payment is made meets the requirements of section 401 (a) at the time the plan terminates if occurring prior to the decedent's separation from employment. In addition, this amendment revises subsection (c) to more clearly indicate that the exemption is denied only in the proportion that the total payments made by the decedent under a plan bear to the total payments or contributions made thereunder. Subsection (c) is made applicable to estates of decedents dying after December 31, 1953. The House recedes.

Amendment No. 271: This amendment makes technical changes in section 2055 (a) of the House bill and adds a new paragraph (4) which would allow a deduction for transfers to or for the use of any veterans' organization incorporated by an act of Congress or of its departments or local chapters or posts, no part of the net earnings of which inure to the benefit of any private shareholder or individual. The House recedes.

Amendment No. 271a: This amendment adds to section 2055 (a) of the House bill a provision under which the complete termination,

prior to exercise, of a power to consume, invade, or appropriate property for the benefit of an individual shall be treated in the same manner for the purposes of the deduction as though it were an irrevocable disclaimer made by such beneficiary.

The House recedes with an amendment making it clear that the termination must occur before the date prescribed for the filing of the estate tax return in order for the transfer of the property subject to the power to qualify for the charitable deduction.

Amendment No. 272: This amendment makes two clerical changes in section 2056 (b) of the House bill and, in addition, amends paragraph (3) so that the provisions of that paragraph apply equally to all of the terminable interest rules in section 2056 (b). The House recedes.

Amendment No. 273: This amendment strikes out subsection (b) (7) of section 2056 which would have specifically excepted from the terminable interest rule generally applicable to the estate tax marital deduction payments for the support of the surviving spouse within 1 year of the decedent's death. In repealing the deduction for support of dependents formerly allowed by section 812 (b) and providing that such amounts will be allowable as a marital deduction, the report of the Committee on Ways and Means on the Revenue Act of 1950 (Rept. No. 2319, 81st Cong.) stated:

> Under existing law amounts expended in accordance with the local law for support of the surviving spouse of the decedent are * * * not allowable as a marital deduction under section 812 (e) of the Code. However, as a result of the amendment made by this section, such amounts heretofore deductible under section 812 (b) will be allowable as a marital deduction subject to the conditions and limitations of section 812 (e).

Many of these "widows' allowances" should qualify for the marital deduction under present law without regard to the time of payment. Therefore, the added complications of this section are largely unnecessary. The House recedes.

Amendment No. 277: This amendment adds at the end of section 2503 (b) of the House bill a provision which would prevent the disallowance of the exclusion in a case where there is a possibility that the present interest may be decreased by the exercise of a power if no part of such interest can pass to another person. This amendment also makes clarifying amendments in section 2503 (c) of the House bill. The House recedes.

Amendment No. 280: This amendment amends section 2515 of the House bill in order that the provisions of this section will also be applicable to joint tenancies in real property between husband and wife with right of survivorship as well as to tenancies by the entirety. The House recedes.

Amendment No. 281: This amendment strikes from section 2516 of the House bill the provision that the section will not apply unless the property settlement was "incident to divorce" and substitutes for the provision that the property settlement must be followed by divorce "within a reasonable time" a provision that the divorce must occur within 2 years. The House recedes.

Amendment No. 301a: Section 4082 (c) of the House bill provided that if a producer or importer uses (otherwise than in the production of gasoline) gasoline sold to him free of tax, or produced or imported by him, such use shall be considered a sale for purposes of the provisions imposing the tax on gasoline sold by the producer or importer.

Senate amendment No. 301a exempts from this rule gasoline used in the production of special motor fuels referred to in section 4041 (b); namely, benzol, benzene, naphtha, liquefied petroleum gas, or any other liquid (other than kerosene, gas oil, fuel oil, or diesel fuel) of a kind sold for use as, or used as, a fuel for the propulsion of a motor vehicle, motorboat, or airplane. The House recedes.

Amendment No. 327 (2): This amendment exempts from tax admissions to athletic games or exhibitions between teams composed of students from colleges if the entire gross proceeds from the game or exhibition inure to the benefit of a hospital for crippled children. The House recedes.

