77TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 2586

REVENUE ACT OF 1942

OCTOBER 19, 1942.—Ordered to be printed

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

CONFERENCE REPORT

[To accompany H. R. 7378]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7378) to provide revenue, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 76, 114, 216, 243, 387, 388, 389, 392, 400, 407, 414, 415, 432, 436, 461, 484, 492, and 501.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 72, 73, 74, 75, 79, 80, 82, 84, 85, 87, 89, 90, 91, 94, 95, 96, 97, 98, 99, 100, 101, 102, 108, 109, 113, 118, 119, 120, 121, 122, 123, 126, 128, 129, 132, 133, 134, 135, 136, 138, 139, 140, 141, 142, 143, 144, 145, 146, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 162, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 180, 182, 183, 184, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 198, 199, 200, 201, 202, 207, 209, 210, 211, 212, 213, 214, 218, 222, 223, 225, 226, 227, 228, 229, 230, 231, 232, 233, 235, 236, 237, 238, 239, 240, 241, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 292, 293, 294, 295, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 390, 393, 394, 395, 396, 397, 398, 401, 403, 404,

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Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, 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: *$385*; and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendments as follows:

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

In the case of any corporation computing such tax under section 721 (relating to abnormalities in income in the taxable period), section 726 (relating to corporations completing contracts under the Merchant Marine Act of 1936), section 731 (relating to corporations engaged in mining strategic minerals), or section 736 (b) (relating to corporations with income from long-term contracts), the credit shall be the amount of which the tax imposed by such subchapter is 90 per centum. For the purpose of the preceding sentence the term 'tax imposed by Subchapter E of Chapter 2' means the tax computed without regard to the limitation provided in section 710 (a) (1) (B) (the 80 per centum limitation), without regard to the credit provided in section 729 (c) and (d) for foreign taxes paid, and without regard to the adjustments provided in section 734.

And the Senate agree to the same.

Amendment numbered 34:

That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows:

Omit the matter proposed to be inserted by the Senate amendment; and restore the matter proposed to be stricken out by the Senate and on page 21, line 18, of the House bill strike out "111" and insert *112*; and the Senate agree to the same.

Amendment numbered 46:

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

On page 19, line 19, of the Senate engrossed amendments after "deficiency" insert *but without interest*; and on page 21, line 13, of the Senate engrossed amendments after "liquidation" insert *or replacement*; and the Senate agree to the same.

Amendment numbered 70:

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

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *169*; and the Senate agree to the same.

Amendment numbered 71:

That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment, as follows:

On page 29, line 21, of the Senate engrossed amendments, after "children" insert:
(but in the case of contributions or gifts to a trust, chest, fund, or foundation, payment of which is made within a taxable year beginning after the date of the cessation of hostilities in the present war, as proclaimed by the President, only if such contributions or gifts are to be used within the United States or any of its possessions exclusively for such purposes)
And the Senate agree to the same.

Amendment numbered 77:

That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment, as follows:
On page 33, line 18, of the Senate engrossed amendments strike out "129" and insert *128*; and the Senate agree to the same.

Amendment numbered 78:

That the House recede from its disagreement to the amendment of the Senate numbered 78, 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: *129*; and the Senate agree to the same.

Amendment numbered 81:

That the House recede from its disagreement to the amendment of the Senate numbered 81, 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: *130*; 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 an amendment, as follows:
In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *131*; and the Senate agree to the same.

Amendment numbered 86:

That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment, as follows:
On page 37, line 21, of the Senate engrossed amendments strike out "$300" and insert the following: *$350*; and the Senate agree to the same.

Amendment numbered 88:

That the House recede from its disagreement to the amendment of the Senate numbered 88, 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: *132*; and the Senate agree to the same.

Amendment numbered 92:

That the House recede from its disagreement to the amendment of the Senate numbered 92, 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. 133. CREDIT FOR DIVIDENDS PAID ON CERTAIN PREFERRED STOCK.

Section 26 is amended by inserting at the end thereof the following new subsection:

"*(h) CREDIT FOR DIVIDENDS PAID ON CERTAIN PREFERRED STOCK.—*

"*(1) AMOUNT OF CREDIT.—In the case of a public utility, the amount of dividends paid during the taxable year on its preferred stock. The credit provided in this subsection shall be subtracted from the basic surtax credit provided in section 27.*

"*(2) DEFINITIONS.—As used in this subsection and section 15 (a)—*

"*(A) Public Utility.—The term 'public utility' means a corporation engaged in the furnishing of telephone service or in the sale of electric energy, gas, or water, if the rates for such furnishing or sale, as the case may be, have been established or approved by a State or political subdivision thereof or by an agency or instrumentality of the United States or by a public utility or public service commission or other similar body of the District of Columbia or of any State or political subdivision thereof.*

"*(B) Preferred Stock.—The term 'preferred stock' means stock issued prior to October 1, 1942, which during the whole of the taxable year (or the part of the taxable year after its issue) was stock the dividends in respect of which were cumulative, limited to the same amount, and payable in preference to the payment of dividends on other stock.*"

And the Senate agree to the same.

Amendment numbered 93:

That the House recede from its disagreement to the amendment of the Senate numbered 93, 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: *134*; and the Senate agree to the same.

Amendment numbered 103:

That the House recede from its disagreement to the amendment of the Senate numbered 103, 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: *135*; 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:

On page 41, line 9, of the Senate engrossed amendments strike out "137" and insert *136*; and the Senate agree to the same.

Amendment numbered 105:

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

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

SEC. 137. EXEMPTION OF VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATIONS.

(a) EXEMPTION OF VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATION.—Section 101 (16) of the Internal Revenue Code, and of the Revenue Acts of 1938, 1936, and 1934, and section 103 (16) of the Revenue Acts of 1932 and 1928, are amended to read as follows:

> *"(16) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if (A) no part of their net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (B) 85 per centum or more of the income consists of amounts collected from members and amounts contributed to the association by the employer of the members for the sole purpose of making such payments and meeting expenses;".*

(b) RETROACTIVE EFFECT.—For the purposes of the Internal Revenue Code and the Revenue Acts of 1928, 1932, 1934, 1936, and 1938, the amendments made to the Internal Revenue Code and those Acts by subsection (a) of this section shall be effective as if they were a part of the Internal Revenue Code and such revenue Acts on the respective dates of their enactment.

(c) AMENDMENTS INAPPLICABLE TO EMPLOYMENT TAXES.—The amendments made by this section shall not apply to the employment taxes imposed by Subchapters A and C of Chapter 9 of the Internal Revenue Code, or the corresponding provisions of a prior law.

And the Senate agree to the same.

Amendment numbered 106:

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

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *138*; and the Senate agree to the same.

Amendment numbered 107:

That the House recede from its disagreement to the amendment of the Senate numbered 107, 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: *139*; and the Senate agree to the same.

Amendment numbered 110:

That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with the following amendments:

On page 47, line 18, of the Senate engrossed amendments strike out "141" and insert *140*;

On page 48 of the Senate engrossed amendments beginning with line 10 strike out down to and including the comma in line 13, and insert:

"*(B) that portion of a tentative tax, computed as if the amendments made by section 105 (a) and the amendments made by sections 105 (b) (other than those relating to dividends on the preferred stock of public utilities) (c), (d), and (e) (1) of the Revenue Act of 1942 were applicable to such taxable year,*

And the Senate agree to the same.

Amendment numbered 111:

That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment, as follows:

On page 49, line 16, of the Senate engrossed amendments strike out "142" and insert *141*; and the Senate agree to the same.

Amendment numbered 112:

That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment, as follows:

On page 50, line 13, of the Senate engrossed amendments strike out "143" and insert *142*; and the Senate agree to the same.

Amendment numbered 115:

That the House recede from its disagreement to the amendment of the Senate numbered 115, 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: *143*; and the Senate agree to the same.

Amendment numbered 116:

That the House recede from its disagreement to the amendment of the Senate numbered 116, and agree to the same with an amendment, as follows:

On page 59, line 3, of the Senate engrossed amendments strike out "146" and insert *144*; and the Senate agree to the same.

Amendment numbered 117:

That the House recede from its disagreement to the amendment of the Senate numbered 117, 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: *145*; and the Senate agree to the same.

Amendment numbered 124:

That the House recede from its disagreement to the amendment of the Senate numbered 124, 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: *146*; and the Senate agree to the same.

Amendment numbered 125:

That the House recede from its disagreement to the amendment of the Senate numbered 125, 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: *147*; and the Senate agree to the same.

Amendment numbered 127:

That the House recede from its disagreement to the amendment of the Senate numbered 127, 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: *148*; and the Senate agree to the same.

Amendment numbered 130:

That the House recede from its disagreement to the amendment of the Senate numbered 130, 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: *149*; and the Senate agree to the same.

Amendment numbered 131:

That the House recede from its disagreement to the amendment of the Senate numbered 131, 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: *150*; and the Senate agree to the same.

Amendment numbered 137:

That the House recede from its disagreement to the amendment of the Senate numbered 137, and agree to the same with an amendment, as follows:

On page 83, line 15, of the House bill strike out "201,"; and the Senate agree to the same.

Amendment numbered 147:

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

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *151*; and the Senate agree to the same.

Amendment numbered 159:

That the House recede from its disagreement to the amendment of the Senate numbered 159, 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: *152*; and the Senate agree to the same.

Amendment numbered 160:

That the House recede from its disagreement to the amendment of the Senate numbered 160, and agree to the same with an amendment, as follows:

On page 66, line 12, of the Senate engrossed amendments strike out "155" and insert *153*; and the Senate agree to the same.

Amendment numbered 161:

That the House recede from its disagreement to the amendment of the Senate numbered 161, 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: *154*; and the Senate agree to the same.

Amendment numbered 163:

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

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *155*; and the Senate agree to the same.

Amendment numbered 178:

That the House recede from its disagreement to the amendment of the Senate numbered 178, and agree to the same with the following amendments:

On page 72, line 2, of the Senate engrossed amendments strike out "158" and insert *156*;

On page 74, line 21, of the Senate engrossed amendments after the period insert:

Under regulations prescribed by the Commissioner with the approval of the Secretary, a taxpayer which owns 100 per centum (excluding qualifying shares) of each class of stock of a corporation may elect to determine the worthlessness of its interest, described in this paragraph, in or with respect to the property of the corporation, without regard to the amount of the property of such corporation which would be excluded under subsection (e) (2) (A) in determining the adjusted basis of all the assets of the corporation for the purposes of subsection (e), but such amount shall be treated under subsection (b) (1) as a recovery by the taxpayer in the taxable year with respect to such interest.

On page 80, line 6, of the Senate engrossed amendments after "owns" insert *not less than*;

On page 80, line 12, of the Senate engrossed amendments after "liquidates" insert:

(by distributing all the assets which it is able to distribute and all its rights to assets which it is not able to distribute, including the right to the recovery of the property described in subsection (a) (1) and (2));

On page 80, line 21, of the Senate engrossed amendments after "stock" insert *or other interest*;

On page 80, line 22, of the Senate engrossed amendments after "stock" insert *or other interest.*

And the Senate agree to the same.

Amendment numbered 179:

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

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

SEC. 157. RECOVERY OF UNCONSTITUTIONAL FEDERAL TAXES.

(a) IN GENERAL.—Chapter 1 of the Internal Revenue Code is amended by inserting after section 127 the following new section:

"SEC. 128. RECOVERY OF UNCONSTITUTIONAL FEDERAL TAXES.

"Income (excluding interest) attributable to the recovery during the taxable year of a tax imposed by the United States which has been held unconstitutional, and in respect of which a deduction was allowed in a prior taxable year may be excluded from gross income for the taxable year, and the deduction allowed in respect thereof in such prior taxable year treated as not having been allowable, if—

"(a) The taxpayer elects in writing (at such time and in such manner as may be prescribed by regulations prescribed by the Commissioner with the approval of the Secretary) to treat such deduction as not having been allowable for such prior taxable year, and

"(b) The taxpayer consents in writing to the assessment, within such period as may be agreed upon, of any deficiencies resulting from such treatment, even though the statutory period for the assessment of any such deficiency had expired prior to the filing of such consent."

(b) TAXABLE YEARS TO WHICH APPLICABLE.—The amendment made by subsection (a) shall be applicable with respect to taxable years beginning after December 31, 1940.

And the Senate agree to the same.

Amendment numbered 181:

That the House recede from its disagreement to the amendment of the Senate numbered 181, and agree to the same with an amendment, as follows:

On page 83, line 18, of the Senate engrossed amendments strike out "160" and insert *158*; and the Senate agree to the same.

Amendment numbered 185:

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

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *159*; and the Senate agree to the same.

Amendment numbered 197:

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

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *160*; and the Senate agree to the same.

Amendment numbered 203:

That the House recede from its disagreement to the amendment of the Senate numbered 203, and agree to the same with an amendment, as follows:

On page 89, line 13, of the Senate engrossed amendments strike out "163" and insert *161*; and the Senate agree to the same.

Amendment numbered 204:

That the House recede from its disagreement to the amendment of the Senate numbered 204, and agree to the same with the following amendments:

On page 90, line 15, of the Senate engrossed amendments strike out "164" and insert *162*;

On page 95, line 16, of the Senate engrossed amendments strike out "both the";

On page 95, line 22, of the Senate engrossed amendments strike out "both";

On page 98, lines 5 and 6, of the Senate engrossed amendments strike out "the persons who are made the beneficiaries of the contributions paid by the employer" and insert *all employees*;

Beginning with line 16 of page 104 of the Senate engrossed amendments strike out down through and including line 17 on page 105.

And the Senate agree to the same.

Amendment numbered 205:

That the House recede from its disagreement to the amendment of the Senate numbered 205, 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: *163*; and the Senate agree to the same.

Amendment numbered 206:

That the House recede from its disagreement to the amendment of the Senate numbered 206, and agree to the same with the following amendments:

On page 107, line 11, of the Senate engrossed amendments strike out "which has" and insert *the*; and on page 107, line 14, of the Senate engrossed amendments strike out "comprising" and insert *of which comprise*; and the Senate agree to the same.

Amendment numbered 208:

That the House recede from its disagreement to the amendment of the Senate numbered 208, and agree to the same with an amendment, as follows:

On page 115, line 9, of the Senate engrossed amendments strike out "166" and insert *164*; and the Senate agree to the same.

Amendment numbered 215:

That the House recede from its disagreement to the amendment of the Senate numbered 215 and agree to the same with the following amendments:

On page 118, line 8, of the Senate engrossed amendments strike out "167" and insert *165*;

Strike out pages 119 and 120, and the first two lines of page 121, of the Senate engrossed amendments and insert in lieu thereof the following:

every mutual insurance company (other than a life or a marine insurance company and other than an interinsurer or reciprocal underwriter) a tax computed under paragraph (1) or paragraph (2) whichever is the greater and upon the income of every mutual insurance company (other than a life or a marine insurance company) which is an interinsurer or reciprocal underwriter, a tax computed under paragraph (3):

"(1) If the corporation surtax net income is over $3,000 a tax computed as follows:

"(A) Normal Tax.—A normal tax on the normal-tax net income, computed at the rates provided in section 13 or section 14 (b), or 30 per centum of the amount by which the normal-tax net income exceeds $3,000, whichever is the lesser; plus

"(B) Surtax.—A surtax on the corporation surtax net income, computed at the rates provided in section 15 (b), or 20 per centum of the amount by which the corporation surtax net income exceeds $3,000, whichever is the lesser.

"(2) If for the taxable year the gross amount of income from interest, dividends, rents, and net premiums, minus dividends to policy holders, minus the interest which under section 22 (b) (4) is excluded from gross income, exceeds $75,000, a tax equal to the excess of—

"(A) 1 per centum of the amounts so computed, or 2 per centum of the excess of the amount so computed over $75,000, whichever is the lesser, over

"(B) the amount of the tax imposed under Subchapter E of Chapter 2.

"(3) In the case of an interinsurer or reciprocal underwriter, if the corporation surtax net income is over $50,000 a tax computed as follows:

"(A) Normal Tax.—A normal tax on the normal-tax net income, computed at the rates provided in section 13 or section 14 (b), or 48 per centum of the amount by which the normal-tax net income exceeds $50,000, whichever is the lesser; plus

"(B) Surtax.—A surtax on the corporation surtax net income, computed at the rates provided in section 15 (b), or 32 per centum of the amount by which the corporation surtax net income exceeds $50,000, whichever is the lesser.

"(4) GROSS AMOUNT RECEIVED OVER $75,000 BUT LESS THAN $125,000.—If the gross amount received during the taxable year from interest, dividends, rents, and premiums (including deposits and assessments) is over $75,000 but less than $125,000, the amount ascertained under paragraph (1), paragraph (2) (A), and paragraph (3) shall be an amount which bears the same proportion to the amount ascertained under such paragraph, computed without reference to this paragraph, as the excess over $75,000 of such gross amount received bears to $50,000.

"(5) FOREIGN MUTUAL INSURANCE COMPANIES OTHER THAN LIFE OR MARINE.—In the case of a foreign mutual insurance company (other than a life or marine insurance company), the net income shall be the net income from sources within the United States and the gross amount of income from interest, dividends, rents, and net premiums shall be the amount of such income from sources within the United States.

"(6) NO UNITED STATES INSURANCE BUSINESS.—Foreign mutual insurance companies (other than a life or marine insurance company) not carrying on an insurance business within the United States shall not be taxable under this section but shall be taxable as other foreign corporations.

On page 83, line 15, of the House bill after "207" insert: (*a*) (*1*) *or* (*3*).

And the Senate agree to the same.

Amendment numbered 217:

That the House recede from its disagreement to the amendment of the Senate numbered 217, 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: *166*; and the Senate agree to the same.

Amendment numbered 219:

That the House recede from its disagreement to the amendment of the Senate numbered 219, 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: *167*; and the Senate agree to the same.

Amendment numbered 220:

That the House recede from its disagreement to the amendment of the Senate numbered 220, and agree to the same with an amendment, as follows:

On page 127, line 5, of the Senate engrossed amendments strike out "170" and insert *168*; and the Senate agree to the same.

Amendment numbered 221:

That the House recede from its disagreement to the amendment of the Senate numbered 221, 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: *169*; and the Senate agree to the same.

Amendment numbered 224:

That the House recede from its disagreement to the amendment of the Senate numbered 224, 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: *170*; and the Senate agree to the same.

Amendment numbered 234:

That the House recede from its disagreement to the amendment of the Senate numbered 234, 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: *171*; and the Senate agree to the same.