Amendment No. 332: This amendment to section 4233 of the House bill, relating to exemptions from the admissions tax, conforms the section to the changes made by the Excise Tax Reduction Act of 1954 and grants exemption from tax to two new categories of admissions. The new provisions added by the Senate amendment exempt: (1) admissions to baseball games if all the players who participate have amateur or semiprofessional standings, and (A) the game is not conducted primarily for profit; (B) the teams involved do not regularly play for profit; and (C) no part of the net earnings from the game inures to the benefit of any private stockholder or individual; and (2) admissions to rodeos or historical pageants, if the proceeds are used exclusively for the improvement, maintenance, and operation of the rodeo or pageant, and if no part of the net earnings inures to the benefit of any private individual or shareholder. The House recedes.

Amendments Nos. 348 (2) and 349 (3): Under the House bill, strip stamps for distilled spirits were required to be sold by the Internal Revenue Service to persons entitled thereto at a price of 1 cent for each stamp, except that in the case of stamps for containers of less than one-half pint, it was provided that the price be one-fourth cent for each stamp. Under the Senate amendments, no charge would be made for such stamps. The House recedes.

Amendment No. 350 (1): The House bill, provided that stamps for distilled spirits withdrawn for exportation be charged for at the rate of 10 cents per stamp except that, in the case of certain packages or cases withdrawn for export, the charge was 5 cents. The Senate amendment provides that such stamps be furnished free of charge. The House recedes.

Amendment No. 352: The House bill provided that rice wine (saké) be taxed as wine, rather than as fermented malt liquor as under existing law. Senate amendment No. 352 provides that rice wine be taxed as fermented malt liquor. The House recedes.

Amendment No. 357 (1): Section 5055 of the House bill changed the requirements of existing law relating to taxpayment of beer by stamp and provided for payment by return. Further provision was made authorizing the Secretary or his delegate to require stamps or other devices to be affixed to hogsheads, barrels, or kegs of beer at the time of removal, and to make a charge to brewers for the stamps sufficient to defray the expense of preparation. Senate amendment No. 357 deleted that part of the second sentence of the House bill authorizing the Secretary or his delegate to make a charge for such stamps. The House recedes.

Amendment No. 404: Section 5703 (b) of the House bill changed the requirements of existing law relating to the taxpayment of manufactured tobacco articles, and provided for the payment by return. Further provision was made that if stamps were required for manufactured tobacco articles, they should be furnished to manufacturers and importers of tobacco articles at a sum sufficient to defray the cost of preparation. The Senate amendment deletes the provision for sale of such stamps and adds a provision authorizing the Secretary or his delegate to regulate the issuance and use of such stamps for manufactured tobacco articles. The House recedes.

Amendment No. 407: Section 5862 (a) of the House bill provides for the seizure and forfeiture of certain gangster-type firearms made or transferred in violation of chapter 53 of the House bill. The Senate amendment provides for the seizure and forfeiture of such firearms involved in any violation of chapter 53, or regulations promulgated thereunder. The House recedes.

In H. R. 8300 as it was reported by the Ways and Means Committee, as it passed the House, and as it passed the Senate, sections 3108 (a), 3070 (a), and 3072 of the Internal Revenue Code of 1939 were reenacted as sections 5310 (a), 5331, and 5647 of H. R. 8300. As stated in the report of the committees of both the House and the Senate, these provisions, along with all other provisions dealing with distilled spirits, are to be studied further in the light of an anticipated report from the Internal Revenue Service based on a study now being made jointly by a task force of the Service and industry.

In the Ways and Means Committee report, it was specifically stated with respect to section 5331 of H. R. 8300:

> This section is intended to apply to alcohol produced at industrial alcohol plants and withdrawn for denaturation.

In connection with section 5310 of H. R. 8300, the Ways and Means Committee report contained the following statement:

> The term "existing law" in subsection (a) is intended to include section 5331.

It is now understood that there is pending in the courts litigation involving those questions, i. e., whether section 3070 (a) of the Internal Revenue Code of 1939 (now proposed as sec. 5331 (a) of H. R. 8300) is applicable to alcohol produced in industrial alcohol plants and withdrawn for denaturation, and also whether the term "existing law" in section 3108 (a) of the Internal Revenue Code of 1939 (now proposed as sec. 5310 (a) of H. R. 8300) includes section 3070 (a) of the Internal Revenue Code of 1939 (now proposed as sec. 5331 (a) of H. R. 8300).

It is the purpose of the committee of conference, including the managers on the part of the Senate as well as the managers on the part of the House, to make it clear that the reenactment of all of the aforesaid provisions of the 1939 Internal Revenue Code, pending the expected Treasury report to the next Congress, is to be given no consideration in pending litigation as to the meaning or interpretation of those provisions in the 1939 Code.

Amendment Nos. 417 (1), (2), and (4): These amendments extend from January 15 to January 31, the due date prescribed in section 6015 (f) of the House bill for filing an income-tax return in lieu of a final declaration of estimated tax. The House recedes.

Amendment No. 418: This amendment adds subsection (i) to section 6015 of the House bill (relating to declarations of estimated income tax by individuals) making the section applicable only with respect to taxable years beginning after December 31, 1954, and the pertinent sections of the 1939 Code applicable with respect to taxable years beginning before January 1, 1955. The House recedes.

Amendment No. 419: This amendment changes the filing requirement for declarations of estimated income tax by corporations in section 6016 of the House bill. Under the House bill no declaration would have been required if the estimated tax liability was not more than $50,000; the amendment increases that amount to $100,000. The House recedes.

Amendment No. 424: This amendment adds an exception to section 6033 (a) of the House bill (relating to returns by exempt organizations) providing that, in the discretion of the Secretary or his delegate, the pension and profit-sharing trusts described in section 401 (a) of the bill as agreed to in conference may be relieved from stating in their returns any information which is reported in the returns of the employers establishing such trusts. The House recedes.

Amendment No. 431: This amendment to section 6041 of the House bill restores the provisions of section 147 (a) of existing law (relating to information at source on certain payments) to the extent of requiring information returns from persons engaged in a trade or business with respect to payments made in the course of such trade or business. The House recedes.

Amendment No. 436: This amendment requires that gift-tax returns shall be filed on or before April 15 instead of March 15 as provided in the House bill. The House recedes.

Amendment No. 446: This amendment, which adds section 6316 to the House bill, authorizes the Secretary or his delegate in such cases as he may deem proper, and under such regulations and subject to such conditions as the Secretary or his delegate may prescribe, to accept foreign currency in payment of taxes. The House recedes.

Amendment No. 447: This amendment conforms the language of section 6321 of the House bill (relating to liens for taxes) to the language of existing law by deleting the parenthetical phrase "(including the interest of such person as tenant by the entirety)". The House recedes.

Amendment No. 449: Subsection (c) of section 6323 of the House bill provided certain specific rules with respect to the validity of the tax lien, without the filing of notice thereof, as against mortgagees, pledgees, purchasers, and judgment creditors. The Senate amendment strikes out this subsection, thereby continuing in effect the existing law, including applicable rules which have been developed by judicial construction. The House recedes.

Amendment No. 453: This amendment adds a provision to section 6325 (b) of the House bill expressly providing that, if the Secretary or his delegate determines the interest of the United States in a particular piece of property subject to lien to be valueless (considering any prior liens), he may issue a certificate discharging such property from the lien. The House recedes.

Amendment No. 456: The Senate amendment adds arms for personal use, livestock, and poultry to the property exempt from levy

under the limitations of section 6334 of the House bill. The House recedes.

Amendment No. 457: The Senate amendment provides that, in cases where the tax is in jeopardy and levy is made without regard to the 10-day period after notice and demand provided in section 6331 (a) of the House bill, public notice of sale shall not be made within such 10-day period unless the property is perishable property described in section 6336 of the House bill. The House recedes.