Amendment numbered 242:

That the House recede from its disagreement to the amendment of the Senate numbered 242, and agree to the same with the following amendments:

On page 133, line 19, of the Senate engrossed amendments strike out "174" and insert *172*;

On page 134 of the Senate engrossed amendments, strike out lines 8 to 14, inclusive, and insert in lieu thereof the following:

"(*a*) DEFINITION.—*The term 'victory tax net income' in the case of any taxable year means (except as provided in subsection (c)) the gross income for such year (not including gain from the sale or exchange of capital assets as defined in section 117, or interest allowed as a credit against net income under section 25 (a) (1) and (2), or amounts received as compensation for injury or sickness which are included in gross*

income by reason of the exception contained in section 22 (b) (5)) minus the sum of the following deductions:

On page 138 of the Senate engrossed amendments, line 24, strike out "another" and insert *one other person*; on page 142 of the Senate engrossed amendments, lines 19 and 23, strike out "(f)" and insert (*e*); on page 143 of the Senate engrossed amendments, line 7, before "for services" insert (*other than fees paid to a public official*); on page 144 of the Senate engrossed amendments, strike out lines 6 to 15, inclusive, and insert in lieu thereof the following:

"(*d*) EMPLOYEE.—*The term 'employee' includes an officer, employee, or elected official of the United States, a State, Territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term 'employee' also includes an officer of a corporation.*

On page 150 of the Senate engrossed amendments, strike out lines 1 to 6; on page 150 of the Senate engrossed amendments, lines 7 and 14, strike out "(e)" and "(f)" and insert (*d*) and (*e*), respectively; on page 151 of the Senate engrossed amendments, lines 1 and 7, strike out "(g)" and "(h)" and insert (*f*) and (*g*), respectively; on page 153 of the Senate engrossed amendments, line 15, after "section" insert *shall be in lieu of the return required to be furnished by the employer with respect to his employee under section 147 and*; on page 156 of the Senate engrossed amendments, line 18, strike out "(f)" and insert (*e*); on page 157 of the Senate engrossed amendments, line 24, strike out "(g)" and insert (*f*); and on page 158 of the Senate engrossed amendments, lines 12 and 15, strike out "(f)" and insert (*e*).

And the Senate agree to the same.

Amendment numbered 273:

That the House recede from its disagreement to the amendment of the Senate numbered 273, 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:

(*g*) SPECIFIC EXEMPTION AND RETURNS OF INTERINSURERS AND RECIPROCAL UNDERWRITERS.—

(*1*) SPECIFIC EXEMPTION.—*Section 710 (b) (1) is amended by inserting before the semicolon at the end thereof a comma and the following: "and in the case of a mutual insurance company (other than life or marine) which is an interinsurer or reciprocal underwriter a specific exemption of $50,000".*

(*2*) RETURNS.—*Section 729 (b) (2) is amended by inserting before the period at the end thereof the following: "or, in the case of a mutual insurance company (other than life or marine) which is an interinsurer or reciprocal underwriter, is not greater than $50,000".*

And the Senate agree to the same.

Amendment numbered 290:

That the House recede from its disagreement to the amendment of the Senate numbered 290, 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. 209. NONTAXABLE INCOME FROM EXEMPT EXCESS OUTPUT OF MINING AND TIMBER OPERATIONS AND FROM BONUS INCOME OF MINES, ETC.

(a) INCOME CREDIT.—Section 711 (a) (1) (relating to excess profits credit computed under income credit) is amended by inserting at the end thereof the following new subparagraph:

"(I) NONTAXABLE INCOME OF CERTAIN INDUSTRIES WITH DEPLETABLE RESOURCES.—In the case of a producer of minerals, or a producer of logs or lumber from a timber block, as defined in section 735, there shall be excluded nontaxable income from exempt excess output of mines and timber blocks and nontaxable bonus income provided in section 735."

(b) INVESTED CAPITAL CREDIT.—Section 711 (a) (2) (relating to excess profits credit computed under invested capital credit) is amended by inserting at the end thereof the following new subparagraph:

"(K) NONTAXABLE INCOME OF CERTAIN INDUSTRIES WITH DEPLETABLE RESOURCES.—In the case of a producer of minerals, or a producer of logs or lumber from a timber block, as defined in section 735, there shall be excluded nontaxable income from exempt excess output of mines and timber blocks and nontaxable bonus income provided in section 735."

(c) NONTAXABLE INCOME.—Subchapter E of Chapter 2 is amended by inserting after section 734 the following new section:

"SEC. 735. NONTAXABLE INCOME FROM CERTAIN MINING AND TIMBER OPERATIONS.

"(a) DEFINITIONS.—For the purposes of this section, section 711 (a) (1) (I), and section 711 (a) (2) (K)—

"(1) PRODUCER.—The term 'producer' means a corporation which extracts minerals from a mineral property, or cuts logs from a timber block, in which an economic interest is owned by such corporation.

"(2) MINERAL UNIT.—The term 'mineral unit' means a unit of metal, coal, or nonmetallic substance in the minerals recovered from the operation of a mineral property.

"(3) TIMBER UNIT.—The term 'timber unit' means a unit of timber recovered from the operation of a timber block.

"(4) EXCESS OUTPUT.—The term 'excess output' means the excess of the mineral units or the timber units for the taxable year over the normal output.

"(5) NORMAL OUTPUT.—The term 'normal output' means the average annual mineral units, or the average annual timber units, as the case may be, recovered in the taxable years beginning after December 31, 1935, and not beginning after December 31, 1939 (hereinafter called 'base period'), of the person owning the mineral property or the timber block (whether or not the taxpayer). The average annual mineral units or timber units shall be computed by dividing the aggregate of such mineral units or timber units for the base period by the number of months for which the mineral property or the timber block was in operation during the base period and by multiplying the amount so ascertained by twelve. In any case in which the taxpayer establishes, under regulations prescribed by the Commis-

sioner with the approval of the Secretary, that the operation of any mineral property or any timber block is normally prevented for a specified period each year by physical events outside the control of the taxpayer, the number of months during which such mineral property or timber block is regularly in operation during a taxable year shall be used in computing the average annual mineral units, or timber units, instead of twelve. Any mineral property, or any timber block, which was in operation for less than six months during the base period shall, for the purposes of this section, be deemed not to have been in operation during the base period.

"(6) MINERAL PROPERTY.—The term 'mineral property' means a mineral deposit, the development and plant necessary for the extraction of the deposit, and so much of the surface of the land as is necessary for purposes of such extraction.

"(7) MINERALS.—The term 'minerals' means ores of the metals, coal, and such nonmetallic substances as abrasives, asbestos, asphaltum, barytes, borax, building stone, cement rock, clay, crushed stone, feldspar, fluorspar, fuller's earth, graphite, gravel, gypsum, limestone, magnesite, marl, mica, mineral pigments, peat, potash, precious stones, refractories, rock phosphate, salt, sand, silica, slate, soapstone, soda, sulphur, and talc.

"(8) TIMBER BLOCK.—The term 'timber block' means an operation unit existing as of December 31, 1941, which includes all the taxpayer's timber which would logically go to a single given point of manufacture, but shall not include any operation unit acquired after December 31, 1941.

"(9) NORMAL UNIT PROFIT.—The term 'normal unit profit' means the average profit for the base period per mineral unit for such period, determined by dividing the net income with respect to minerals recovered from the mineral property (computed with the allowance for depletion computed in accordance with the basis for depletion applicable to the current taxable year) during the base period by the number of mineral units recovered from the mineral property during the base period.

"(10) ESTIMATED RECOVERABLE UNITS.—The term 'estimated recoverable units' means the estimated number of units of metal, coal, or nonmetallic substances in the estimated recoverable minerals from the mineral property at the end of the taxable year plus the excess output for such year. All estimates shall be subject to the approval of the Commissioner, the determinations of whom, for the purposes of this section, shall be final and conclusive.

"(11) EXEMPT EXCESS OUTPUT.—The term 'exempt excess output' for any taxable year means a number of units equal to the following percentages of the excess output for such year:

"100 per centum if the excess output exceeds 50 per centum of the estimated recoverable units;

"95 per centum if the excess output exceeds 33⅓ but not 50 per centum of the estimated recoverable units;

"90 per centum if the excess output exceeds 25 but not 33⅓ per centum of the estimated recoverable units;

"85 per centum if the excess output exceeds 20 but not 25 per centum of the estimated recoverable units;

"80 per centum if the excess output exceeds 16⅔ but not 20 per centum of the estimated recoverable units;

"60 per centum if the excess output exceeds 14¾ but not 16¾ per centum of the estimated recoverable units;

"40 per centum if the excess output exceeds 12½ but not 14¾ per centum of the estimated recoverable units;

"30 per centum if the excess output exceeds 10 but not 12½ per centum of the estimated recoverable units;

"20 per centum if the excess output exceeds 5 but not 10 per centum of the estimated recoverable units.

"(12) UNIT NET INCOME.—The term 'unit net income' means the amount ascertained by dividing the net income (computed with the allowance for depletion) from the coal or iron ore or the timber recovered from the coal mining property, iron mining property, or timber block, as the case may be, during the taxable year by the number of units of coal or iron ore, or timber, recovered from such property in such year.

"(b) NONTAXABLE INCOME FROM EXEMPT EXCESS OUTPUT.—

"(1) GENERAL RULE.—For any taxable year for which the excess output of mineral property which was in operation during the base period exceeds 5 per centum of the estimated recoverable units from such property, the nontaxable income from exempt excess output for such year shall be an amount equal to the exempt excess output for such year multiplied by the normal unit profit, but such amount shall not exceed the net income (computed with the allowance for depletion) attributable to the excess output for such year.

"(2) COAL AND IRON MINES.—For any taxable year, the nontaxable income from exempt excess output of a coal mining or iron mining property which was in operation during the base period shall be an amount equal to the excess output of such property for such year multiplied by one-half of the unit net income from such property for such year, or an amount determined under paragraph (1), whichever the taxpayer elects in accordance with regulations prescribed by the Commissioner with the approval of the Secretary.

"(3) TIMBER PROPERTIES.—For any taxable year, the nontaxable income from exempt excess output of a timber block which was in operation during the base period shall be an amount equal to the excess output of such property for such year multiplied by one-half of the unit net income from such property for such year.

"(c) NONTAXABLE BONUS INCOME.—The term 'nontaxable bonus income' means the amount of the income derived from bonus payments made by any agency of the United States Government on account of the production in excess of a specified quota of a mineral product or of timber the exhaustion of which gives rise to an allowance for depletion under section 23 (m), but such amount shall not exceed the net income (computed with the allowance for depletion) attributable to the output in excess of such quota.

"(d) RULE IN CASE INCOME FROM EXCESS OUTPUT INCLUDES BONUS PAYMENT.—In any case in which the income attributable to the excess output includes bonus payments (as provided in subsection (c)), the taxpayer may elect, under regulations prescribed by the Commissioner with the approval of the Secretary, to receive either the benefits of subsection (b) or subsection (c) with respect to such income as is attributable to excess output above the specified quota."

(d) RETROACTIVE EXCLUSION OF NONTAXABLE BONUS INCOME.—The amendments made by this section inserting section 711 (a) (1) (I), section 711 (a) (2) (K), and section 735 (c), to the extent that they relate to nontaxable bonus income, shall be applicable to taxable years beginning after December 31, 1940.

And the Senate agree to the same.

Amendment numbered 291:

That the House recede from its disagreement to the amendment of the Senate numbered 291, 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. 210. NET OPERATING LOSS DEDUCTION ADJUSTMENT.

(a) Section 711 (a) (1) (relating to the excess profits credit computed under income credit) is amended by adding at the end thereof the following new subparagraph:

"(J) Net operating loss deduction adjustment.—The net operating loss deduction shall be adjusted as follows:

"(i) In computing the net operating loss for any taxable year under section 122 (a), and the net income for any taxable year under section 122 (b), no deduction shall be allowed for any excess profits tax imposed by this subchapter, and, if the excess profits credit for such taxable year was computed under section 714, the deduction for interest shall be reduced by the amount of any reduction under paragraph (2) (B) for such taxable year; and

"(ii) In lieu of the reduction provided in section 122 (c), such reduction shall be in the amount by which the excess profits net income computed with the exceptions and limitations specified in section 122 (d) (1), (2), (3), and (4) and computed without regard to subparagraph (B), without regard to any credit for dividends received, and without regard to any credit for interest received provided in section 26 (a) exceeds the excess profits net income (computed without the net operating loss deduction)."

(b) Section 711 (a) (2) (relating to the excess profits credit computed under invested capital credit) is amended by adding at the end thereof the following new subparagraph:

"(L) Net operating loss deduction adjustment.—The net operating loss deduction shall be adjusted as follows:

"(i) In computing the net operating loss for any taxable year under section 122 (a), and the net income for any taxable year under section 122 (b), no deduction shall be allowed for any excess profits tax imposed by this subchapter, and, if the excess profits credit for such taxable year was computed under section 714, the deduction for interest shall be reduced by the amount of any reduction under subparagraph (B) of this paragraph for such taxable year; and

"(*ii*) *In lieu of the reduction provided in section 122 (c), such reduction shall be in the amount by which the excess profits net income computed with the exceptions and limitations provided in section 122 (d) (1), (2), (3), and (4) and computed without regard to subparagraph (D), without regard to any credit for dividends received, and without regard to any credit for interest received provided in section 26 (a) exceeds the excess profits net income (computed without the net operating loss deduction).*"

(c) *The amendments made by this section shall be effective as of the date of enactment of the Excess Profits Tax Act of 1940.*

And the Senate agree to the same.

Amendment numbered 296:

That the House recede from its disagreement to the amendment of the Senate numbered 296, 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: *228*; and the Senate agree to the same.

Amendment numbered 309:

That the House recede from its disagreement to the amendment of the Senate numbered 309, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *(5)*; and the Senate agree to the same.

Amendment numbered 325:

That the House recede from its disagreement to the amendment of the Senate numbered 325, and agree to the same with an amendment, as follows:

On page 196, line 2, of the Senate engrossed amendments strike out "average" and insert *amount*; and the Senate agree to the same.

Amendment numbered 385:

That the House recede from its disagreement to the amendment of the Senate numbered 385, 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*) *OPTIONAL RETROACTIVITY OF AMENDMENTS TO 1940 AND 1941.—The amendments made by this section, inserting section 760 and section 761, shall also be applicable in the computation of the tax for all taxable years beginning after December 31, 1939, if the taxpayer, within the time and in the manner and subject to such regulations as the Commissioner, with the approval of the Secretary, prescribes, elects to have either or both of such amendments apply. For any taxable year for which the provisions of section 760 are applied retroactively, the amendment made by subsection (b) (2) of this section to section 719 (a) (1) shall also apply. In case the provisions of section 761 are applied retroactively, the provisions of section 718 (a) (5), section 718 (b) (4), and section 718 (c) (4) shall not apply in such computations.*

And the Senate agree to the same.

Amendment numbered 386:

That the House recede from its disagreement to the amendment of the Senate numbered 386, and agree to the same with the following amendments:

On page 230, line 6, of the Senate engrossed amendments after "1941" insert: (*except in the case of a taxable year beginning in 1941 and ending before July 1, 1942*);

On page 230, beginning with "In" in line 9, of the Senate engrossed amendments strike out down to and including the period in line 12 and insert: *For the purposes of this part, in the case of a taxpayer whose tax is determined under section 710 (a) (3), the term "tax imposed under this subchapter" means the excess of the tax imposed by such section 710 (a) (3) over the tax that would be imposed if such section 710 (a) (3) were not applicable.*

On page 231, of the Senate engrossed amendments, in the table appearing on such page strike out "Within the calendar year 1942" and insert: *Within the calendar year 1941 or 1942*;

On page 235, line 14, of the Senate engrossed amendments after "shall" insert: , *at the election of the taxpayer made in its return for such year,* ;

On page 235, of the Senate engrossed amendments strike out lines 20 to 23, inclusive, and insert:

(1) An amount equal to 10 per centum of the tax imposed under this subchapter for the taxable year.

On page 236, of the Senate engrossed amendments strike out lines 11 and 12 and insert:

(4) In case such taxable year begins in 1941 or ends before September 1, 1942, zero.

And the Senate agree to the same.

Amendment numbered 391:

That the House recede from its disagreement to the amendment of the Senate numbered 391, and agree to the same with an amendment, as follows:

On page 249, line 6, of the House bill after "months" insert *on account of a change in the accounting period of the taxpayer*; and the Senate agree to the same.

Amendment numbered 399:

That the House recede from its disagreement to the amendment of the Senate numbered 399, 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) POWERS WITH RESPECT TO WHICH AMENDMENTS NOT APPLICABLE.—

(1) The amendments made by this section shall not apply with respect to a power to appoint, created on or before the date of the enactment of this Act, which is other than a power exercisable in favor of the decedent, his estate, his creditors, or the creditors of his estate, unless such power is exercised after the date of the enactment of this Act.

(2) The amendments made by this section shall not become applicable with respect to a power to appoint created on or before the date of enactment of this Act, which is exercisable in favor of the decedent, his estate, his creditors, or the creditors of his estate, if at such date the donee of such power is under a legal disability to release such power, until six months after the termination of such legal disability. For the purposes of the preceding sentence, an individual in the military or naval forces of the United States shall, until the termination of the present war, be considered under a legal disability to release a power to appoint.

(3) The amendments made by this section shall not apply with respect to any power to appoint created on or before the date of the enactment of this Act if it is released before January 1, 1943, or within the time limited by paragraph (2) in cases to which such paragraph is applicable; or if the decedent dies before January 1, 1943, or within the time limited by paragraph (2) in cases to which such paragraph is applicable, and such power is not exercised.

And the Senate agree to the same.

Amendment numbered 402:

That the House recede from its disagreement to the amendment of the Senate numbered 402, 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:

(b) LIABILITY OF LIFE INSURANCE BENEFICIARIES.—Section 826 (c) (relating to apportionment of liability of beneficiaries) is amended to read as follows:

"(c) LIABILITY OF LIFE INSURANCE BENEFICIARIES.—Unless the decedent directs otherwise in his will, if any part of the gross estate upon which tax has been paid consists of proceeds of policies of insurance upon the life of the decedent receivable by a beneficiary other than the executor, the executor shall be entitled to recover from such beneficiary such portion of the total tax paid as the proceeds of such policies bear to the sum of the net estate and the amount of the exemption allowed in computing the net estate, determined under section 935 (c). If there is more than one such beneficiary the executor shall be entitled to recover from such beneficiaries in the same ratio."

And the Senate agree to the same.

Amendment numbered 418:

That the House recede from its disagreement to the amendment of the Senate numbered 418, and agree to the same with an amendment, as follows:

Omit the matter proposed to be inserted by the Senate amendment and on page 249, of the Senate engrossed amendments after line 23 insert:

(c) RELEASE ON OR BEFORE JANUARY 1, 1943.—

(1) A release of a power to appoint before January 1, 1943, shall not be deemed a transfer of property by the individual possessing such power.

(2) This subsection shall apply to all calendar years prior to 1943.

And the Senate agree to the same.

Amendment numbered 435:

That the House recede from its disagreement to the amendment of the Senate numbered 435, and agree to the same with an amendment, as follows:

Restore the matter proposed to be stricken out by the Senate amendment and strike out wherever appearing therein the term "United States Tax Court" and insert *The Tax Court of the United States;* and the Senate agree to the same.

Amendment numbered 438:

That the House recede from its disagreement to the amendment of the Senate numbered 438, and agree to the same with an amendment, as follows:

On page 253, line 16, of the Senate engrossed amendments strike out "505" and insert *506*; and the Senate agree to the same.

Amendment numbered 448:

That the House recede from its disagreement to the amendment of the Senate numbered 448, and agree to the same with an amendment, as follows:

On page 262, line 7, of the Senate engrossed amendments strike out "December 31, 1941" and insert *the date of the enactment of this Act*; and the Senate agree to the same.