Amendment No. 466a: This amendment adds a new provision to section 6416 (b) (2) of the House bill specifying that the tax paid on gasoline shall be considered an overpayment where such tax-paid gasoline is used for the production of special fuels which are taxable under section 4041 (b). The House recedes.

Amendment No. 470: This amendment restores existing law by striking out the provisions of section 6501 (c) (2) of the House bill which extended to income, estate, and gift taxes the rule, applicable to all other taxes, that there would be no limitation on assessment in the case of a willful attempt in any manner to defeat or evade the tax. The House recedes.

Amendment No. 474: This amendment to section 6501 (g) of the House bill provides that, if a taxpayer determines in good faith that it is an exempt organization for a taxable year and files a return as such under section 6033, such return shall be deemed the return of the corporation for purposes of measuring the running of the period of limitation on assessment and collection. The House recedes.

Amendment No. 475: Section 6503 (b) of the House bill provided that the period of limitation on collection after assessment shall be suspended during the period the assets of a taxpayer are in the control or custody of a court, and for 6 months thereafter. The Senate amendment provides that such suspension will not apply where the assets in the control or custody of the court are those of a decedent or incompetent. The House recedes.

Amendments Nos. 477, 478, and 479: These amendments to section 6511 of the House bill (relating to limitations on credit or refund) provide that the 3-year period (as distinguished from the 2-year period after payment) for filing claims for credit or refund shall run from the due date of the return (determined without regard to any extension of time for filing) instead of from the date the return was filed. The House recedes.

Amendment No. 485a: This amendment to section 6531 of the House bill provided that the general period of limitations on prosecutions for criminal offenses under the Internal Revenue Code of 1954 shall be 5 years instead of 3 years. The Senate recedes.

Amendments Nos. 486 (1), (2), and (3): These amendments to section 6531 of the House bill removed from the listed criminal offenses to which the 6-year period of limitations applies under the bill the following offenses: (1) The offense of willfully failing to pay the tax or make any tax return at the time or times required by law or regulations; (2) the offenses described in sections 7206 (1) and 7207, relating to false statements and fraudulent documents; (3) the offense described in section 7212 (a), relating to intimidation of officers or employees of the United States; and (4) the offenses described in section 7214 (a) committed by officers and employees of the United States. The Senate recedes.

Amendment No. 486 (4): This amendment applies that part of section 6531 of the House bill which provides that the period of limitations on criminal prosecution shall be suspended during the period of time the taxpayer is outside of the territorial limits of the United States (instead of outside the judicial district where the offense was committed), to offenses committed under the Internal Revenue Code of 1939 with respect to which the statute of limitations has not expired prior to the effective date of this section. This provision shall be deemed an amendment to section 3748 (a) of the Internal Revenue Code of 1939, except that if the period of limitations provided in this section would expire prior to 3 years after the date of enactment of the Internal Revenue Code of 1954 solely by reason of such amendment, it shall not expire prior to the end of such 3-year period. The House recedes.

Amendment No. 487: This amendment to section 6532 (b) of the House bill restores existing law by reducing from 6 years to 5 years the period in which the United States may bring suit to recover an erroneous refund if it appears that any part of such refund was induced by fraud or misrepresentation of a material fact. The House recedes.

Amendment No. 488: This amendment to section 6601 (f) of the House bill (relating to interest on underpayments) provides that if notice and demand is made for payment of tax, and if the amount demanded is paid within 10 days after such notice and demand, interest will not be imposed upon such amount for the period subsequent to the date of the notice and demand. The House recedes.

Amendment No. 494: This amendment to section 6653 (a) of the House bill provided that the addition to the tax of 5 percent of an underpayment of income tax or gift tax due to intentional disregard of rules or regulations shall not be made where a taxpayer in good faith intentionally disregards rules and regulations because he reasonably believes the rules or regulations are invalid and attaches to his return an adequate statement which sets forth the rules or regulations disregarded and the grounds for believing them invalid. The Senate recedes.