Amendment numbered 449:

That the House recede from its disagreement to the amendment of the Senate numbered 449, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amend ment insert the following: *507*; and the Senate agree to the same.

Amendment numbered 459:

That the House recede from its disagreement to the amendment of the Senate numbered 459, 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. 508. MITIGATION OF EFFECT OF RENEGOTIATION OF WAR CONTRACTS OR DISALLOWANCE OF REIMBURSEMENT.

Chapter 38 is amended by inserting at the end thereof the following new section:

"SEC. 3806. MITIGATION OF EFFECT OF RENEGOTIATION OF WAR CONTRACTS OR DISALLOWANCE OF REIMBURSEMENT.

"(a) REDUCTION FOR PRIOR TAXABLE YEAR.—

"(1) EXCESSIVE PROFITS ELIMINATED FOR PRIOR TAXABLE YEAR.—In the case of a contract with the United States or any agency thereof, or any subcontract thereunder, which is made by the taxpayer, if a renegotiation is made in respect of such contract or subcontract and an amount of excessive profits received or accrued under such contract or subcontract for a taxable year (hereinafter referred

to as 'prior taxable year') is eliminated and, in a taxable year ending after December 31, 1941, the taxpayer is required to pay or repay to the United States or any agency thereof the amount of excessive profits eliminated or the amount of excessive profits eliminated is applied as an offset against other amounts due the taxpayer, the part of the contract or subcontract price which was received or was accrued for the prior taxable year shall be reduced by the amount of excessive profits eliminated. For the purposes of this section—

"(A) The term 'renegotiation' includes any transaction which is a renegotiation within the meaning of section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.) or such section, as amended, any modification of one or more contracts with the United States or any agency thereof, and any agreement with the United States or any agency thereof in respect of one or more such contracts or subcontracts thereunder.

"(B) The term 'excessive profits' includes any amount which constitutes excessive profits within the meaning assigned to such term by subsection (a) of section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.), as amended by the Revenue Act of 1942, any part of the contract price of a contract with the United States or any agency thereof, any part of the subcontract price of a subcontract under such a contract, and any profits derived from one or more such contracts or subcontracts.

"(C) The term 'subcontract' includes any purchase order or agreement which is a subcontract within the meaning assigned to such term by subsection (a) of section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.), as amended by the Revenue Act of 1942.

"(2) REDUCTION OF REIMBURSEMENT FOR PRIOR TAXABLE YEAR.—In the case of a cost-plus-a-fixed-fee contract between the United States or any agency thereof and the taxpayer, if an item for which the taxpayer has been reimbursed is disallowed as an item of cost chargeable to such contract and, in a taxable year beginning after December 31, 1941, the taxpayer is required to repay the United States or any agency thereof the amount disallowed or the amount disallowed is applied as an offset against other amounts due the taxpayer, the amount of the reimbursement of the taxpayer under the contract for the taxable year in which the reimbursement for such item was received or was accrued (hereinafter referred to as 'prior taxable year') shall be reduced by the amount disallowed.

"(3) DEDUCTION DISALLOWED.—The amount of the payment, repayment, or offset described in paragraph (1) or paragraph (2) shall not constitute a deduction for the year in which paid or incurred.

"(4) EXCEPTION.—The foregoing provisions of this subsection shall not apply in respect of any contract if the taxpayer shows to the satisfaction of the Commissioner that a different method of accounting for the amount of the payment, repayment, or disallowance clearly reflects income, and in such case the payment, repayment, or disallowance shall be accounted for with respect to the taxable year provided for under such method, which for the purposes of subsections (b) and (c) shall be considered a prior taxable year.

"(b) CREDIT AGAINST REPAYMENT ON ACCOUNT OF RENEGOTIATION OR ALLOWANCE.—

"(1) GENERAL RULE.—*There shall be credited against the amount of excessive profits eliminated the amount by which the tax for the prior taxable year under Chapter 1, Chapter 2A, Chapter 2D, and Chapter 2E, is decreased by reason of the application of paragraph (1) of subsection (a); and there shall be credited against the amount disallowed the amount by which the tax for the prior taxable year under Chapter 1, Chapter 2A, Chapter 2D, and Chapter 2E, is decreased by reason of the application of paragraph (2) of subsection (a).*

"(2) CREDIT FOR BARRED YEAR.—*If at the time of the payment, repayment, or offset described in paragraph (1) or paragraph (2) of subsection (a), refund or credit of tax under Chapter 1, Chapter 2A, Chapter 2D, or Chapter 2E, for the prior taxable year, is prevented (except for the provisions of section 3801) by any provision of the internal-revenue laws other than section 3761, or by rule of law, the amount by which the tax for such year under such chapters is decreased by the application of paragraph (1) or paragraph (2) of subsection (a) shall be computed under this paragraph. There shall first be ascertained the tax previously determined for the prior taxable year. The amount of the tax previously determined shall be (A) the tax shown by the taxpayer upon his return for such taxable year, increased by the amounts previously assessed (or collected without assessment) as deficiencies, and decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax; or (B) if no amount was shown as the tax by such taxpayer upon his return, or if no return was made by such taxpayer, then the amounts previously assessed (or collected without assessment) as deficiencies, but such amounts previously assessed, or collected without assessment, shall be decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax. There shall then be ascertained the decrease in tax previously determined which results solely from the application of paragraph (1) or paragraph (2) of subsection (a) to the prior taxable year. The amount so ascertained, together with any amounts collected as additions to the tax or interest, as a result of paragraph (1) or paragraph (2) of subsection (a) not having been applied to the prior taxable year shall be the amount by which such tax is decreased.*

"(3) INTEREST.—*In determining the amount of the credit under this subsection no interest shall be allowed with respect to the amount ascertained under paragraph (1) or paragraph (2); except that if interest is charged by the United States or the agency thereof on account of the disallowance for any period before the date of the payment, repayment, or offset, the credit shall be increased by an amount equal to interest on the amount ascertained under either such paragraph at the same rate and for the period (prior to the date of the payment, repayment, or offset) as interest is so charged.*

"(c) CREDIT IN LIEU OF OTHER CREDIT OR REFUND.—*If a credit is allowed under subsection (b) with respect to a prior taxable year no other credit or refund under the internal-revenue laws founded on the application of subsection (a) shall be made on account of the amount allowed with respect to such taxable year. If the amount allowable as a credit under*

subsection (b) exceeds the amount allowed under such subsection, the excess shall, for the purposes of the internal-revenue laws relating to credit or refund of tax, be treated as an overpayment for the prior taxable year which was made at the time the payment, repayment, or offset was made."

And the Senate agree to the same.

Amendment numbered 460:

That the House recede from its disagreement to the amendment of the Senate numbered 460, and agree to the same with an amendment, as follows:

On page 273, line 2, of the Senate engrossed amendments strike out "508" and insert *509*; and the Senate agree to the same.

Amendment numbered 474:

That the House recede from its disagreement to the amendment of the Senate numbered 474, and agree to the same with an amendment, as follows:

On page 290, line 8, of the Senate engrossed amendments strike out "$2.00" and insert *$2.50*; and the Senate agree to the same.

Amendment numbered 497:

That the House recede from its disagreement to the amendment of the Senate numbered 497, 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 317, line 11, of the House bill strike out "621" and insert "*620*", and beginning in line 16 strike out the following:

"(a) TAX.—There shall be imposed upon the amount paid within the United States after the effective date of this section for the transportation, on or after such effective date, of property by rail, motor vehicle, water, or air from one point in the United States to another, a tax equal to 5 per centum of the amount so paid, except that, in the case of coal, the rate of tax shall be 5 cents per long ton."

and insert in lieu thereof

"*(a) TAX.—There shall be imposed upon the amount paid within the United States after the effective date of this section for the transportation, on or after such effective date, of property by rail, motor vehicle, water, or air from one point in the United States to another, a tax equal to 3 per centum of the amount so paid, except that, in the case of coal, the rate of tax shall be 4 cents per short ton.*

And the Senate agree to the same.

Amendment numbered 498:

That the House recede from its disagreement to the amendment of the Senate numbered 498, and agree to the same with an amendment, as follows:

On page 295, line 8, of the Senate engrossed amendments strike out "620" and insert *621*; and the Senate agree to the same.

Amendment numbered 499:

That the House recede from its disagreement to the amendment of the Senate numbered 499, and agree to the same with an amendment, as follows:

On page 296, line 2, of the Senate engrossed amendments strike out "621" and insert *622*; and the Senate agree to the same.

Amendment numbered 500:

That the House recede from its disagreement to the amendment of the Senate numbered 500, and agree to the same with an amendment, as follows:

On page 297, line 2, of the Senate engrossed amendments strike out "622" and insert *623*; and the Senate agree to the same.

Amendment numbered 503:

That the House recede from its disagreement to the amendment of the Senate numbered 503, 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:

TITLE VIII—RENEGOTIATION OF WAR CONTRACTS

SEC. 801. RENEGOTIATION OF WAR CONTRACTS.

(a) Subsections (a), (b), and (c) of section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.), are amended to read as follows:

"SEC. 403. (a) For the purposes of this section—

"(1) The term 'Department' means the War Department, the Navy Department, the Treasury Department, and the Maritime Commission, respectively.

"(2) In the case of the Maritime Commission, the term 'Secretary' means the Chairman of such Commission.

"(3) The terms 'renegotiate' and 'renegotiation' include the refixing by the Secretary of the Department of the contract price.

"(4) The term 'excessive profits' means any amount of a contract or subcontract price which is found as a result of renegotiation to represent excessive profits.

"(5) The term 'subcontract' means any purchase order or agreement to perform all or any part of the work, or to make or furnish any article, required for the performance of another contract or subcontract. The term 'article' includes any material, part, assembly, machinery, equipment, or other personal property.

"For the purposes of subsections (d) and (e) of this section, the term 'contract' includes a subcontract and the term 'contractor' includes a subcontractor.

"(b) Subject to subsection (i), the Secretary of each Department is authorized and directed to insert in any contract for an amount in excess of $100,000 hereafter made by such Department—

"(1) a provision for the renegotiation of the contract price at a period or periods when, in the judgment of the Secretary, the profits can be determined with reasonable certainty;

"(2) a provision for the retention by the United States from amounts otherwise due the contractor, or for the repayment by him to the United States, if paid to him, of any excessive profits not eliminated through reductions in the contract price, or otherwise, as the Secretary may direct;

"(3) a provision requiring the contractor to insert in each subcontract for an amount in excess of $100,000 made by him under such contract (i) a provision for the renegotiation by such Secretary and the subcontractor of the contract price of the subcontract at a period or periods when, in the judgment of the Secretary, the profits can be determined with reasonable certainty, (ii) a provision for the retention by the contractor for the United States of the amount of any reduction in the contract price of any subcontract pursuant to its renegotiation hereunder, or for the repayment by the subcontractor to the United States of any excessive profits from such subcontract paid to him and not eliminated through reductions in the contract price or otherwise, as the Secretary may direct, and (iii) a provision for relieving the contractor from any liability to the subcontractor on account of any amount so retained by the contractor or repaid by the subcontractor to the United States, and (iv) in the discretion of the Secretary, a provision requiring any subcontractor to insert in any subcontract made by him under such subcontract, provisions corresponding to those of subparagraphs (3) and (4) of this subsection (b); and

"(4) a provision for the retention by the United States from amounts otherwise due the contractor, or for repayment by him to the United States, as the Secretary may direct, of the amount of any reduction in the contract price of any subcontract under such contract, which the contractor is directed, pursuant to clause (3) of this subsection, to withhold from payments otherwise due the subcontractor and actually unpaid at the time the contractor receives such direction.

"The provision for the renegotiation of the contract price, in the discretion of the Secretary, (i) may fix the period or periods when or within which renegotiation shall be had; and (ii) if in the opinion of the Secretary the provisions of the contract or subcontract are otherwise adequate to prevent excessive profits, may provide that renegotiation shall apply only to a portion of the contract or subcontract or shall not apply to performance during a specified period or periods and may also provide that the contract price in effect during any such period or periods shall not be subject to renegotiation.

"(c) (1) Whenever, in the opinion of the Secretary of a Department, the profits realized or likely to be realized from any contract with such Department, or from any subcontract thereunder whether or not made by the contractor, may be excessive, the Secretary is authorized and directed to require the contractor or subcontractor to renegotiate the contract price. When the contractor or subcontractor holds two or more contracts or subcontracts the Secretary in his discretion, may renegotiate to eliminate excessive profits on some or all of such contracts and subcontracts as a group without separately renegotiating the contract price of each contract or subcontract.

"(2) Upon renegotiation, the Secretary is authorized and directed to eliminate any excessive profits under such contract or subcontract (i) by reductions in the contract price of the contract or subcontract, or by other revision in its terms; or (ii) by withholding, from amounts otherwise due to the contractor or subcontractor, any amount of such excessive profits; or (iii) by directing a contractor to withhold for the account of the United States, from amounts otherwise due to the subcontractor, any amount of such excessive profits under the subcon-

tract; or (iv) by recovery from the contractor or subcontractor, through repayment, credit or suit, of any amount of such excessive profits actually paid to him; or (v) by any combination of these methods, as the Secretary deems desirable. The Secretary may bring actions on behalf of the United States in the appropriate courts of the United States to recover from such contractor or subcontractor, any amount of such excessive profits actually paid to him and not withheld or eliminated by some other method under this subsection. The surety under a contract or subcontract shall not be liable for the repayment of any excessive profits thereon. All money recovered by way of repayment or suit under this subsection shall be covered into the Treasury as miscellaneous receipts.

"(3) In determining the excessiveness of profits realized or likely to be realized from any contract or subcontract, the Secretary shall recognize the properly applicable exclusions and deductions of the character which the contractor or subcontractor is allowed under Chapter 1 and Chapter 2E of the Internal Revenue Code. In determining the amount of any excessive profits to be eliminated hereunder the Secretary shall allow the contractor or subcontractor credit for Federal income and excess profits taxes as provided in section 3806 of the Internal Revenue Code.

"(4) Upon renegotiation pursuant to this section, the Secretary may make such final or other agreements with a contractor or subcontractor for the elimination of excessive profits and for the discharge of any liability for excessive profits under this section, as the Secretary deems desirable. Such agreements may cover such past and future period or periods, may apply to such contract or contracts of the contractor or subcontractor, and may contain such terms and conditions, as the Secretary deems advisable. Any such agreement shall be final and conclusive according to its terms; and except upon a showing of fraud or malfeasance or a wilful misrepresentation of a material fact, (i) such agreement shall not be reopened as to the matters agreed upon, and shall not be modified by any officer, employee, or agent of the United States; and (ii) such agreement and any determination made in accordance therewith shall not be annulled, modified, set aside, or disregarded in any suit, action, or proceeding.

"(5) Any contractor or subcontractor who holds contracts or subcontracts, to which the provisions of this section are applicable, may file with the Secretaries of all the Departments concerned statements of actual costs of production and such other financial statements for any prior fiscal year or years of such contractor or subcontractor, in such form and detail, as the Secretaries shall prescribe by joint regulation. Within one year after the filing of such statements, or within such shorter period as may be prescribed by such joint regulation, the Secretary of a Department may give the contractor or subcontractor written notice, in form and manner to be prescribed in such joint regulation, that the Secretary is of the opinion that the profits realized from some or all of such contracts or subcontracts may be excessive, and fixing a date and place for an initial conference to be held within sixty days thereafter. If such notice is not given and renegotiation commenced by the Secretary within such sixty days the contractor or subcontractor shall not thereafter be required to renegotiate to eliminate excessive profits realized from any such contract

or subcontract during such fiscal year or years and any liabilities of the contractor or subcontractor for excessive profits realized during such period shall be thereby discharged.

"(6) This subsection (c) shall be applicable to all contracts and subcontracts hereafter made and to all contracts and subcontracts heretofore made, whether or not such contracts or subcontracts contain a renegotiation or recapture clause, unless (i) final payment pursuant to such contract or subcontract was made prior to April 28, 1942, or (ii) the contract or subcontract provides otherwise pursuant to subsection (b) or (i), or is exempted under subsection (i), of this section 403, or (iii) the aggregate sales by the contractor or subcontractor, and by all persons under the control of or controlling or under common control with the contractor or subcontractor, under contracts with the Departments and subcontracts thereunder do not exceed, or in the opinion of the Secretary concerned will not exceed, $100,000 for the fiscal year of such contractor or subcontractor.

"No renegotiation of the contract price pursuant to any provision therefor, or otherwise, shall be commenced by the Secretary more than one year after the close of the fiscal year of the contractor or subcontractor within which completion or termination of the contract or subcontract, as determined by the Secretary, occurs."

(b) Subsection (f) of section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.), is amended to read as follows:

"(f) Subject to any regulations which the President may prescribe for the protection of the interests of the Government, the authority and discretion herein conferred upon the Secretary of each Department may be delegated in whole or in part by him to such individuals or agencies as he may designate in his Department, or in any other Department with the consent of the Secretary of that Department, and he may authorize such individuals or agencies to make further delegations of such authority and discretion."

(c) Section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d sess.), is amended by adding at the end thereof the following subsections:

"(i) (1) The provisions of this section shall not apply to—

"(i) any contract by a Department with any other department, bureau, agency, or governmental corporation of the United States or with any Territory, possession, or State or any agency thereof or with any foreign government or any agency thereof; or

"(ii) any contract or subcontract for the product of a mine, oil or gas well, or other mineral or natural deposit, or timber, which has not been processed, refined, or treated beyond the first form or state suitable for industrial use; and the Secretaries are authorized by joint regulation, to define, interpret, and apply this exemption.

"(2) The Secretary of a Department is authorized, in his discretion, to exempt from some or all of the provisions of this section—

"(i) any contract or subcontract to be performed outside of the territorial limits of the continental United States or in Alaska;

"(ii) any contracts or subcontracts under which, in the opinion of the Secretary, the profits can be determined with reasonable certainty when the contract price is established, such

as certain classes of agreements for personal services, for the purchase of real property, perishable goods, or commodities the minimum price for the sale of which has been fixed by a public regulatory body, of leases and license agreements, and of agreements where the period of performance under such contract or subcontract will not be in excess of thirty days; and

"(iii) a portion of any contract or subcontract or performance thereunder during a specified period or periods, if in the opinion of the Secretary, the provisions of the contract are otherwise adequate to prevent excessive profits.

The Secretary may so exempt contracts and subcontracts both individually and by general classes or types.

"(j) Nothing in sections 109 and 113 of the Criminal Code (U. S. C., title 18, secs. 198 and 203) or in section 190 of the Revised Statutes (U. S. C., title 5, sec. 99) shall be deemed to prevent any person appointed by the Secretary of a Department for intermittent and temporary employment in such Department, from acting as counsel, agent, or attorney for prosecuting any claim against the United States: Provided, That such person shall not prosecute any claim against the United States (1) which arises from any matter directly connected with which such person is employed, or (2) during the period such person is engaged in intermittent and temporary employment in a Department."

(d) The amendments made by this section shall be effective as of April 28, 1942.

And the Senate agree to the same.

Amendment numbered 504.

Amend the table of contents to read as follows:

TITLE I—INDIVIDUAL AND CORPORATION INCOME TAXES

PART I—AMENDMENTS TO CHAPTER 1

TITLE IV—ESTATE AND GIFT TAXES

PART I—ESTATE TAX

PART II—GIFT TAX

TITLE V—AMENDMENTS TO PRIOR REVENUE ACTS AND MISCELLANEOUS PROVISIONS

TITLE VI—EXCISE TAXES

TITLE VII—SOCIAL SECURITY TAXES

TITLE VIII—RENEGOTIATION OF WAR CONTRACTS

R. L. DOUGHTON,
JERE COOPER,
JOHN W. BOEHNE, Jr.,
WESLEY E. DISNEY,
ALLEN T. TREADWAY,
HAROLD KNUTSON,
DANIEL A. REED,
Managers on the part of the House.

WALTER F. GEORGE,
DAVID I. WALSH,
ALBEN W. BARKLEY,
TOM CONNALLY,
ROBERT M. LA FOLLETTE, Jr.,
ARTHUR CAPPER,
A. H. VANDENBERG,
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. 7378) to provide revenue, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

Amendment No. 1: This amendment omits rents and royalties from the classes of income permitted to be reported on the simplified return under Supplement T to secure a closer correspondence between gross income for Supplement T purposes and Victory tax net income. The House recedes.

Amendments Nos. 2, 3 and 5: These amendments of the Senate change the heading of the last column in the schedule of rates in section 400 of the Code in order to express more accurately the status of the taxpayers coming within this column. The House recedes.

Amendment No. 4: This amendment corrects an error in the table applicable to Supplement T; the House recedes.

Amendment No. 6: This amendment reduces the allowance for each dependent for the purposes of Supplement T from $440 to $330 to conform with the change in the basic allowance. The House recedes with an amendment fixing such allowance at $385.

Amendment No. 7: This amendment provides that a payment made to a wife which is includible in her gross income by virtue of the new sections 22 (k) and 771 of the Code shall not be considered a payment by her husband for the support of any dependent. The House recedes.

Amendments Nos. 8 and 9: These amendments are clerical; the House recedes.

Amendment No. 10: This amendment provides that in computing the corporation surtax net income of a public utility, there shall be subtracted the credit for dividends paid on its preferred stock provided by Amendment No. 92, and also that dividends received on preferred stock of a public utility shall be disregarded in computing the credit for dividends received. The House recedes with an amendment denying the credit to fiscal year corporations for fiscal years beginning in 1941.

Amendment No. 11: This amendment exempts from the surtax on corporations Western Hemisphere Trade Corporations as defined in amendment No. 111. The House recedes.

Amendment No. 12: This amendment reduces the rate on corporation surtax net incomes over $25,000 but not over $50,000 from 32 percent to 22 percent. The House recedes.

Amendment No. 13: This amendment provides for a reduction in the rate on corporation surtax net incomes over $50,000 from 21 percent to 16 percent. The House recedes.

Amendment No. 14: This amendment changes the House provision with respect to the credit of corporations in computing normal and surtax for income subject to excess profits tax. Under the House bill, the general rule is that a corporation subject to excess profits tax shall be entitled to a credit in an amount equal to its adjusted excess profits net income. Certain exceptional situations are set forth in which the amount of credit shall be the amount of which the excess profits tax imposed under the particular section making the exception is 90 percent. The House bill includes within this exception the cases of corporations computing excess profits tax under sections 721 and 726. The Senate amendment eliminates from the exception provided in the House bill the case of a corporation computing its excess profits tax under section 722 and adds to the exception corporations computing excess profits tax under sections 731 and 736 (b). The amendment further provides that the excess profits tax which shall be used in computing the credit under the exception means the tax computed without regard to the 80 percent limitation on tax provided in section 710 (a) (1) (B), without regard to the credit provided in section 729 (c) and (d) and without regard to the adjustments provided in section 734. The House recedes, with a technical amendment.

Amendment No. 15: This amendment strikes out a provision in the House bill which has been inserted in section 155 of the bill as passed by the Senate. The House recedes.

Amendments Nos. 16 and 17: These amendments are clerical; the House recedes.

Amendments Nos. 18, 19, 20, 21, 22, 23, 24, and 25: These amendments reduce the rate of tax on nonresident alien individuals as proposed by the House from 37 percent to 30 percent, and the figure of $22,900 appearing in the House bill is adjusted to $15,400, which is the approximate level at which the effective rate equals 30 percent. The House recedes.

Amendment No. 26: This amendment reduces the rate of tax on nonresident foreign corporations proposed by the House from 37 percent to 30 percent; the House recedes.

Amendment No. 27: In the case of nonresident aliens, the House bill provided for withholding of tax at source at a rate of 37 percent. The Senate amendment reduces this rate to 30 percent. The House recedes.

Amendment No. 28: This amendment provides that in the case of tax-free covenant bonds which were issued prior to January 1, 1934, but the maturity date of which has been extended on or after that date, the rate of withholding at the source shall not exceed 27½ percent with respect to nonresident aliens. The House recedes.

Amendment No. 29: This amendment is clerical; the House recedes.

Amendment No. 30: This section does not appear in the House bill. In effect, it provides for the exemption from taxation of proceeds of a life insurance, endowment or annuity contract, if such contract or interest therein has a basis for determining gain or loss in the hands of a transferee determined in whole or in part by reference to such basis of such contract or interest therein in the hands of the transferor. Thus, where a corporation acquires a life insurance policy from a predecessor corporation in a tax-free reorganization, proceeds received under the policy will be exempt from taxation. The House recedes.

Amendment No. 31: This is a change in section number and title; the House recedes.

Amendment No. 32: This is a technical amendment of the last sentence of section 22 (b) (3) which the House bill added in order to prevent the exclusion from income of gifts and bequests paid at intervals out of income. The House recedes.

Amendment No. 33: This amendment of section 110 (b) of the House bill, concerning the allocation of estate and trust income among legatees and beneficiaries, provides a more detailed application of the principles of allocation in cases where amounts are to be paid out of other than income or out of income for a prior period. The amendment requires the inclusion in the income of a legatee or beneficiary of estate or trust income which becomes payable to the legatee or beneficiary within the taxable year. There is a new provision for allocation to the previous taxable year of a portion of amounts paid within the first 65 days of the taxable year of the estate or trust.

The applicability is also changed from the amounts paid, credited, or to be distributed after December 31, 1941, to taxable years beginning after such date, and, in the case of legatees and beneficiaries, to such amounts paid, credited, or to be distributed by estates or trusts on or after the beginning of such estate's or trust's first taxable year beginning after December 31, 1941.

The House recedes.

Amendment No. 34: This amendment retains in substance the provisions of the House bill, which conform certain sections of the Code with the Public Debt Act of 1941. In addition, the Senate inserts clarifying amendments to section 25 (a) and 26 (a) of the Code, which are declaratory of existing law.

The amendment also classifies public obligations and provides the extent to which interest thereon shall be excluded from gross income.

The House recedes with an amendment striking out the matter inserted by the Senate amendment, restoring the matter stricken out by the Senate amendment, and renumbering the section.

Amendment No. 35: This amendment amends section 22 (b) (5) to exclude from gross income amounts received as a pension, annuity, or similar allowance for personal injuries or sickness resulting from active service in the armed forces of any country. The House recedes.

Amendment No. 36: This amendment retains in substance the provisions of the House bill extending the date of applicability of section 22 (b) (9) of the Code, relating to income realized from the discharge of indebtedness. In addition, the amendment changes 22 (b) (9) to make the relief which it grants available without a showing of unsound financial condition.

The amendment also adds a new paragraph providing for exclusion from gross income of amounts of income realized as the result of discharge of indebtedness of a railroad corporation in equity receivership or reorganization proceedings. The House recedes.

Amendments Nos. 37, 38, 39, 40, 41, and 42: These amendments are clerical; the House recedes.

Amendment No. 43: Section 115 of the House bill provided for the exclusion from gross income of so much of the amount received during the present war by an individual in the military or naval forces of the United States as salary or compensation for active service in such forces

as does not exceed $250 in the case of a single person and $300 in the case of a married person. This amendment limits this exclusion to personnel below the grade of commissioned officer, and the $300 exclusion for married personnel is extended to include the head of a family. The House recedes.

Amendment No. 44: This is a change in section number; the House recedes.

Amendment No. 45: Section 116 of the House bill revised the report requirement in connection with inventory methods to apply only to annual reports. This change was made applicable to taxable years beginning after December 31, 1940. The Senate amendment makes the above change applicable to taxable years beginning after December 31, 1938. The House recedes.

Amendment No. 46: This amendment affords to a taxpayer using the elective inventory method authorized by section 22 (d) of the Code a measure of relief from the consequences of the involuntary liquidation of its base stock inventory resulting from prevailing war conditions. It permits the taxpayer in years ending subsequent to the year of liquidation, but not later than 3 years after the termination of the war, to replace, for tax purposes, items of merchandise liquidated from its base stock inventory at their original inventory figures, charging to income for the year of liquidation any excess costs to which it may be subjected in effecting the replacement and adding to income for the year of liquidation any excess of the original inventory figure over the actual replacement costs ultimately incurred. Adjustment of the tax liability for the year of liquidation and for all intervening years shall be made insofar as such years are affected by the replacement adjustment and without regard to any statute of limitations or other restrictions of law other than that of section 3761 of the Code relating to compromises. The House recedes, with technical amendments.

Amendment No. 47: This is a change in section number; the House recedes.

Amendment No. 48: This is a technical change of the rule for treatment of installment payments of alimony. Under both the House and the Senate amendments, in general, installment payments discharging a part of an obligation, the principal sum of which is, in terms of money or property, specified in the decree of divorce or instrument of settlement, are not considered periodic payments for the purposes of section 22 (k). The Senate amendment, however, provides that an installment payment is to be considered a periodic payment if such principal sum, by the terms of the decree or instrument, may be or is to be paid within a period ending more than ten years from the date of such decree or instrument. But in the latter case, such installment payment for the taxable year of the wife (or if more than one such installment payment for such taxable year is received during such taxable year, the aggregate of such installment payments) shall be considered a periodic payment only to the extent that it does not exceed 10 percent of such principal sum. For the purposes of this 10 percent limitation, the portion of a payment of the principal sum which is allocable to the period after the taxable year of the wife in which it is received is considered an installment payment for the taxable year in which it is received. The House recedes.

Amendment No. 49: This is a clerical amendment; the House recedes.

Amendment No. 50: This is a technical amendment making an appropriate cross-reference; the House recedes.

Amendment No. 51: This is a clerical amendment designed to reflect the change made by amendment No. 50. The House recedes.

Amendment No. 52: The amendment is clerical; the House recedes.

Amendment No. 53: This amendment is clerical; the House recedes.

Amendment No. 54: This amendment strikes out subsection (c) of section 118 of the House bill, which now appears as section 163 of the bill as amended by the Senate. The House recedes.

Amendments Nos. 55, 56, and 57: These amendments are clerical; the House recedes.

Amendment No. 58: This amendment provides for the allowance of a deduction to the purchaser for certain State and local retail sales taxes not imposed by law directly on the purchaser but passed on to and paid by him. The taxes imposed upon persons engaged in furnishing services at retail which are passed on to the consumer are also included as deductions to the consumer. There is no comparable provision in the House bill. The House recedes.

Amendment No. 59: Section 23 (g) of the Code provides that the loss resulting from the worthlessness of securities, defined as shares of stock in a corporation and rights to subscribe for or to receive such shares, shall, if such shares are capital assets, be considered as a loss from the sale or exchange of capital assets. The amendment adds a new paragraph (4) to section 23 (g) so as to provide that, for the purposes of this section, stock in a corporation affiliated with the taxpayer shall not, in the case of such taxpayer, be deemed a capital asset. The House recedes.

Amendments Nos. 60 and 61: These amendments are clerical; the House recedes.

Amendment No. 62: This amendment is technical, conforming to the change made by amendment No. 132; in view of the action taken on amendment No. 132, the House recedes.

Amendment No. 63: This amendment is clerical; the House recedes.

Amendment No. 64: This amendment adds a new paragraph (5) to section 23 (k) to provide that bonds, debentures, notes, or certificates, or other evidences of indebtedness issued with interest coupons or in registered form by any corporation affiliated with the taxpayer shall not, in the case of such taxpayer, be deemed capital assets for the purposes of section 23 (k) (2) (which treats the loss resulting from the worthlessness of such securities, if they are capital assets, as a loss from the sale or exchange of capital assets). Section 23 (k) (1) (relating to the deductibility of worthless debts) shall be applicable with respect to debts evidenced by such securities, except that no deduction on account of worthlessness shall be allowed under such section with respect to any such debt which is recoverable only in part. The House recedes.

Amendments Nos. 65, 66, and 67: These amendments are clerical; the House recedes.

Amendment No. 68: This amendment makes the provisions of section 119 of the House bill with respect to nonbusiness bad debts applicable only to taxable years beginning after December 31, 1942,

instead of December 31, 1941, as in the House bill. The House recedes.

Amendment No. 69: This amendment provides that section 23 (k) (5) (mentioned under amendment No. 64 above), is applicable with respect to years beginning after December 31, 1941. The House recedes.

Amendment No. 70: This amendment is clerical; the House recedes, with a clerical amendment.

Amendment No. 71: This amendment broadens section 23 (q) of the Code so as to allow deductions to corporations for contributions or gifts made to or for the use of the United States, any State, Territory, or any political subdivision thereof, or the District of Columbia, or any possession of the United States, for exclusively public purposes. The amendment deletes the provision contained in existing law which limits corporate charitable deductions to those contributions or gifts which are to be used only within the United States or its possessions. The House recedes, with an amendment which provides that contributions to a trust, chest, fund, or foundation made within a taxable year beginning after the end of the war shall be deductible only if they are to be used within the United States or its possessions.

Amendment No. 72: This is a change in section number; the House recedes.

Amendment No. 73: This amendment alters the definition of "bond" for the purpose of the amortization of bond premium provision so as to exclude obligations which constitute stock in trade of the taxpayer or obligations which would be includible in an inventory made by a taxpayer at the close of a taxable year. The House recedes.

Amendment No. 74: This amendment is clerical; the House recedes.

Amendment No. 75: This amendment adds section 23 (x) to the Code to allow a deduction for extraordinary expenses paid during the taxable year for the medical care of the taxpayer, his spouse, or a dependent of the taxpayer. The deduction is limited to such expenses as exceed 5 percent of net income computed without the benefit of section 23 (x), and the maximum deduction for any taxable year in the case of a husband and wife who file a joint return, or a head of a family, may not exceed $2,500, and in the case of all other individuals, $1,250. The House recedes.

Amendment No. 76: This amendment adds to the Code section 23 (y) to provide that losses of certain mining corporations for taxable years beginning in 1938 and 1939 shall be allowed as deductions in computing net income for the first taxable year beginning in 1940. The Senate recedes.

Amendment No. 77: This amendment adds to the Code section 23 (z) to allow a tenant-stockholder to deduct from gross income amounts paid or accrued to a cooperative apartment corporation within the taxable year of the tenant-stockholder, if such amounts represent such tenant-stockholder's proportionate share of certain real estate taxes, allowable as deductions under section 23 (c) of the Code, paid or incurred by the corporation, or of the interest paid or incurred by the corporation on certain indebtedness. The House recedes with an amendment renumbering the section.

Amendment No. 78: This is a clerical amendment; the House recedes, with an amendment renumbering the section.

Amendment No. 79: This amendment is clerical. The House recedes.

Amendment No. 80: Section 121 of the House bill is revised by this amendment which adds to the Code a new paragraph denying a deduction under section 23 (b) for any amount, whether in the form of interest or in any other form, which has been paid or accrued on an indebtedness incurred or continued to purchase a single premium life insurance or endowment contract. For the purposes of this new paragraph a contract shall be considered a single premium life insurance contract, if substantially all the premiums on such contract are paid within a period of four years from the date on which the contract is purchased. The House recedes.

Amendments Nos. 81 and 83: These amendments are clerical; the House recedes, with amendments renumbering these sections.

Amendment No. 82: This is a clerical amendment; the House recedes.

Amendment No. 84: This amendment is technical, to conform the title of section 132 with the material added by amendment No. 86. The House recedes.

Amendment No. 85: This amendment provides that alien residents with the appropriate status of countries contiguous to the United States shall be allowed the personal exemption of head of a family or of a married person living with husband or wife in cases where such countries allow similar exemptions to citizens of the United States who reside in the United States. The House recedes.

Amendment No. 86: This amendment reduces the credit for dependents from $400 to $300. The House recedes with an amendment fixing such credit at $350.

Amendment No. 87: This amendment is clerical; the House recedes.

Amendment No. 88: This is a clerical amendment; the House recedes with an amendment renumbering the section.

Amendments Nos. 89 and 90: These amendments are clerical; the House recedes.

Amendment No. 91: This amendment provides that section 133 of the bill as amended by the Senate shall be applicable with respect to taxable years beginning after December 31, 1939, instead of December 31, 1941, as provided in the House bill. The House recedes.

Amendment No. 92: This amendment inserts at the end of section 26 of the Code a new subsection which allows to public utilities a credit against the corporate surtax of the amount of dividends paid on their preferred stock during the taxable year. The House recedes with technical changes.

Amendment No. 93: This amendment makes a change in section number; the House recedes, with a clerical change.

Amendment No. 94: Under the House bill, the recipient of income in respect of a decedent includes such income in his gross income, and is given a deduction for the estate tax paid on account of the inclusion in the decedent's estate of the right to such income, determined on the basis of the effective rate of estate tax applicable to the decedent's estate. The Senate amendment provides that such deduction shall be determined on the basis of the increase in estate tax caused by the

inclusion in the decedent's estate of all rights to such income. The House recedes.

Amendment No. 95: This amendment provides that the retroactive provisions of section 135 of the bill, as amended by the Senate, will apply only if the executor and each person receiving income in respect of a decedent consent to the computation of the income tax of the decedent for his last taxable period under such retroactive provisions. The House recedes.

Amendments Nos. 96, 97, 99, and 100: The retroactive provisions of section 135, relating to income in respect of decedents, require that proper adjustment of the tax of the recipient of such income be made within one year after the filing of the consents by the recipients, notwithstanding any expiration before the end of such year of the period of limitation provided by the Code. These amendments provide that such adjustments shall be made notwithstanding the expiration before the end of such year of any period of limitation prescribed in a revenue law in effect prior to the Code, and notwithstanding any rule of law, such as a previous judicial determination of the recipient's tax, prior to the end of such year. The House recedes.

Amendment No. 98: This is a technical amendment made necessary by amendment number 95 in order to carry out the provision in the House bill that these retroactive provisions will not extend the period of limitation for claiming credit or refund of the income tax of the decedent for his last taxable period. The House recedes.

Amendment No. 101: This amendment to the retroactive provisions of section 135 provides that if, upon the application of such provisions, there is a deficiency in income tax for the last taxable period of the decedent, such deficiency when assessed shall be reduced by the overpayment, if any, in the estate taxes on the estate of the decedent caused by the failure to deduct from such estate the proper amount of such income tax of the decedent, if at the time such deficiency is assessed credit or refund of such overpayment is barred. The House recedes.

Amendment No. 102: This is a clerical amendment; the House recedes.

Amendment No. 103: This is a change in section number; the House recedes, with a clerical amendment.