Amendments Nos. 495, 496, 497, 498, and 498a: These amendments make the following changes in section 6654 of the House bill (relating to failure by individuals to pay estimated income tax):

(1) Amendment No. 495 amends subsection (d) to provide that no additional charge shall be applied with respect to any installment where the total amount of tax paid by the installment date is not less than 90 percent of the tax computed, at the rates applicable to the taxable year, on the basis of the actual taxable income for the months in the taxable year ending before the month in which the installment is required to be paid (as if such months constituted a taxable year). The House recedes.

(2) Amendment No. 496 adds subsection (e) providing that for the purposes of this section the estimated tax shall be computed without any reduction for the amount which the taxpayer estimates as his credit under section 31 (relating to tax withheld at source on wages). Subsection (e) also provides that, for the purposes of this section, the amount of the credit allowed under section 31 for the taxable year shall be deemed a payment of estimated tax, and an equal part of such amount shall be deemed paid on each installment date (determined

under section 6153) for such taxable year. However, if the taxpayer establishes the dates on which all amounts were actually withheld, the amounts so withheld shall be deemed payments of estimated tax on the dates on which such amounts were actually withheld. The House recedes.

(3) Amendment No. 497 redesignates subsection (e) of the House bill as subsection (f) and as such it is amended to provide that the term "tax", for the purposes of subsections (b) and (d), means the tax imposed by chapter 1 reduced by the credits against tax allowed by part IV of subchapter A of chapter 1 other than the credit against tax provided by section 31. The House recedes.

(4) Amendment No. 498 adds subsection (g) providing that the application of this section to taxable years of less than 12 months shall be only in such manner as may be prescribed by regulations. The House recedes.

(5) Amendment No. 498a adds subsection (h) providing that this section shall apply only with respect to taxable years beginning after December 31, 1954, and that section 294 (d) of the 1939 Code shall apply with respect to taxable years beginning before January 1, 1955. The House recedes.

Amendments Nos. 499 and 501: These amendments make the following changes in section 6655 of the House bill (relating to failure by corporations to pay estimated income tax):

(1) Amendment No. 499 (1) amends section 6655 (d) (1) to provide that an installment of estimated tax will be deemed sufficient if it is based on the tax shown on the return of the corporation for the preceding taxable year reduced by $100,000, if a return showing a liability for tax was filed by the corporation for the preceding taxable year and such preceding year was a taxable year of 12 months. The House recedes.

(2) Amendment No. 499 (2) amends section 6655 (d) (3) of the House bill to provide that, in computing the tax on an annualized basis by reference to the months in the taxable year before the installment date, the income to be annualized may be either that for the months immediately preceding the month of the installment date, or for a period ending 2 months earlier, whichever will result in no charge being made. The House recedes.

(3) Amendment No. 501 adds subsection (f) to section 6655 of the House bill, providing that the application of this section to taxable years of less than 12 months shall be only in such manner as may be prescribed by regulations. The House recedes.

Amendment No. 502: Section 6863 (a) of the House bill (relating to stay of collection of jeopardy assessments) provided, like existing law, that the amount of the bond required to stay collection of a jeopardy assessment might be as much as double the amount of the tax the collection of which was sought to be stayed. The Senate amendment provides that the amount of the bond shall be equal to the amount of the tax, including any additions thereto, collection of which is sought to be stayed. The House recedes.

Amendment No. 503: This amendment, for which there is no corresponding provision in the House bill, provides for the stay of sale of property seized under a jeopardy assessment of income, estate, or gift tax during the period a petition may be filed with the Tax

Court and, if such petition is filed, until the decision of the Tax Court becomes final. The provision does not apply if the taxpayer consents to the sale, or if the Secretary or his delegate determines that the expenses of conservation and maintenance of the property seized will greatly reduce the proceeds, or if the property is perishable goods as defined in section 6336 of the House bill. The House recedes.