Amendment No. 104: This amendment eliminates the requirement that income tax returns of individuals be made under oath and provides for verification by a written declaration that the return is made under the penalties of perjury. There is no comparable provision in the House bill. The House recedes, with an amendment making a change in section number.

Amendment No. 105: This amendment changes the requirements for exemption of an employees' beneficiary association to provide that the 85 percent of income used for making payments and meeting expenses may include contributions from the employer as well as amounts collected from members. This amendment is made retroactive through the Revenue Act of 1928. The amendment also provides for a new class of exempt corporations, namely, nonprofit public utility corporations. Both of these amendments are expressly made inapplicable to employment taxes. The House recedes with an amendment deleting that part of the Senate amendment relating to nonprofit public utility corporations.

Amendments Nos. 106 and 107: These amendments are changes in section numbers; the House recedes with amendments changing the section numbers to conform to the bill as agreed to in conference.

Amendment No. 108: This amendment changes the provisions of section 128 of the House bill so as to delete the requirement that the personal services must have been completed before the required percentage of the compensation is received, and revises the language in order to resolve certain administrative problems which might arise under the House amendment. The House recedes.

Amendment No. 109: This amendment clarifies the language of the House bill. The House recedes.

Amendment No. 110: This amendment eliminates the House provisions relating to fiscal year taxpayers and substitutes provisions applicable only to taxable years beginning in the calendar year 1941 and ending after June 30, 1942. The bill as passed by the House provided that fiscal year taxpayers should, if the law with respect to the respective calendar years in which a fiscal year falls is different, compute their normal taxes, surtaxes, and excess profits taxes in a specified manner. This amendment relates only to normal and surtax, while amendment No. 260 relates to excess profits tax. This amendment provides that in the case of a taxpayer with a taxable year beginning in 1941 and ending after June 30, 1942, the tax is the sum of the following: (a) that portion of the tax computed at the 1941 rates which the portion of the taxable year prior to July 1, 1942, bears to the entire taxable year; and (b) that portion of the tax computed at the 1942 rates which the portion of the taxable year after June 30, 1942, bears to the entire taxable year. Certain special classes of taxpayers are exempted from the operation of the statute, namely, insurance companies subject to Supplement G, investment companies subject to Supplement Q, and Western Hemisphere Trade Corporations as defined in section 141 of the Revenue Act of 1942. In addition, the statute does not apply to individuals who pay their taxes under Supplement T. The House recedes with an amendment making a change in section number and clerical changes.

The conference is agreed that with respect to any future tax increase, fiscal year taxpayers will be liable for the increase as well as calendar year corporations.

Amendment No. 111: The Senate amendment provides exemption from surtax for certain domestic corporations deriving their income principally from the active conduct of trade or business in foreign countries within the Western Hemisphere. There is no comparable provision in the House bill. The House recedes with an amendment making a change in section number.

Amendment No. 112: This amendment provides for nonrecognition of loss on the transfer after December 31, 1939, of property of a railroad corporation as defined in the Bankruptcy Act pursuant to a court order made in reorganization proceedings, without regard to the definition of reorganization contained in section 112 (g) of the Code. Further, the amendment provides that the property so transferred shall have the same basis in the hands of the transferee as it had in the hands of the transferor. There is no comparable provision in the House bill. The House recedes with an amendment changing the section number.

Amendment No. 113: This amendment provides that the basis for property acquired after December 31, 1934, by street, suburban, or interurban electric railways in interstate commerce, pursuant to court order to effectuate a plan of reorganization under section 77B of the Bankruptcy Act shall be the basis in the hands of the transferor for taxable years beginning after December 31, 1939, notwithstanding section 270 of Chapter X or the definition of reorganization in section 112 (g) of the Code. There is no comparable provision in the House bill. The House recedes.

Amendment No. 114: This amendment provides, with respect to personal holding companies adopting a plan of complete liquidation after the passage of the Revenue Act of 1942, special rules for the treatment of gain on shares of stock owned by certain shareholders on the date of the adoption of the plan of liquidation, where the liquidation is in complete cancellation and redemption of all of the stock and the transfer of the property occurs within the month of December 1942, except for cash reserved for payment of liabilities. The Senate recedes.

Amendment No. 115: This amendment is clerical; the House recedes, with a clerical change.

Amendment No. 116: This amendment provides that the basis of property acquired by bequest, devise, or inheritance or by the decedent's estate from the decedent, which is valued, for estate tax purposes, pursuant to the executor's election under section 811 (j) of the Code, shall be the fair market value of the property as of the applicable valuation date for estate tax purposes. The House recedes, with an amendment renumbering the section.

Amendment No. 117: This amendment is clerical; the House recedes, with a clerical change.

Amendments Nos. 118, 119, 120, 121, 122, and 123: These amendments provide for percentage depletion at the rate of 15 percent with respect to ball and sagger clay and rock asphalt mines, and deny discovery depletion in respect of such mines. The House recedes.

Amendments Nos. 124 and 125: These amendments are clerical; the House recedes, with clerical changes.

Amendment No. 126: This amendment is technical, conforming to the change made in section 152 of the bill as passed by the Senate. The House recedes.

Amendment No. 127: This amendment is clerical; the House recedes, with a clerical change.

Amendment No. 128: Section 134 of the House bill struck out section 116 (a) of the Code, under which a citizen of the United States, a bona fide nonresident of the United States for more than six months during the taxable year, is exempt from tax on earned income from sources without the United States. The amendment retains section 116 (a), but changes the test, effective with respect to taxable years beginning after December 31, 1942, to one of residence in a foreign country or countries during the entire taxable year. The Senate also added a provision that a citizen of the United States, who has been a resident of a foreign country or countries for at least two years before the date on which he changes his foreign residence to a United States residence, shall be exempt with respect to earned income from sources without the United States derived during the period of his foreign residence. This change is applicable with respect to taxable years beginning in 1942. The House recedes.

Amendment No. 129: The amendment deletes an amendment contained in the House bill which provided that there should be included in gross income all amounts paid by the United States or any agency thereof as compensation for labor or personal services or under contract with the United States or any agency thereof. The Senate also has deleted a further House amendment which would confine the application of section 251 of the Code to the Commonwealth of the Philippines and Puerto Rico. T e House recedes.

Amendment No. 130: This is a change in section number; the House recedes, with a clerical change.

Amendment No. 131: This is a clerical change; the House recedes with a change in section number.

Amendment No. 132: This amendment alters the provision of the House bill relating to the holding period distinguishing short-term from long-term capital gains and losses by changing the time from 15 months to 6 months. The House recedes.

Amendments Nos. 133 and 134: These are technical amendments related to amendment No. 132. The House recedes.

Amendment No. 135: This amendment removes mutual investment companies from the application of the alternative tax applied by the House bill in the case of certain other corporations if net long-term capital gain exceeds net short-term capital loss. The House recedes.

Amendments Nos. 136 and 137: Section 136 of the House bill provided in the case of banks and insurance companies that the excess for any taxable year of losses over gains on sales and exchanges of bonds, debentures, notes, or certificates, or other evidences of indebtedness, should be considered as ordinary losses and deductible in full. The Senate amendments remove insurance companies from this provision. The House recedes with an amendment removing life insurance companies from the alternative tax applied by the House bill in the case of certain other corporations if net long-term capital gain exceeds net short-term capital loss.

Amendments Nos. 138, 139, 140, 141, 142, 143, 144, 145, and 146: These amendments are technical amendments related to amendment No. 132. In view of the action on amendment No. 132, the House recedes.

Amendment No. 147: This is a clerical change; the House recedes with a change in section number.

Amendment No. 148: This is a technical amendment related to amendment No. 149. In view of the action on amendment No. 149, the House recedes.

Amendments Nos. 149, 150, 151, and 154: Section 137 of the House bill included buildings and similar real property improvements used in trade or business within the definition of capital assets. It provided, in case gains from involuntary conversions, sales, or exchanges of depreciable property used in trade or business (other than buildings and similar real property improvements) held for a term equivalent to that of long-term capital assets, plus gains from involuntary conversions of long-term capital assets, exceed losses from such sales, exchanges, or conversions, the gains and losses should be treated as long-term capital gains and losses; if gains do not exceed losses, the gains and losses should not be treated as capital gains and losses. Amendment No. 149 in part provides, instead of buildings and similar real property improvements used in trade or business being classified

as capital assets, that real property used in trade or business shall be excluded from the definition of capital assets. Amendments Nos. 150, 151, and 154, together with the rest of amendment No. 149, accomplish the same result as Section 137 of the House bill so far as conversions, sales, and exchanges of property used in the trade or business and involuntary conversions of long-term capital assets are concerned. The House recedes.

Amendments Nos. 152, 153, and 155: These are technical amendments related to amendment No. 132. In view of the action on amendment No. 132, the House recedes.

Amendment No. 156: The Senate amendment provides that an involuntary conversion will be considered an exchange of the property converted for the property acquired in determining the period for which such property is held. The House recedes.

Amendment No. 157: This is a clerical amendment; the House recedes.

Amendment No. 158: This amendment makes taxable the gains upon an involuntary conversion to the extent that money, whenever received, is not expended to acquire property similar to the converted property. The House recedes.

Amendment No. 159: This is a clerical change; the House recedes with a change in section number.

Amendment No. 160: This amendment adds to the bill a new section to permit the net operating loss for any taxable year beginning on or after January 1, 1942, to be carried back and credited against net income for each of the two preceding years (but not for any taxable year beginning before January 1, 1941). That portion of the net operating loss for any taxable year which is not used as a carry-back may be carried forward, as under existing law, to the two succeeding taxable years. The House recedes with an amendment to conform the section number with the bill as agreed to in conference.

Amendment No. 161: This is a clerical change; the House recedes with a change in section number.

Amendment No. 162: A taxpayer electing to include loans received from the Commodity Credit Corporation in income for taxable years beginning after December 31, 1938 and before January 1, 1942 may, under section 139 of the House bill, elect to do so at, or at any time prior to, the time for filing the taxpayer's return for his taxable year beginning in 1942. The Senate amendment allows this only if the records of the taxpayer are sufficient to permit an accurate determination of income for the years involved and if the taxpayer agrees to allow additional assessments of any deficiencies for such years although the statutory period for assessing deficiencies may have expired. The House recedes.

Amendment No. 163: This is a clerical change; the House recedes, with a change in section number.

Amendment No. 164: This is a clerical amendment; the House recedes.

Amendment No. 165: This amendment extends from 3 months to 6 months after the date of the enactment of the Revenue Act of 1942, the period in which an election may be made to take an amortization deduction for an emergency facility completed or acquired by a corporation after December 31, 1939 and before June 11, 1940, or

by a taxpayer other than a corporation after December 31, 1939, and before January 1, 1942. The House recedes.

Amendment No. 166: This is a clerical amendment; the House recedes.

Amendment No. 167: This amendment permits amortization in the case of a taxpayer which commenced construction, reconstruction, erection, or installation of an emergency facility during the emergency period, but did not complete it before the end of the emergency period. It provides that the taxpayer shall use an amortization period beginning with the month in which the construction, etc., was begun and ending as of the end of the month within which the emergency period ends, or within which the emergency facility ceased to be necessary in the interest of national defense during the emergency period. The House recedes.

Amendment No. 168: This amendment provides that the part of any facility which was constructed, etc., after December 31, 1939, and not earlier than 6 months prior to the filing of an application for a certificate of necessity and with respect to which part a certificate of necessity has been made, shall be deemed to be an emergency facility notwithstanding that the other part of such facility was constructed, etc., earlier than 6 months prior to the filing of the application for the certificate of necessity. The House recedes.

Amendment No. 169: This is a technical amendment related to amendment No. 168. In view of the action on amendment No. 168, the House recedes.

Amendments Nos. 170 and 171: These amendments extend from 3 to 6 months after the enactment of the Revenue Act of 1942 the period in which an application for a certificate of necessity must be filed in the case of facilities acquired or completed by corporations after December 31, 1939 and before June 11, 1940 and by persons other than corporations after December 31, 1939. The House recedes.

Amendment No. 172: This is a technical amendment related to amendment No. 167. In view of the action on amendment No. 167, the House recedes.

Amendments Nos. 173, 174, and 175: The House bill provided that no amortization deduction should be allowed unless a certificate of necessity was made within 9 months after the date of enactment of the Revenue Act of 1942 in the case of facilities completed or acquired by corporations after December 31, 1939 and before June 11, 1940, within the six months after the last date on which an application for a certificate of necessity was filed or within 9 months after the date of enactment of the Revenue Act of 1942, whichever was later, in the case of facilities completed or acquired by persons other than corporations after December 31, 1939 and before January 1, 1943. The Senate amendments extend the six-month periods to 9 months and the nine-month period to 12 months. The House recedes.

Amendment No. 176: This is a clerical amendment; the House recedes.

Amendment No. 177: This amendment extends the provision in the House bill for a credit or refund of the amount of tax paid under Chapter 1 of the Code which would not have been paid had the amortization provisions in the bill been enacted on October 8, 1940.

Amounts paid under the excess profits tax and the declared value excess-profits tax are included. The House recedes.

Amendment No. 178: This amendment, for which there is no corresponding provision in the House bill, provides practical rules for the treatment of property destroyed or seized in the course of military or naval operations during the war, and of property located in enemy countries or in areas which come under the control of the enemy.

In the case of property situated in an enemy country, or in an area controlled by such country, on the date war was declared on such country by the United States, such property is under this amendment deemed to have been seized or destroyed on the date the United States declared war on such country.

Similarly, if after the date war is declared by the United States, the enemy country occupies an area in which the taxpayer's property is located, that property is treated as destroyed or seized upon the date the enemy gains control of the area. In many cases, the exact date of enemy occupation cannot be established. Therefore, the taxpayer is permitted to treat the loss as occurring at any time after the last date on which the United States or a friendly country had complete control of the area and before the earliest date on which the enemy gained complete control.

This amendment also provides similar rules for determining the date of the loss in the case of property actually destroyed or seized in the course of military or naval operations.

The section of the bill added by this amendment provides that if any interest in or with respect to property deemed to be seized or destroyed under such section (property seized or destroyed in the course of military or naval operations or in an area under the control of the enemy, or an interest in or with respect to such property) becomes worthless, the loss thereon shall be treated as a casualty loss resulting from the destruction or seizure of the interest in such property. The amendment applies only if the property deemed to be seized or destroyed under this section had been destroyed. The section applies equally to land and interests in real property, and to tangible and intangible personal property interests. For example, under section 127 (a) (3) contained in this amendment, land which has been seized in the course of military or naval operations or which is in an area under enemy control is treated, for the purposes of determining whether the stock or bonds of the corporation owning such land have become worthless, as having been destroyed, even though land may be ordinarily regarded as indestructible.

In the case of a taxpayer which owns at least 50 percent of the stock of each class of a corporation, which corporation has property, representing at least 75 percent of the adjusted basis for determining loss of all its property, destroyed or seized in the course of military or naval operations, or located in an area under the control of the enemy, such taxpayer may treat that part of the loss upon the liquidation of such corporation which results from the destruction or seizure of such property as being a casualty loss on account of the destruction or seizure of the stock interest in such property.

This amendment also provides that in determining the loss upon the destruction or seizure of the property described in this section, the taxpayer shall ignore those elements of value caused by the possibility that the property will be returned to him at the end of the war,

or the possibility that the Government will reimburse him for the property after the war. The taxpayer shall not, of course, ignore his right to reimbursement from insurance or from other similar definite rights which compensate him for the loss. It is provided that in determining the loss upon property treated as seized or destroyed, consideration must be given to any compensation for such loss resulting from the property, treated as seized or destroyed, being used in the same taxable year to pay any obligations of the taxpayer with respect to such property. If the taxpayer cannot determine whether or not certain obligations are so discharged, it may determine its loss as if all such obligations were so discharged. For example, a bank has a branch in Tokio. If it cannot determine whether or not the assets in the Tokio branch were used to discharge its liabilities to those depositors in the branch who are not enemies of Japan, it may nevertheless determine its loss as if such assets were so used.

This amendment further provides that any money received in respect of property treated as destroyed or seized under this amendment, the fair market value of any property received in lieu of such property, and the fair market value of the property itself, if it is recovered, shall be included in income for the taxable year when received. Furthermore, the restoration in value of any interest in or with respect to such property, which interest was treated as destroyed or seized under this amendment, as a result of the recovery of money or property in respect of property to which such interest related, shall be included in income for the taxable year in which such restoration in value occurs.

The provisions of this amendment are applicable to taxable years beginning after December 31, 1940. However, under the terms of this amendment, no war loss can be sustained prior to December 7, 1941. The House recedes with the following amendments:

In the case of a wholly-owned subsidiary, whose stock would be worthless if the value of certain liquid assets (excluded in determining whether the taxpayer could treat the loss upon the liquidation of the subsidiary as a war loss) were disregarded, the section is changed to permit the taxpayer to determine the worthlessness of its interest in the subsidiary without regard to the value of such assets, except that the value of all of such assets must be treated as a recovery by the taxpayer. A taxpayer electing to claim its loss under this provision need not liquidate its subsidiary.

In the case of a taxpayer entitled to a loss for the partial worthlessness of its interest in a subsidiary upon the liquidation of the subsidiary, the section is changed to expressly provide that a complete distribution in good faith of all assets and of all rights to assets is a sufficient liquidation. If the taxpayer is not able to make an immediate distribution of any asset, it must distribute all its rights to such asset.

In the case of a taxpayer entitled to a war loss upon the liquidation of its subsidiary, the section is changed to remove the provision limiting the taxpayer's loss to its stock interest in the subsidiary. Upon the liquidation of the subsidiary, the loss upon the taxpayer's entire interest in the subsidiary is treated as a war loss.

Amendment No. 179: The Senate amendment provides that a taxpayer who has paid an unconstitutional Federal tax for which he has

been allowed an appropriate deduction and who subsequently recovers such tax in any taxable year beginning after December 31, 1940, may exclude the income (exclusive of interest also recovered) attributable to such recovery from his gross income in the taxable year of recovery provided certain conditions are fulfilled. The House recedes with an amendment eliminating surplus language.

Amendment No. 180: This is a clerical amendment; the House recedes.

Amendment No. 181: This amendment provides, with respect to taxable years beginning after December 31, 1940, that a taxpayer who has paid or accrued foreign income taxes may claim such taxes as a credit against his tax liability or, in the alternative, as a deduction from gross income. The election to take the credit may be made or changed at any time prior to the expiration of the period prescribed for making a claim for credit or refund of the tax imposed by Chapter 1. Existing law provides that, if "the taxpayer signifies in his return," the tax imposed shall be credited with the foreign tax. On the deduction side, it is provided that the taxpayer may use the foreign tax as a deduction from gross income if he "does not signify in his return his desire to have to any extent" the credit.

The conferees gave consideration to the question of an amendment to section 131 of the Code to provide that the credit for foreign taxes on foreign income not reported in the taxable year because of its being blocked should be deferred and allowed in the taxable year in which such income is released and realized for income tax purposes. It was agreed that such an amendment is unnecessary. Under a proper interpretation of existing law, the credit for foreign taxes, as well as the various allowable deductions, follows the income into the taxable year in which it is realized for purposes of the income tax law. This might appropriately be covered specifically by departmental regulations in view of the importance of the question to a large number of taxpayers.

The House recedes with a change in section number.

Amendment No. 182: This is a technical amendment made necessary because of the change in method of computing "normal tax net income" provided in section 105 of the bill. The House recedes.

Amendment No. 183: This is a clerical amendment; the House recedes.

Amendment No. 184: The Senate amendment provides that the term "income, war profits and excess profits taxes" shall, for the purposes of sections 131 and 23 (c) (1) (C), relating to the foreign tax credit and deduction, include a tax paid in lieu of a tax upon income, war profits, or excess profits otherwise generally imposed by any foreign country or by any possession of the United States. The House recedes.

Amendment No. 185: This is a clerical amendment; the House recedes with a change in section number.

Amendments Nos. 186 and 192: In extending the privilege of filing consolidated returns, the House bill provided that the group making a consolidated income tax return might include corporations not includible in the group making a consolidated excess profits tax return. It is believed desirable that the affiliated group of corporations should be identical for both consolidated income and for consolidated excess profits tax return purposes. This is administratively expedient, both

from the standpoint of the Government and the taxpayer. In addition, it prevents the disqualification for consolidated excess profits tax return purposes of groups which are eligible for consolidated income tax return purposes in those cases where the common parent corporation would otherwise be exempt from excess profits taxes under sections 725 and 727 of the Code. These amendments help to carry out this policy, by striking the provisions of the House bill, that for consolidated income tax purposes, the affiliated group might include corporations subject to the income tax whether or not such corporations were includible for consolidated excess profits tax return purposes, and by removing personal service corporations, personal holding companies, and companies exempt under section 727 from the excess profits tax from the category of ineligible corporations. The House recedes.

Amendments Nos. 187 and 188: Section 141 of the Code, in its present form and as amended by this bill, provides that consolidated returns may be filed by an affiliated group only if all corporations which were members of the group at any time during the taxable year for which such returns are filed consent to the consolidated returns regulations. Under such a rule a group which, without obtaining the required consents, had disposed of an affiliate prior to the time that recommendations were made to Congress by the Treasury Department that consolidated returns should be extended for income as well as excess profits tax purposes would not be able to avail itself of this provision. The Senate amendments have therefore provided that a corporation which is not a member of the affiliated group after March 31, 1942, of the last taxable year of the group beginning before April 1, 1942, shall not be considered a member of the group for consolidated income tax return purposes although it shall be considered a member for consolidated excess profits tax return purposes. The House recedes.

Amendment No. 189: The regulations under existing law provide that the net operating loss deduction of a member of a group, on account of a carry-over from years prior to that in which its income is first included in a consolidated return, shall not exceed the amount of the separate income of such member. This amendment provides that this limitation shall not prevent the portion of the deduction, on account of a net operating loss carry-over which is attributable to a 1941 war loss, from being taken into account in computing consolidated net income. The House recedes.

Amendment No. 190: This is a technical amendment related to amendment No. 261. It retains a $5,000 specific exemption from excess profits tax for a group filing a consolidated return instead of the $10,000 exemption provided in the House bill. In view of the action taken on amendment No. 261, the House recedes.

Amendment No. 191: The House bill provided that corporations entitled to the benefit of section 251 of the Code, relating to income from sources within possessions of the United States, should be excluded from the privilege of filing consolidated returns unless electing under section 251 (b) not to be taxed under such section. This amendment removes the option of becoming an includible corporation by electing not to be taxed under section 251. The House recedes.

Amendment No. 193: This is a technical amendment related to amendment No. 192. In view of the action on amendment No. 192, the House recedes.

Amendments Nos. 194, 195, and 196: These are clerical amendments; the House recedes.

Amendment No. 197: This is a clerical change; the House recedes, with a change in section number.

Amendment No. 198: This amendment strikes from section 14 (c) of the Code, relating to foreign corporations, the phrase which permits such a corporation special tax treatment if it has an office or place of business in the United States. In so doing, the amendment accords with the sections of the House bill removing this phrase in other sections of the Code. The House recedes.

Amendments Nos. 199, 200, 201, and 202: These are clerical amendments; the House recedes.

Amendment No. 203: This amendment provides that, unless a specified statement has been filed as prescribed by the Commissioner, no deduction (except under section 23 (w), relating to deductions of estate, etc., on account of decedent's deductions) shall be allowed in computing the net income of an estate for income tax purposes on account of amounts allowable as a deduction under section 812 (b) of the Code in computing the net estate of a decedent for estate tax purposes. The House recedes, with a change in section number.

Amendment No. 204: This amendment revises substantially the treatment of pension trusts and annuity and profit-sharing plans contained in the House bill. The present law is restored to the effect that a trust is exempt if the trust assets may not be used for purposes other than the exclusive benefit of the employees so long as all liabilities with respect to the employees or their beneficiaries have not been satisfied. The requirement that 70 percent of all employees should be covered by the plan for the plan to be tax-exempt has been altered so that if 70 percent of all employees are eligible and at least 80 percent of those eligible participate, the plan will be exempt. Specific language has been inserted to provide that plans supplementary to social security benefits shall not be considered discriminatory merely because limited to salaried or clerical employees.

The House bill limited the employer's deduction in the year of payment of contributions to a plan to 5 percent of the compensation otherwise paid to the employees with permission to spread any excess over a 5 year period. The House bill has been revised in the case of pension trusts to subject the reasonableness of the deductions claimed up to 5 percent to periodical examinations by the Commissioner at not less than 5 year intervals. Further provision has been made for plans where it is actuarially necessary for the employer's contributions in any given year to exceed 5 percent of the compensation otherwise paid employees. Under the Senate changes, where the employer's contributions for both past and current service credits are determined in terms of a level amount, or a level percentage of compensation, over the remaining future service of each employee, the employer's contributions are permitted, with a minor qualification, as a deduction in excess of the 5 percent limit where actuarially necessary. Where the employer may be said to pay a level percentage of compensation for present services but pays in irregular amounts for past services a deductible amount is allowed in addition to normal cost of not in excess of 10 percent of the cost which would be required to completely fund or purchase the pension or annuity credits as of the date when they are included in the plan. Any excess may be carried over to a

subsequent year in which contributions fail to reach the prescribed limits. If contributions are paid into a stock bonus or profit-sharing trust such contributions are limited to 15 percent of the compensation otherwise paid employees. Any excess contributions may be carried over or carried back to years in which this limit was not reached. If amounts are deductible in connection with two or more trusts or plans, the total amount deductible in a taxable year shall not exceed 25 percent of compensation otherwise paid employees according to the provisions of the amendment. If an annuity is purchased by a section 101 (6) corporation, the employee includes in income only amounts he receives.

Detailed provisions have been added by the Senate amendment with respect to the dates of application of this measure to pension plans now in existence or not yet in existence for the purpose of allowing adequate opportunity to adjust plans to the requirements erected, with special allowances for plans in existence prior to December 31, 1939.

The House recedes with certain clerical and technical changes and the removal of the provisions with respect to plans in existence prior to December 31, 1939.

Amendment No. 205: This is a clerical change; the House recedes with a change in section number.

Amendment No. 206: This amendment contains a number of clerical corrections and provides a less stringent exclusion of burial insurance companies, and provides for the inclusion of certain assessment life insurance companies. Capital gains are excluded from the tax base, and amortization of bond premium and accrual of bond discount is provided for. The House recedes with certain clarifying amendments.

Amendment No. 207: This amendment by the Senate repeals a section made unnecessary by other changes. The House recedes.

Amendment No. 208: This is a change in section heading; the House recedes with an amendment to conform the section number to the bill as agreed to in conference.

Amendments Nos. 209, 210, 211, and 212: These Senate amendments tax mutual marine insurance companies in the same manner as stock companies, with a deduction for dividends to policyholders. The House recedes.

Amendment No. 213: Participating stock companies are allowed a deduction by this amendment for all dividends paid to policyholders, instead of only that part in excess of investment income; the deduction for surplus apportioned to policyholders is eliminated, and a provision is inserted to permit life insurance reserves to be treated as unearned premiums in the case of life business of a company not taxed under section 201. Capital losses are to be allowed in full as a deduction from ordinary income to the extent that they arise from the sale of assets disposed of to obtain funds to pay abnormal insurance losses or to pay dividends in periods of declining premium income. The House recedes.

Amendment No. 214: This amendment is clerical; the House recedes.

Amendment No. 215: This amendment provides that mutual insurance companies other than life shall be taxed on their investment income at the regular corporate and excess profits tax rates or at 1

percent on gross income whichever gives the greater tax. "Gross income" means the gross amount received from interest, dividends, rents, and net premiums, minus dividends to policyholders, less the interest which under section 22 (b) (4) is excluded from gross income. Reciprocal underwriters or interinsurers are taxed on the investment income basis only. Companies having gross receipts of less than $75,000 are exempt, and companies having less than $75,000 of gross income and less than $3,000 of investment income pay no tax. Reciprocal underwriters or interinsurers pay no tax if investment income is less than $50,000. Notch provisions determine the tax of companies having incomes slightly in excess of these limits. Capital losses are to be allowed in full as a deduction from ordinary income to the extent that they arise from the sale of assets disposed of to obtain funds to pay abnormal insurance losses or to pay dividends in periods of declining premium income.

The House recedes with a series of clarifying amendments and an amendment providing that reciprocal underwriters and interinsurers are not subject to tax unless the surtax net income from investments exceeds $50,000.

Amendment No. 216: This amendment provides an exemption from tax for small stock accident and health insurance companies having gross receipts of less than $200,000. The Senate recedes.

Amendment No. 217: This is a clerical change; the House recedes with a change in section number.

Amendment No. 218: This is a technical amendment related to amendment No. 215. In view of the action on amendment No. 215, the House recedes.

Amendment No. 219: This is a clerical change; the House recedes with a change in section number.

Amendment No. 220: The Senate amendment provides that if a notice of deficiency in income tax is mailed to a taxpayer outside the States of the Union and the District of Columbia, the taxpayer has 150 days within which to file his petition with the Board of Tax Appeals. The House recedes with a change in section number.

Amendment No. 221: This is a clerical change; the House recedes with a change in section number.

Amendment No. 222: This is a clerical change; the House recedes.

Amendment No. 223: The Senate amendment adds to the situations in which a seven-year statute of limitations is prescribed by the House bill for a claim for credit or refund, the case of an overpayment on account of the effect that the deductibility of a debt or loss from the worthlessness of a security has on the application to the taxpayer of a carry-back. The House recedes.

Amendment No. 224: This is a clerical change; the House recedes with a change in section number.

Amendment No. 225: This amendment includes in the definition of regulated investment companies for the purposes of the income tax common trust funds or similar funds not included in the definition of a common trust fund in section 169 of the Code and excluded by section 3 (c) (3) of the Investment Company Act of 1940 from the definition of an investment company. The House recedes.

Amendment No. 226: The House bill provided that a corporation should not be considered a regulated investment company unless 90 percent of its net income for the taxable year computed without regard

to net long-term and net short-term capital gains was distributed to its shareholders as taxable dividends during the taxable year. The Senate amendment removes this restriction in view of the change in amendment No. 230. The House recedes.

Amendment No. 227: This is a clerical change; the House recedes.

Amendment No. 228: It was further provided in the House bill that a corporation is not a regulated investment corporation unless it complied with rules and regulations prescribed by the Commissioner, for the purpose of ascertaining the actual ownership of its outstanding stock. This requirement is removed by the Senate amendment in view of the change in amendment No. 230. The House recedes.

Amendment No. 229: A corporation, to qualify as a regulated investment company, is required by the Senate amendment to file with its return for the taxable year an election to be a regulated investment company unless it has made such an election for a previous taxable year which began after December 31, 1941. The House recedes.

Amendment No. 230: With respect to the tax on Supplement Q net income and Supplement Q surtax net income, the Senate amendment permits Supplement Q treatment where there has been a distribution as taxable dividends of not less than 90 percent of the net income without regard to net short-term and net long-term capital gains, and compliance with regulations prescribed for the purpose of ascertaining the actual ownership of the stock. The amendment also extends the recognition of the conduit principle to capital gains, thus taxing distributed portions of such gains as capital gains in the hands of the shareholders. The Senate amendment also provides that the earnings and profits for any taxable year beginning after December 31, 1941 (but not the accumulated earnings and profits) shall not be reduced by any amount which is not allowable as a deduction in computing net income for such taxable year. The House recedes.

Amendments Nos. 231 and 232: These are clerical or minor technical amendments; the House recedes.

Amendment No. 233: The Senate amendment provides for retroactive adjustments of earnings and profits in order to eliminate certain hardship cases which have arisen out of subsequent disqualifications of mutual investment companies. The House recedes.

Amendment No. 234: This is a clerical change; the House recedes with a change in section number.

Amendments Nos. 235, 236, 237, and 238: These are clerical changes; the House recedes.

Amendment 239: The Senate amendment provides that, in cases where property was acquired in a taxable year beginning before January 1, 1942, in any manner described in section 372 prior to its amendment by the Revenue Act of 1942, the basis shall be that prescribed in such section prior to its amendment. The House recedes.

Amendment No. 240: This is a clerical amendment; the House recedes.

Amendments Nos. 241 and 242: The House bill provided a system for collection of the tax at the source on dividends, bond interest, and wages. The amount so collected was to be allowed as a credit against the tax imposed by chapter 1 for the taxable year in which such dividends, bond interest, and wages were includible in gross income. The rate of withholding under the House bill was to have been 5 percent for the calendar year 1943 and 10 percent for each calendar

year thereafter. The Senate amendment struck out this provision in the House bill and inserted in lieu thereof a new subchapter D to chapter 1 of the Internal Revenue Code. Part I of this amendment imposes a Victory tax of 5 percent upon the Victory tax net income of every individual other than a nonresident alien subject to the tax imposed by section 211 (a). Such tax is applicable with respect to taxable years beginning after December 31, 1942 and expires after the date of cessation of hostilities in the present war. Part II of this amendment provides a system for collection of the tax at the source and allows the amount so collected as a credit against the Victory tax and the other taxes imposed by chapter 1. Collection of the tax at the source under the Senate amendment is limited to wages and does not include dividends and bond interest as was provided in the House bill. The rate of withholding under the Senate amendment is 5 percent. Under the Senate amendment an annual deduction of $624 is allowed which is not subject to withholding as against an annual deduction of $552 in the case of a single person and $1,320 in the case of a married person under the House bill. The House bill also allowed an annual deduction for each dependent in the sum of $432 which is not allowed under the Senate amendment since the Senate amendment makes no distinction as to the marital or dependency status of the taxpayer.

Under the Senate amendment, fees received by public officials were included in the definition of wages and thus were subject to withholding. The conference action excludes such fees from the definition of wages and therefore from withholding. If such public official has a salary in addition to his fees, the salary would be subject to the withholding provisions. Excluding such fees from the withholding provisions does not affect the Victory tax net income of such official and in computing his Victory tax such fees are includible in his gross income.

Under the Senate amendment, the term "employee" was defined to include, in addition to public officers, employees, and elected officials, certain individuals who are not employees under the law of master and servant. The effect of the definition was to broaden the common law concept of master and servant and bring within the purview of the withholding provisions certain individuals who would not otherwise be covered. The conference action excludes such individuals from the definition of employee but retains within its meaning public officers, employees, and elected officials.

Under the Senate amendment, employers are required to furnish each employee a statement at the end of the year showing the wages paid by the employer to his employee and the amount of tax withheld and collected in respect of such wages. A duplicate copy of each such statement is required to be filed by the employer with his final return for the year. Under section 147 of the Internal Revenue Code, employers are also required to file a return showing, among other things, the amount of salaries and wages paid to his employees during the taxable year. In order to avoid duplication of effort and lessen the reports required to be made to the Commissioner of Internal Revenue, the conference action provides that if the employer filed the statement required to be furnished to his employees under the Senate amendment, he would not be required to file a return under section 147 showing the salary or wages of such employees.

Certain technical and clerical changes were also made to the Senate amendment. The House recedes.

Amendment No. 243: This amendment is an addition by the Senate to the income tax provisions of the Code, requiring the recomputation of the net income of any individual who for five consecutive years has each year had allowable deductions attributable to a trade or business exceeding the gross income therefrom. The Senate recedes.

Amendment No. 244: The House bill provided that licensed personal finance companies must be subject to the supervision of State authority having supervision over financial institutions. This amendment restores the provisions of existing law which requires merely that such companies be under State supervision. The House recedes.

Amendment No. 245: This amendment eliminates the provision of the House bill that loan or investment companies be "subject to the supervision of state authority for supervision over finance institutions." The House recedes.

Amendment No. 246: This amendment provides that the amendments relative to exemption of certain corporations from personal holding company tax shall be applicable to taxable years beginning after December 31, 1941, instead of December 31, 1938, with a provision that the taxpayer may, at his election, have the amendments apply retroactively to all taxable years beginning after December 31, 1938, and not beginning after December 31, 1941. The House recedes.

Amendment No. 247: This is a technical amendment related to amendment No. 192. The House recedes.

Amendment No. 248: This amendment allows a personal holding company a deduction, in computing its undistributed subchapter A net income for taxable years beginning after December 31, 1940, of amounts distributed before January 1, 1944, in redemption of preferred stock outstanding prior to January 1, 1934, in cases where a corporation, for the 4-year period immediately prior to January 1, 1934, in fact, operated as a manufacturing, commercial, processing or service company. The House recedes.

Amendments Nos. 249 and 250: These are changes in section numbers; the House recedes.

Amendments Nos. 251 and 252: These are clerical amendments; the House recedes.

Amendments Nos. 253, 254, and 255: These amendments extend the period in which relief may be obtained by personal holding companies through distributions from 90 days to 6 months. The House recedes.

Amendments Nos. 256, 257, and 258: These are technical amendments; the House recedes.

Amendment No. 259: The House adopted a flat excess profits tax rate of 90 percent of adjusted excess profits net income, instead of the rate table now provided. This amendment limits the excess profits tax so computed to an amount which, when added to the taxes imposed by chapter 1 (other than section 102), equals 80 percent of the corporation surtax net income computed without the credit provided in section 26 (e) for income subject to excess profits tax. The House recedes.

Amendment No. 260: As pointed out in the explanation of amendment No. 110, the bill as passed by the House provided that fiscal

year taxpayers should, if the law with respect to the respective calendar years in which a fiscal year falls is different, compute their normal taxes, surtaxes, and excess profits taxes in a specified manner. This amendment simplifies the computation of excess profits tax liabilities of such taxpayers, and makes the provision applicable only to taxable years beginning in the calendar year 1941 and ending after June 30, 1942. The House recedes.

Amendment No. 261: The House bill increased the specific exemption allowed in computing adjusted excess profits net income from $5,000 to $10,000 ($50,000 in the case of a mutual insurance company other than life), and, likewise, provided that an excess profits tax return need not be filed if excess profits net income does not exceed $10,000 ($50,000 in the case of a mutual insurance company other than life). The Senate deleted these provisions. The House recedes.

Amendment No. 262: This amendment adds to the bill a new section to permit unused excess profits credit for any taxable year beginning on or after January 1, 1942, to be carried back and credited against excess profits net income for each of the two preceding years (but not for any taxable year beginning before January 1, 1941). That portion of the unused excess profits credit for any taxable year which is not used as a carryback may be carried forward, as under existing law, to the two succeeding taxable years. The House recedes.