Amendment No. 505 (2): Section 6901 (d) (1) of the House bill provided that, if a transferee or fiduciary agreed to an extension of the period for assessment, the period for filing claim for credit or refund of tax paid by him is also extended for the period of the agreement and 6 months thereafter. The Senate amendment provides that, where the statute of limitations is extended for an overpayment made by the transferee or fiduciary, it will be extended for a like period with respect to an overpayment made by the transferor in those cases where the transferee or fiduciary is legally entitled to credit or refund of such overpayment. The House recedes.

Amendments Nos. 506 and 507: These amendments eliminate the provisions of the House bill which would change existing law by treating a willful failure to make a tax return as a felony rather than a misdemeanor. Under the amendments, as under existing law, a willful attempt in any manner to evade or defeat tax or the payment thereof will be treated as a felony and the willful failure to file a tax return will be treated as a misdemeanor. The House recedes.

Amendment No. 508: The Senate amendment reduces the punishment imposed for offenses under section 7206, relating to fraud and false statements, from a fine of not more than $10,000 or imprisonment for not more than 5 years, or both, as contained in the House bill, to a fine of not more than $5,000, or imprisonment of not more than 3 years, or both. The House recedes.

Amendment No. 510: This amendment to section 7212 of the House bill defines threats of force as meaning threats of bodily harm to the officer or employee of the United States or to a member of his family, and provides that if an offense is committed only by threats of force it is to be punishable by a fine of not more than $3,000, or imprisonment for not more than 1 year, or both. The House recedes.

Amendment No. 511: This amendment to section 7232 of the House bill reduces the maximum fine for failure to register or give bond, or for making false statement, by a manufacturer or producer of gasoline or lubricating oil from $10,000 to $5,000, which corresponds to the maximum fine imposed under existing law. The House recedes.

Amendment No. 515: The House bill contained a specific provision that the assessment of the tax upon which the lien of the United States is based shall be conclusively presumed to be valid for purposes of adjudication in an action to enforce the lien of the United States or to subject property of the delinquent to the payment of the tax. The Senate amendment eliminated this provision, thereby restoring existing law. The elimination of this provision is not designed to change the effect under existing law given to the assessment in such an adjudication. The House recedes.

Amendment No. 518: Section 7422 (e) of the House bill provided for a stay of proceedings in cases where there is concurrent jurisdiction in a district court (or the Court of Claims) and in the Tax Court of the same case. The Senate amendment provides that such a stay shall not apply to a suit by a taxpayer which, prior to date of enact-

ment of the 1954 Code, is commenced, instituted, or pending in a district court or the Court of Claims for recovery of any income tax, estate tax, or gift tax (including penalties). The House recedes.

Amendment No. 521: This amendment deletes the provision of the House bill (also contained in existing law) which required the Secretary or his delegate to provide the Tax Court with suitable rooms in courthouses or other buildings when necessary for hearings by the Tax Court outside the District of Columbia. The House recedes.

Amendment No. 524: This amendment provides that if a retired judge of the Tax Court is recalled to duty he will receive, during his period of duty, the same compensation as is then being paid to other judges of the Tax Court but will not receive retirement pay for such period. The House recedes.

Amendment No. 526: The Senate amendment provides that the clerk of the Tax Court or his deputies may administer oaths without designation in writing by the chief judge. The House recedes.

Amendment No. 528: The House bill provided that, if one party to a proceeding in the Tax Court files a petition for review, an additional month to file a petition for review will be available to the adverse party to the proceeding. The Senate amendment extends this provision to any party to the proceeding, whether or not such party is an adverse party. The House recedes.

Amendment No. 530: Section 7494 of the House bill provided specific rules for determining venue in criminal prosecutions for offenses under the internal revenue laws. The House bill provided, among other things, that tax would be deemed to have been paid (and a return filed) in the judicial district where a taxpayer resides if the mails were used, or at the office of the internal revenue officer if delivered in any other manner. The Senate amendment strikes out this section of the House bill. The House recedes.

Amendment No. 535: The Senate amendment restores the provisions of existing law which exempt consular officers and employees of foreign states from payment of internal-revenue taxes on imported articles. The House bill contained no similar provisions. The House recedes.