Amendment No. 263: This is a change in section number; the House recedes.

Amendments Nos. 264, 265 and 266: These amendments relate to the computation of excess profits net income of insurance companies. Mutual insurance companies other than life or marine are taxable under a special notch provision, if the gross amount received from interest, dividends, rents, and premiums (including deposits and assessments) is between $75,000 and $125,000.

In computing the adjusted excess profits net income of a life insurance company under the income credit, the House bill is amended to allow a deduction from normal tax net income of the excess of the product of the figure determined and proclaimed by the Secretary under section 202 (b) and the excess profits net income computed without regard to this provision, over the adjustment for certain reserves. Under the invested capital credit this deduction is 50 percent of such excess. The House recedes.

Amendments Nos. 267 and 268: These amendments make clerical changes; the House recedes.

Amendments Nos. 269, 270, and 271: These amendments correct technical imperfections in the House bill. The House recedes.

Amendment No. 272: This amendment would amend section 723 of the Code to provide that the equity invested capital of mutual insurance companies other than life or marine shall be the mean of the surplus, plus 50 percent of the mean of all reserves required by law. The House recedes.

Amendment No. 273: This amendment deletes an unnecessary cross-reference. The House recedes with an amendment fixing the specific exemption of mutual insurance companies (other than life) which are interinsurers or reciprocal underwriters at $50,000. A corresponding change is made in the requirement for filing excess profits tax returns.

Amendment No. 274: This is a change in section number; the House recedes.

Amendment No. 275: This amendment eliminates the provision in the House bill requiring computation of the excess profits credit carry-over from taxable years beginning in 1940 and 1941 under the law applicable to taxable years beginning in 1942. The House recedes.

Amendment No. 276: This is a change in section number; the House recedes.

Amendments Nos. 277, 278, 279, 280, 281, 282, 283, 284, 285, 287, and 288: These are clerical and technical amendments relating to the treatment of capital gains and losses and of income derived from the cancellation of indebtedness necessitated by the change from 18 months to 6 months in the holding period for long-term capital assets. The House recedes.

Amendment No. 286: This amendment makes a technical change in the provisions which permit a net short-term capital loss carry-over in computing base period net income. The House recedes.

Amendment No. 289: This amendment, which is applicable only to taxable years beginning after December 31, 1939, and not beginning after December 31, 1941, provides that gains or losses on the involuntary conversion of property of a character subject to the allowance for depreciation provided in section 23 (l), held for more than 18 months, shall be treated for excess profits tax purposes the same as gains or losses from the sale or exchange of such property. In the determination of the period for which such property has been held, the provisions of section 117 for determining the holding period of capital assets shall apply. The House recedes.

Amendment No. 290: This amendment excludes, in the computation of excess profits net income of certain producers of minerals, logs, or lumber, certain income derived from the exempt excess output of mineral and timber properties, as well as bonus income received for increased production. In the case of timber, the exclusion is determined by reference either (1) to a quota based upon past production (to be fixed by the War Production Board, or other governmental agency) or (2) to the amount received in bonus payments by an agency of the Government on account of log production. In the case of minerals, the exclusion is computed by reference to the nontaxable income from exempt excess output, as defined in section 735 of the Code, added by this amendment, and also to the nontaxable bonus income received from an agency of the Government, with certain provisions for the elimination of duplication between nontaxable income from exempt excess output and nontaxable bonus income.

The exclusion in the case of minerals subject to this section is determined by multiplying the normal unit profit during a defined base period by a specified portion of current production in excess of normal output during such base period, or in the case of coal and iron mines by multiplying current excess production by one-half of the current net income per unit of coal or iron.

The House recedes with an amendment making drafting and clarifying changes and the following changes of substance:

The exclusion in the case of timber is made the same as in the case of minerals, namely, nontaxable income from exempt excess output, and nontaxable income from exempt excess output of a timber block

is defined. New definitions added in section 735 are of "producer", "mineral unit", "timber unit", and "timber block". The definitions of "excess output" and "normal output" are expanded to cover timber units; "normal output" is expanded to give a discretion to the Commissioner to reduce the number of months to be used in computation, where physical events normally prevent working during certain months during the year. An election is given in the case of coal and iron mines to compute nontaxable income from exempt excess output either under the general rule or under the special rule applicable thereto. The provisions are applicable only to producers of minerals or logs as defined in the report of the committee of conference.

It is contemplated that the determination of income from mining and logging operations to be excluded from excess profits net income shall be made on the basis of individual mineral properties or timber blocks rather than on the basis of an aggregate of mineral properties or timber blocks owned by a taxpayer.

Amendment No. 291: This amendment inserted a new section in the bill to provide for the adjustment of the net operating loss deduction in computing excess profits net income. Under existing law, this deduction is designed for use in determining net income, and the adjustments required by this amendment are necessary to coordinate this deduction with the provisions for the computation of excess profits net income. The House recedes with amendments providing that the adjustments to the computations made for any taxable year in determining the net operating loss deduction are determined with respect to the excess profits tax adjustments for the year for which such computations are made. For example, if section 711 (a) (2) (B) (reducing the deduction for interest in certain cases) is applicable to the taxpayer in the taxable year in which a net operating loss is sustained, an adjustment corresponding to that required by section 711 (a) (2) (B) is made in determining the net operating loss, even though section 711 (a) (2) (B) is not applicable in the taxable year in which the net operating loss deduction, determined on the basis of such net operating loss, is claimed.

Amendment No. 292: This amendment incorporates a new section to amend existing law by providing that dividends on stock which is not a capital asset shall be included in full in the computation of excess profits net income of a taxpayer using the excess profits credit based on invested capital. The change is applicable to taxable years beginning after December 31, 1939. The House recedes.

Amendments Nos. 293, 294, and 295: These are changes in section numbers. The House recedes.

Amendment No. 296: This makes a clerical change. The House recedes, with an amendment to conform to the bill as agreed to in conference.

Amendment No. 297: This amendment adds a new section to the bill to amend section 713 (e) of the Code to provide that, in case the average monthly excess profits net income or deficit in excess profits net income for a taxable year in the base period is less than 75 percent of the aggregate of the excess profits net income (reduced by deficits in excess profits net income) for the remaining years, divided by the number of months in such remaining years (called average monthly amount), the base period net income for such year shall be an amount

equal to 75 percent of the average monthly amount multiplied by the number of months in such year.

This adjustment is applicable only in the case of one year in the base period, and to that year for which the increase in excess profits net income will produce the highest base period net income. The House recedes.

Amendments Nos. 298, 299, and 300: These are changes in section numbers; the House recedes.

Amendment No. 301: This amendment incorporates a new section to amend section 718 of the Code by providing that, under certain very limited circumstances, the equity invested capital of a "transferee" corporation which receives property from another corporation pursuant to a tax-free exchange or reorganization shall be increased, and the invested capital of the transferor shall be decreased, by the deficit in earnings and profits of the transferor which is attributable to the property so transferred. Subsequent earnings of the transferee shall first be applied to reduce the amount of such deficit before any earnings and profits can be determined to have been accumulated and to increase invested capital. The amendment is applicable to taxable years beginning after December 31, 1939. The House recedes.

Amendment No. 302: This is a technical amendment which amends section 720 (d) of the Code to provide that the amount of interest on Government obligations, described in section 22 (b) (4), by which the taxpayer elects to increase its normal tax net income for excess profits purposes is to be reduced by the amount of the amortizable bond premium attributable to such obligations. The House recedes.

Amendment No. 303: This amendment inserts a new section into the bill to make certain technical changes necessary in the computation of tax under section 721 of the Code, relating to abnormalities in income in the taxable period. Subsection (f) is added to section 721 to provide that, if by reason of taking into account exploration, discovery, prospecting, research, or development of tangible property, patents, formulae, or processes, extending over a period of more than 12 months, the constructive average base period net income as a result of the application of the relief provisions of section 722 is higher than if such activities had not been taken into account, no net abnormal income resulting from such activities which are of a class described in section 721 (a) (2) (C) shall be attributable to the base period, or to any year other than a taxable year under Subchapter E of Chapter 2. This amendment is applicable to taxable years beginning after December 31, 1939. The House recedes.

Amendment No. 304: This is a change in section number; the House recedes.

Amendments Nos. 305, 306, 307, 310, 311, 314, 316, 318, 319, 325, 327, 328, 329, 330, 331, 332, 333, and 334: These amendments relate to the relief provisions under the excess profits tax.

Section 213 of the House bill revises and broadens section 722 of the Code, relating to adjustments in the base period net income of corporations, to remove existing inequities and to alleviate hardship in cases where relief cannot now be obtained. The Senate amendments clarify the changes made by the House bill, broaden the relief granted in certain respects, and alter the administration of the relief provisions.

In those cases described in the last sentence of section 722 (b) (4) (relating to taxpayers the change in the character of the business of which accrued after December 31, 1939) and in section 722 (c) (relating to taxpayers which came into existence after December 31, 1939) regard shall be had, under the amendments of the Senate, to such changes to the extent necessary to establish the normal earnings to be used as the constructive average base period net income, despite the general rule that events occurring after December 31, 1939, are to be disregarded.

Under the House bill a corporation may be entitled to relief if, prior to January 1, 1940, commitments were made binding it to make changes in the operation, management, etc., and such changes are effectuated during a taxable year ended after December 31, 1939. In this case the changes are deemed to result in a change in the character of the business as of December 31, 1939. The Senate has made a clarifying amendment to make it manifest that the commitments made need not take the form of legally binding contracts only. The Senate has also deleted those provisions of the House bill which provide for certain limitations to be applied in determining eligibility for relief and in computing the final tax liability after relief has been given.

The general relief provisions under the House bill were applicable to taxable years beginning after December 31, 1941. The Senate has made these provisions retroactive and applicable to all taxable years beginning after December 31, 1939, which necessitated an amendment to extend the time for filing an application for relief in the case of taxable years beginning after December 31, 1939, but not after December 31, 1941, to six months after the date of the enactment of the Revenue Act of 1942. If an application for relief for such years is not timely filed, any relief will be limited, as in the case of a claim for the current year not timely filed, to the amount of any deficiency finally determined without the application of the relief section.

As a result of the provisions added by the Senate, extending relief to certain mining corporations by exempting from excess profits tax a certain portion of the current income, a further amendment was made in the general relief provisions to provide that, if the constructive average base period net income of a taxpayer, to which section 711 (a) (1) (I) or section 711 (a) (2) (K) of the Code applies, is established under section 722, there shall also be determined a fair and just amount to be used as normal output and normal unit profit for the purposes of section 735.

The Senate deleted the provisions of the House bill relating to the treatment under section 721 of the Code of current abnormal income in cases where a constructive average base period net income is determined under section 722. Substitute provisions with respect to such cases have been inserted elsewhere by the Senate.

The House bill provided for the establishment within the Board of Tax Appeals of a special division which would be the sole division of the Board hearing and determining and redetermining issues arising under section 711 (b) (1) (H), (I), (J), or (K), (relating to abnormal deductions within the base period), section 721 (relating to abnormal income within the taxable period), and section 722 (relating to general relief from discriminatory excess profits taxes). The abnormality cases under section 711 (b) (1) (H), (I), (J), or (K), or under section

721, except section 721 (a) (2) (C), do not on the whole involve problems of the complexity of those presented by section 722. Such cases will be disposed of under the Senate amendments in the same manner in which such cases are currently handled under existing law. Determination and redetermination by any division in the Board involving any question arising under section 721 (a) (2) (C) or section 722 would be reviewed by the special division of the Board.

In addition to the provisions relating to general relief, the House bill granted additional relief to taxpayers in certain special circumstances. The Senate transferred the provisions relating to bonus income of industries with depletable reserves to those sections relating to nontaxable income from exempt excess output of mining and logging, and from bonus income of mines and timber blocks.

The Senate also made certain changes relating to installment basis taxpayers and has added provisions extending relief to taxpayers with income from long-term contracts. In the case of installment basis taxpayers the eligibility requirements have been amended by the Senate to provide an election to taxpayers which can establish (a) that the average volume of credit extended to purchasers on the installment plan in the four taxable years preceding the first taxable year beginning after December 31, 1941, was more than 125 percent of such credit extended to such purchasers in the taxable year, or (b) that the average outstanding installment accounts receivable at the end of each of the four taxable years preceding the first taxable year beginning after December 31, 1941, was more than 125 percent of the average of such accounts receivable at the end of the taxable year. Under the amendment the House bill provides for an irrevocable election which the Senate has changed to provide taxpayers with a new election to resume the reporting of income on the installment basis when the eligibility requirements are no longer satisfied. When once made, such election shall be irrevocable and shall preclude any further election under section 736 (a) and for the taxable year in which the election to resume the installment method of accounting is made and for subsequent taxable years income shall be computed in accordance with section 44 (c) of the Code.

The Senate has added a provision extending relief to taxpayers reporting income from long-term contracts upon the completed contract method of accounting, if it is abnormal for the taxpayer to derive income from contracts, the performance of which requires more than 12 months, or, if the amount of such income is abnormally great, so that such a taxpayer may elect for excess profits tax purposes to compute in its return for such taxable year its income from such contracts upon the percentage of completion method of accounting. This election when made is irrevocable and applies to all other contracts, past, present, or future, the performance of which requires more than 12 months, and the net income for prior years including the base period years of the taxpayer is to be adjusted for excess profits tax purposes in conformity with this election.

The provisions of the House bill authorizing adjustment of the excess profits income of the years prior to that with respect to which the elections under this section have been made, despite the fact that such adjustments might otherwise have been prevented by any other provision or rule of law, have been broadened to include long-term contracts and adjustments in the tax imposed by chapter 1 stemming from the operation of this section.

Under the existing law, as interpreted by the Commissioner of Internal Revenue, it was necessary for the taxpayer to compute his tax without regard to the relief provisions and file a claim for refund for each taxable year. It is believed that such a procedure should not be followed where the taxpayer has had its constructive average base period net income finally determined for any year. Such determination should permit the taxpayer to use the base period net income so determined as a basis in computing its excess profits tax for any future year.

By action of the Senate the amendments to section 722 are applicable with respect to taxable years beginning after December 31, 1939. Unless a taxpayer elects within six months after the date of enactment to have subsection (b) of section 736 and so much of subsection (c) as is applicable thereto apply retroactively to all taxable years beginning after December 31, 1939, such subsections shall apply only to taxable years beginning after December 31, 1941.

The House recedes with respect to each of the above amendments with a technical amendment in the case of amendment No. 325.

Amendments Nos. 308, 309, 312, 313, 315, 317, 320, 321, 322, 323, 324, and 326: These are technical and clerical amendments necessitated by the substantive changes made in the general relief provisions. The House recedes with a clerical change in amendment No. 309.

Amendment No. 335: This is a change in section title and number; the House recedes.

Amendment No. 336: This amendment provides that a corporation which would otherwise be exempt from excess profits tax shall not be exempt if it is a member of an affiliated group of corporations which files a consolidated return under section 141 of the Code. The reason for this change is explained in connection with amendment No. 186. The House recedes.

Amendments Nos. 337 and 338: These amendments make technical and clerical changes; the House recedes.

Amendment No. 339: This amendment incorporates a new section into the bill as passed by the House to eliminate the present requirement that the return of a taxpayer subject to the excess profits tax must contain two sets of computations of the excess profits credit. The optional provisions which permit a taxpayer to disclaim either method of computing its credit are likewise repealed. These changes are applicable to taxable years beginning after December 31, 1939, so that previous disclaimers are rendered ineffective. The House recedes.

Amendment No. 340: This is a change in section number; the House recedes.

Amendment No. 341: The Senate has added a new section 731 to the Code to exempt from excess profits tax that portion of the adjusted excess profits net income attributable to the mining by a domestic corporation in the United States of certain specified strategic metals. This amendment is applicable to taxable years beginning after December 31, 1940. The House recedes.

Amendment No. 342: This amendment revises section 734 of the Code, relating to adjustment in the case of an inconsistent position taken by a taxpayer with respect to a prior income tax liability. The Committee of Conference considered a number of problems arising under this section, some of which appear to be satisfactorily determined

under existing regulations issued by the Commissioner. Thus, the effect of a previous adjustment under section 3801, or of an inconsistent position in a subsequent excess profits tax taxable year, or the determination whether consistency with the prior year treatment of an item or transaction is permitted for excess profits tax purposes, although under current rulings and decisions such treatment is erroneous, and whether the taxpayer has a right to withdraw from an inconsistent position, are properly treated under existing law.

The Senate has defined the term "predecessor" specifically to include only a person which is a component corporation of the taxpayer within the meaning of section 740 and a person which on April 1, 1941, or at any time thereafter controlled the taxpayer and any person which is a predecessor of a person which is a predecessor of the taxpayer under the definition.

The character for tax purposes of that portion of an adjustment which represents interest, the proper treatment of the excess of an adjustment representing a decrease in excess of the excess profits tax for the taxable year, and the method of computation of interest in determining the amount of an adjustment are fully described in the statute by action of the Senate. This amendment also provides a statutory rule for the burden of proof in cases arising under section 734. The House recedes.

Amendment No. 343: This is a change in section number and the House recedes.

Amendments Nos. 344, 345, 348, 349, 350, 351, 352, 353, 365, 366, 367, 368, 369 and 370: These are technical amendments made necessary by amendments made in certain sections of Supplement A under the excess profits tax. The House recedes.

Amendment No. 346: This amendment makes several technical changes in section 740 (c) as amended in the House bill. Section 740 (c) (1) of the bill as passed by the Senate corresponds to the whole of section 740 (c) of the House bill, but is subject to the further rule of paragraph (2) of section 740 (c) as added by the Senate. Section 740 (c) (1) also allows a component corporation to take into account its entire base period experience (except as provided in section 740 (c) (2)) for the purpose of the growth formula under sections 713 (f) and 742 (h), except that it cannot take into account such base period experience for the purpose of determining the greatest amount of excess profits net income for any base period year to which the average base period net income or Supplement A base period net income is limited under the growth formula. A technical addition to section 740 (c) (1) also gives the component corporations' base period experience for the day of the Supplement A transaction as well as the prior period (with certain exceptions) and its capital addition and capital reduction as of such day immediately prior to such transaction and for all prior periods to the acquiring corporation.

Section 740 (c) (2), as added by the Senate, applies only in case of a Supplement A transaction occurring in a taxable year beginning after December 31, 1941. In such case, the base period experience of the component corporation (after the application of section 740 (c) (1) in case of a prior transaction) is allocated to such component corporation for purposes of excess profits credit for only such year in the ratio which the number of days in such year before the transaction plus such days bears to the total tax in such year.

The last sentence of section 740 (c), as added by the Senate bill, is retroactive to taxable years beginning after December 31, 1939. In general, it prevents an acquiring corporation from taking into account any experience after the Supplement A transaction of a component corporation which continues in existence thereafter. The House recedes.

Amendment No. 347: This amendment makes the change in base period for purposes of Supplement A under the excess profits tax (changed to the four calendar years 1936 through 1939 in the House bill) subject, in general, to the election to have the amendments to Supplement A made by this act apply retroactively for the purpose of computing the excess profits tax for all taxable years beginning after December 31, 1939. The only exception is in the case of any corporation which became an acquiring corporation prior to September 1, 1940. The House recedes.