Amendment No. 537: This amendment to section 7621 of the House bill restores the prohibition contained in existing law that parts of two different States may not be combined into one internal-revenue district. The House recedes.

Amendment No. 541: The Senate amendment to section 7701 (a) (20) of the House bill, relating to definitions, extends the application of the term "employee" as it relates to certain full-time life-insurance salesmen, to include those sections of the income tax laws which relate to accident and health insurance, or accident and health plans, or to employees' death benefits. The House recedes.

Amendment No. 545 (1): The House bill provided that chapter 3 of the House bill (relating to withholding of tax on nonresident aliens, foreign corporations, and tax-free covenant bonds), and chapter 5 of the House bill (relating to transfers to avoid income tax), applied to payments and transfers occurring after the date of enactment of the bill. The Senate amendment makes these provisions applicable to payments and transfers occurring after December 31, 1954. The House recedes.

Amendment No. 545 (2): The Senate amendment added a new sentence at the end of section 7851 (a) (1) (C) to the effect that the provisions of the 1939 Code which are superseded by the provisions of subtitle A (relating to the income taxes) of the 1954 Code, the applicability of which is stated in terms of a specific date occurring after December 31, 1953, shall be deemed to be included in subtitle A of the 1954 Code (thus making them applicable to taxable years beginning after December 31, 1953), but shall be applicable only with respect to the period prior to the taking effect of the corresponding provision of such subtitle A. The Senate amendment likewise added a new subparagraph (D) which provided that in the case of a taxable year beginning after March 31, 1954, sections 244 (relating to dividends received on certain preferred stock), 247 (relating to dividends paid on certain preferred stock of public utilities), and 922 (relating to deduction for Western Hemisphere trade corporations) of the 1954 Code shall apply without regard to whether such taxable year ended before, on, or after the date of enactment of the 1954 Code.

The House recedes with an amendment which revises subparagraph (D) of section 7851 (a) (1). The new subparagraph (D) is applicable with respect to taxable years ending after March 31, 1954, which are subject to tax under chapter 1 of the 1939 Code. The new subparagraph (D) makes amendments to various provisions of the 1939 Code which are necessary to carry into effect the extension of the corporate tax rate and credits which under the 1939 Code were applicable only with respect to taxable years beginning before April 1, 1954, and to repeal the reduction in the corporate tax rate and prevent the changes in credits which under the 1939 Code were to take effect with respect to taxable years beginning after March 31, 1954.

Amendment No. 545 (3): This amendment, by an addition to section 7851 (a) (4) of the House bill, provides that provisions having the same effect as section 6416 (b) (2) (H) of the bill (see the explanation under Senate amendment No. 466a) and so much of section 4082 (c) of the bill as refers to special motor fuels (see the explanation under Senate amendment No. 301a) shall be considered to be included in the Internal Revenue Code of 1939 effective as of May 1, 1954. The Senate amendment also removes whatever ambiguity may have existed under the Excise Tax Reduction Act of 1954 with respect to the rate of tax on diesel fuel for the month of April 1954 by expressly providing that section 2450 (a) of the Internal Revenue Code of 1939, as amended by the Excise Tax Reduction Act of 1954, applies to the period beginning on April 1, 1954, and ending on December 31, 1954. The effect of this latter provision of the Senate amendment is to make it clear that the rate of tax on diesel fuel for the month of April 1954 is 2 cents per gallon, rather than 1½ cents per gallon. The House recedes.

Amendment No. 545 (4): The House bill provides an effective date of January 1, 1955, with respect to subtitle E of the 1954 Code, relating to alcohol, tobacco, and certain other excise taxes. The Senate amendment provides an exception with respect to chapter 53 of the House bill (relating to taxes on machineguns and certain other firearms), the provisions in section 5411 of the House bill permitting the use of a brewery for the purpose of producing and bottling soft drinks under regulations, and the provisions of section 5554 of the House bill (relating to pilot-plant operations), so as to make these

provisions effective beginning with the day after the date of enactment of this title. The House recedes.

Amendment No. 546: The House bill provided that subtitle F of the bill (relating to procedures and administration) applies on and after the day after the enactment of the 1954 Code, except that certain provisions of the 1939 Code will continue to apply to taxes imposed by that code. The Senate amendment provides that the provisions of chapter 63 of the 1954 Code relating to assessment (other than those relating to deficiency procedures in the case of income, estate, and gift taxes), chapter 64, relating to collection, and chapter 65, relating to abatements, credits, and refunds (other than the provisions of sec. 6405, relating to reports of refunds and credits to the Joint Committee on Internal Revenue Taxation) shall not be effective until January 1, 1955, when they shall apply to taxes under both the 1939 Code and the 1954 Code. Before January 1, 1955, the corresponding provisions of the 1939 Code shall remain in effect with respect to taxes under both the 1939 Code and the 1954 Code. The House recedes.

Amendment No. 548: Subsection (b) of section 7851 of the House bill contained provisions that all offices, positions, appointments, employments, boards, or committees authorized by the 1954 Code shall not be abolished by repeal of the pertinent provisions of the 1939 Code. The Senate amendment makes clarifying changes and makes the provision also applicable to internal-revenue districts. The Senate amendment is designed to continue (despite repeal of the 1939 Code and enactment of the 1954 Code) all offices, positions, boards, and committees, all appointments and employments of officers and employees, and all internal-revenue districts, existing immediately before enactment of the 1954 Code, the continuance of which is not manifestly inconsistent with any provision of the 1954 Code. The amendment also makes clear that, in every such case, the authority to make changes shall not be restricted by this provision of the 1954 Code. The Senate amendment also adds a provision that, notwithstanding the repeal of the 1939 Code, any delegation of authority (including redelegations thereunder) pursuant to the provisions of Reorganization Plan No. 26 of 1950 or Reorganization Plan No. 1 of 1952, and in effect immediately preceding enactment of the 1954 Code, shall remain in effect for purposes of the 1954 Code, unless clearly inconsistent therewith. The provision does not limit in any manner the power to amend, modify, or revoke such delegations or redelegations of authority. The House recedes.

Amendment No. 550: The House bill provided that no provision of the 1954 Code is to apply where its application would be contrary to any treaty obligation. The Senate amendment limits this prohibition to treaties in effect on the date of enactment of the 1954 Code. The House recedes.

Amendment No. 551: This amendment added section 201 of the Miscellaneous Title to the House bill to authorize the Attorney General and the Federal Bureau of Investigation to investigate any violation of title 18, United States Code, involving Federal employees and requiring the head of every department or agency to report to the Attorney General all information relating to such violations received in his department or agency, unless responsibility for performing such investigation has been specifically otherwise assigned

by existing law or the Attorney General otherwise directs. Existing authority of all agencies to investigate matters conferred upon them was not to be limited.

Existing law authorizes the Secret Service to detect and arrest any person violating any law concerning matters administered by and under the direct control of the Treasury Department. This amendment also added section 202 to the bill, striking the provision in section 3056 of title 18, United States Code, which confers such authority. The Senate recedes.

Amendment No. 552: This amendment added section 203 of the Miscellaneous Title to the bill amending section 3748 (a) of the 1939 Code (relating to periods of limitation for prosecution of offenses committed under the internal revenue laws) and section 3282 of title 18 of the United States Code (relating to periods of limitation for prosecution of certain noncapital criminal offenses) so as to extend the period of limitation under each section from 3 years to 5 years. The amendments were to be effective as to all offenses committed on or after the date of enactment of this bill and as to offenses committed prior thereto prosecution of which was not barred on the date of enactment. The House recedes with an amendment which eliminates the amendment to section 3282 of title 18, and limits the extension of the period of limitations under section 3748 (a) of the 1939 Code to offenses under section 4047 (e) of the 1939 Code, thereby confining it to certain offenses of officers and agents appointed and acting under authority of the revenue laws.

DANIEL A. REED,
THOMAS A. JENKINS,
RICHARD M. SIMPSON,
Managers on the Part of the House.

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