Amendment No. 354: This amendment changes the treatment of two or more taxable years beginning in the same base period year under Supplement A of the excess profits tax. The House bill requires the excess profits net income for such years to be put upon an annual basis. The Senate bill provides that the excess profits net incomes for such years shall be adjusted to such extent as the Commissioner, under regulations prescribed by him with the approval of the Secretary, prescribes as necessary in order that such base period year shall reflect income for a period of twelve months. The amendment adds a rule for guidance in the application of this provision to provide that a taxable year of a component corporation (beginning within the base period) which begins with or within the taxable year of the acquiring corporation in which the acquisition occurred, or which begins with or within the same base period year with which or within which such taxable year of the acquiring corporation begins, shall be considered a taxable year of the acquiring corporation and to have begun in the base period year with which or within which such taxable year of the acquiring corporation began. The House recedes.

Amendment No. 355: This amendment applies the 75 percent rule for the purpose of computing the excess profits tax under Supplement A for taxable years beginning after December 31, 1941. Under this rule, the lowest base period year of group excess profits net income is to be raised to 75 percent of the average for the other three years. The House recedes.

Amendments Nos. 356, 357, 358, 359, 360, and 363: These Senate amendments are technical, resulting primarily from changing the rule of section 742 (c) (1) as amended in the bill passed by the House. The House recedes.

Amendments Nos. 361 and 362. In the House bill, section 741 (c) (2) under Supplement A of the excess profits tax provided for an adjustment, under the Commissioner's regulations, in excess profits net income for "vacant" base period years (which are to be filled up on the basis of 8 percent of invested capital) in cases where there was cross ownership of stock between acquiring and component corporations on the first day of the owning corporation's first taxable year beginning in 1940. The amendments renumber this section, 742 (c) (3), and provide more specifically for the situations in which the adjustment is to be made. In some cases of cross ownership of

stock, adjustment under section 742 (e) (3) is not necessary by reason of the provisions for adjustment in section 742 (f) (1), as amended by this bill. Thus the example given in the House and Senate Committee reports under this section is covered by section 742 (f) (1).

The primary purpose of section 742 (e) (3) is to provide for adjustment where, by reason of the acquisition by one corporation of stock in another, the invested capital of the corporation whose stock is acquired is increased without a corresponding decrease in the invested capital of the owning corporation. This may occur, for example, in the case of a purchase by A Corporation of B Corporation's stock from B on the last day of the base period. In such case, the invested capital of B for the first day of its first taxable year in 1940 will be increased by the assets received from A, while, by reason of the operation of the inadmissible asset ratio as to A, A's invested capital for such day will not be reduced correspondingly. Section 742 (e) (3) also applies regardless of the date prior to the first taxable year in 1940 when the stock was acquired if the inadmissible asset ratio fails to eliminate duplication of the same invested capital as between the acquiring corporation and its component. Accordingly, in such cases the Commissioner is given authority to prescribe regulations with the approval of the Secretary for adjustment in the excess profits net incomes of such corporations. The House recedes.

Amendment No. 364. This is a technical amendment to section 742 (f) (1) under Supplement A of the excess profits tax. Such section was designed in the House bill to eliminate experience attributable to stock acquired by the transfer of assets (other than the issuance of the acquiring corporation's stock) of the acquiring corporation, which assets thereupon went out of the system. This amendment provides that stock which has in the hands of the taxpayer a basis determined with reference to the basis of stock previously acquired by the issuance of the taxpayer's own stock shall be considered as having been acquired in consideration of the issuance of the taxpayer's own stock. The House recedes.

Amendments Nos. 371, 372, 373, 374. These are technical amendments to the applicability provision of section 228 of the bill as passed by the Senate (216 of the House bill), designed primarily to reflect the retroactive application to taxable years beginning after December 31, 1939, of the last sentence of section 740 (c) as added by the Senate bill. The House recedes.

Amendments Nos. 375 and 376: The House bill provided that section 752, relating to the computation of highest bracket amount in connection with exchanges, should not apply to any taxable year beginning after December 31, 1941. Amendment No. 375 strikes this provision and amendment No. 376 repeals section 752 as of the date of the enactment of the Second Revenue Act of 1940. The latter amendment also repeals as of such date section 710 (a) (2), relating to the application of the highest bracket amount in the computation of the excess profits tax. The House recedes.

Amendment No. 377: This is a clerical amendment; the House recedes.

Amendment No. 378: This amendment revises and simplifies the definitions of "exchange" and "transferee upon an exchange" and adds the term "transferor" in connection with the rules provided for determining invested capital as the result of certain tax free exchanges

and "intercorporate liquidations." It is provided that the term "exchange" means a transaction by which one corporation, called the "transferee," receives property of another corporation, called the "transferor," and the basis of the property so received, in the hands of the transferee, for the purposes of section 718 (a) (relating to the definition of equity invested capital) is determined by reference to the basis in the hands of the transferor. This amendment also provides that the basis in the hands of the transferee of the property received upon the exchange from the transferor is to be determined in accordance with the provisions of section 718 (a) (2), namely, the basis (unadjusted) for determining loss, adjusted, with respect to the period before its receipt by the transferee upon the exchange, by an amount equal to the adjustment proper under section 115 (l) for determining earnings or profits. The House recedes.

Amendments Nos. 379 and 380: These amendments are technical amendments; the House recedes.

Amendments Nos. 381, 382, 383, 384 and 385:

Amendment No. 381 rewrites, with numerous technical and clarifying changes, the provisions of section 761 of the House bill, providing for an invested capital adjustment at the time of a tax-free intercorporate liquidation.

Amendment No. 382 strikes subsection (b) of section 760 of the House bill, making the provisions of section 760 applicable retroactively to all taxable years beginning after December 31, 1939.

Amendments Nos. 383 and 384 make merely technical changes.

Amendment No. 385 makes, if the taxpayer so elects, the provisions of section 761 applicable to all of the taxable years of such taxpayer beginning after December 31, 1939, and the provisions of sections 718 (a) (5), 718 (b) (4), and 718 (c) (4) inapplicable to such taxable years of such taxpayer.

The House recedes with a change in amendment No. 385 making section 760 applicable retroactively, at the option of the taxpayer, taxable years beginning after December 31, 1939.

Amendment No. 386: This amendment adds a new part III to subchapter E of chapter 2 of the Code, so as to provide for a post-war refund of excess profits tax. A credit equal to 10 percent of the tax imposed under subchapter E for each taxable year is directed to be established by the Secretary of the Treasury to the account of the taxpayer. Taxpayers entitled to such credit shall receive non-interest-bearing bonds of the United States equal to 10 percent of the tax paid. Such bonds shall not be transferable on or before the date of cessation of the present war. Within appropriate limitations, 40 percent of the amounts paid during the taxable year in retirement of debt is allowed as a credit against the tax for such year imposed by subchapter E. The House recedes with certain clarifying changes.

Amendments Nos. 387, 388, 389, and 392: These amendments relate to the capital stock and declared value excess-profits taxes. The House bill provided for annual declarations of capital value in making capital stock tax returns, and also made technical amendments with respect to the declared value excess-profits tax. Senate amendments Nos. 387, 388, and 389 terminate both the capital stock and declared value excess-profits taxes. Amendment No. 392 eliminates technical amendments made by the House. The Senate recedes.

Amendments Nos. 390 and 391: The House bill inserted a new provision in the Code for determining the declared value excess-profits tax for taxable years of less than 12 months. Amendment No. 390 makes a technical change in this provision and amendment No. 391 makes the provision applicable to taxable years beginning after December 31, 1939. The House recedes with an amendment indicating that the amendment in the House bill relates only to an income-tax taxable year which is a period of less than 12 months on account of a change in the accounting period of the taxpayer.

Amendment No. 393: The House bill contained no provision with respect to certain inter vivos transfers of community property. This amendment adds such a provision to section 811 (d); the House recedes.

Amendment No. 394: This is a clerical amendment; the House recedes.

Amendment No. 395: This is a clerical amendment; the House recedes

Amendment No. 396: The House bill provided that one of the excepted powers to appoint is a power to appoint within a class which does not include any others than the spouse of the decedent, descendants of the decedent or his spouse, spouses of such descendants, donees described in section 812 (d), and donees described in section 861 (a) (3). This amendment broadens the class to include the spouse of the creator of the power, descendants (other than the decedent) of the creator of the power or his spouse, and spouses of such descendants. The House recedes.

Amendment No. 397: This amendment clarifies the scope of the corresponding provision of the House bill. The House recedes with a clerical amendment.

Amendment No. 398: This is a technical amendment, coordinating the House provision with amendment No. 402. The House recedes.

Amendment No. 399: This amendment revises the provisions governing the applicability of section 403 to existing powers of appointment. Under the House bill nongeneral powers, created on or before the date of enactment of this act, are not taxable if released within 2 years after the date of enactment of the act or if exercised on or before such date. The House bill also provided that the amendments are not applicable with respect to a power to appoint released on or before the date of enactment of this act. The Senate amendment provides that nongeneral powers, created on or before the date of enactment of this act, are not taxable unless exercised after such date. This change makes allowance for the inability to release various nongeneral powers under applicable local law. The Senate amendment also provides that the amendments made in the House bill shall not apply to any power created on or before the date of enactment of this act if released on or before January 1, 1943. In addition, the Senate amendment contains a special rule for those under a legal disability at the date of enactment of this act. The House recedes with certain technical amendments.

Amendment No. 400: This amendment restores the $40,000 exemption now applicable to insurance proceeds payable to beneficiaries other than the executor. The House bill eliminated this exemption and allowed a $60,000 specific exemption under the additional estate tax. The Senate recedes.

Amendment No. 401: This amendment clarifies the corresponding provision of the House bill. The House recedes.

Amendment No. 402: This amendment makes various technical changes. The House recedes with a technical amendment.

Amendment No. 403: This is a clerical amendment; the House recedes.

Amendment No. 404: This amendment clarifies the language of the corresponding provision of the House bill; the House recedes.

Amendments No. 405 and No. 406: These are clerical amendments; the House recedes.

Amendment No. 407: This is a technical amendment made necessary by amendment No. 415. The Senate recedes.

Amendments No. 408 and No. 409: These are technical amendments; the House recedes.

Amendments No. 410 and No. 411: Under the House bill the deduction of the disclaimed interest must be preceded by a disclaimer which becomes irrevocable prior to the date prescribed for the filing of the estate tax return. These amendments allow the deduction if the disclaimer is made prior to such date, provided that it becomes irrevocable before the expiration of the applicable period of limitations for the redetermination of the estate tax. The House recedes.

Amendment No. 412: This is a clerical amendment; the House recedes.

Amendment No. 413: This amendment provides that, if a notice of deficiency in estate tax is mailed to a taxpayer outside the States of the Union and the District of Columbia, the taxpayer has 150 days within which to file his petition with the Board of Tax Appeals. The House recedes.

Amendment No. 414: This amendment strikes out a provision in the House bill which allowed a $60,000 specific exemption under the additional estate tax, in conjunction with the elimination of the $40,000 insurance exemption with respect to insurance payable to beneficiaries other than the executor. See amendment No. 400. The Senate recedes.

Amendment No. 415: This amendment adds a new subsection (e) to section 812 of the Code, providing, subject to certain stated limitations, for the deduction of estate, succession, legacy, or inheritance taxes actually paid to any foreign country in respect of any property situated within such foreign country, which is included in the gross estate and which the Commissioner determines cannot be withdrawn from such foreign country by reason of freezing orders, exchange restrictions, or other prohibitions. A special statute of limitations is included for those cases where the tax claimed as a deduction is recovered at a later date. This special statute of limitations is also made applicable to the recovery of any state estate, succession, legacy, and inheritance taxes allowed as a credit. The amendment applies to estates of decedents dying after December 31, 1941. However, it is provided that the amendment, insofar as it relates to the deduction of foreign death taxes, shall not apply to estates of decedents dying more than 1 year after the termination of the present war. The amendment makes various technical changes made necessary by the principal changes. The conferees are impressed with the purpose of this amendment, but it has been decided to withhold any legislative

action pending further study of the problems involved. The Senate recedes.

Amendment No. 416: This is a clerical amendment; the House recedes.

Amendment No. 417: The changes made by this amendment correspond to the changes made by Senate amendment No. 396. The House recedes.

Amendment No. 418: This amendment provides that the release of a general power of appointment before January 1, 1943, shall not be deemed a taxable gift. Under the House bill the amendments with respect to powers of appointment were not applicable to the release of a power before January 1, 1943. However, such releases might be held taxable under the existing gift tax statute, and this amendment accordingly makes it clear that releases made before January 1, 1943, are not taxable under existing law. The House recedes with certain technical amendments. These amendments, in accordance with the entire tenor of sections 403 and 452 of the House bill, apply only to powers received by the individual from another person, and do not affect the present status of powers reserved to an individual by himself. See *Estate of Sanford* v. *Comm.* (308 U. S. 39 (1939)).

Amendment No. 419: This amendment corresponds to amendment No. 397. The House recedes.

Amendment No. 420: Under the House bill nongeneral powers, created on or before the date of enactment of this act, are not taxable if released within 2 years after the date of enactment of this act or if exercised on or before such date. The House bill also provided that the principal amendments are not applicable with respect to a power to appoint released on or before the date of enactment of this act. The Senate amendment provides that nongeneral powers, created on or before the date of enactment of this act, are not taxable unless exercised after such date. In addition, the amendment contains a special rule for those under a legal disability at the date of enactment of this act. The House recedes. See amendment No. 418.

Amendment No. 421: This amendment clarifies language in the House bill; the House recedes.

Amendment No. 422: This amendment allows the annual exclusion in the case of gifts in trust, except in cases of gifts of future interests in property. The House recedes.

Amendment No. 423: This amendment provides that, if a notice of deficiency in gift tax is mailed to a taxpayer outside the States of the Union and the District of Columbia, the taxpayer has 150 days within which to file his petition with the Board of Tax Appeals. The House recedes.

Amendments Nos. 424 and 425: These are clerical amendments; the House recedes.

Amendments Nos. 426, 428, 429, and 430: These are clerical amendments; the House recedes.

Amendment No. 427: This amendment to the Revenue Act of 1936 provides an additional credit for determining undistributed net income subject to undistributed profits surtax in certain cases of corporations having a deficit in accumulated earnings and profits and prohibited because of such deficit by a State law or order of a public regulatory body from distributing dividends. There is no comparable provision in the House bill. The amendment also

expands the paragraph prohibiting double credits to contemplate the inclusion of this additional credit. In like manner, the definition of undistributed net income is also expanded and is broadened further to include the additional credit provided in amendment No. 431. The House recedes.

Amendment No. 431: This amendment to the Revenue Act of 1936 provides an additional credit to give relief from undistributed profits surtax to a corporation realizing income from the sale of a capital asset which income is distributed pursuant to contract to preferred shareholders in redemption of their shares prior to March 3, 1936. There is no comparable provision in the House bill. The House recedes.

Amendment No. 432: This amendment provides that the stamp tax on indemnity, fidelity, and surety bonds, and insurance other than life, is imposed at the rate of 8 cents, instead of 4 cents as provided in the House bill, on each dollar, or fractional part thereof, of the premium charged. The Senate recedes.

Amendment No. 433: This amendment provides that the stamp tax imposed in the House bill, at the rate of 1 cent on each dollar, or fractional part thereof, of the premium charged for life insurance, sickness, and accident policies, and annuity contracts, shall not apply where the insurer is subject to tax under section 201 of the Code, relating to tax upon the income of life insurance companies. The House recedes.

Amendment No. 434: This is a change of section heading; the House recedes.

Amendment No. 435: Section 504 of the House bill changed the name of the Board of Tax Appeals to United States Tax Court. The amendment strikes this section. The House recedes with an amendment fixing the name as The Tax Court of the United States.

Amendment No. 436: This is a change in section number; the Senate recedes.

Amendment No. 437: Section 506 of the House bill provided for the exclusion of a specified period in computing interest with respect to income tax in the case of nonresident alien individuals subject to the provisions of section 211 (a) or 211 (c) of the Code, and foreign corporations subject to the provisions of section 231 (a) of the Code, where payment of tax was prevented due to restrictions imposed by any foreign country. The amendment eliminates this section because the subject matter thereof is included within the scope of section 506 of the bill as passed by the Senate. The House recedes.

Amendment No. 438: Section 507 of the House bill exempted from documentary stamp tax the use of instruments to make effective certain orders of the Securities and Exchange Commission. By amendments Nos. 438 to 448, inclusive, the Senate adds to the section a number of other provisions relative to documentary stamp taxes. Amendment No. 438 changes the section number to 505, changes the heading of the section to conform to the additional provisions included by the Senate, and adds a subsection providing that for the purposes of chapter 11 of the Code relating to issues of bonds, stocks, etc., obligations issued by any receiver, trustee in bankruptcy, assignee, or other person having custody of the property or charge of the affairs of any corporation, shall be deemed to be issued by the corporation. The House recedes, with a clerical amendment.

Amendment No. 439: This amendment adds to the House bill a provision abolishing exemption from stamp tax of any delivery or transfer of stocks, bonds, etc., by operation of law, but establishes specific exemptions with respect to enumerated transfers and deliveries of the character of, or resembling, transfers and deliveries by operation of law. The House recedes.

Amendment No. 440: This amendment adds to the House bill a provision exempting from documentary stamp tax on issue and transfer, stocks and bonds issued by savings and loan associations, cooperative banks, and homestead associations, substantially all the business of which is confined to making loans to members. The House recedes.

Amendment No. 441: This amendment adds a provision to existing law conferring exemption from documentary stamp tax with respect to the use of instruments to make effective reorganizations confirmed under the National Bankruptcy Act. The amendment extends exemption to the use of instruments to make effective any plan of reorganization or adjustment confirmed under the National Bankruptcy Act, or approved in an equity receivership in a court involving a railroad corporation as defined in section 77 (m), or a corporation as defined in section 106 (3), of the said act. The amendment limits the exemption to such use of instruments occurring within 5 years from the date of confirmation or approval. The House recedes.

Amendment No. 442: This is a technical amendment; the House recedes.

Amendment No. 443: This amendment changes the designation of a subsection from (g) to (f); the House recedes.

Amendment No. 444: This is a clerical amendment; the House recedes.

Amendment No. 445: This amendment exempts from the stamp tax imposed by section 1802 (a) of the Code shares or certificates of a common trust fund. The House recedes.

Amendment No. 446: This amendment provides that the United States or any agency or instrumentality thereof shall not be liable for documentary stamp tax with respect to an instrument to which it is a party, and even though stamps are affixed thereby the tax may nevertheless be collected from any other party liable therefor. The House recedes.

Amendment No. 447: This amendment repeals an exemption with respect to deliveries or transfers of bonds in connection with a reorganization as defined in section 112 of the Revenue Act of 1932, if gain or loss is not recognized under the applicable income tax law. The House recedes.

Amendment No. 448: This amendment establishes the effective dates of the various amendments to stamp tax provisions made by section 505 of the bill, as passed by the Senate. The House recedes with a change in an effective date.

Amendment No. 449: This is a clerical change; the House recedes with a change in section number.

Amendments Nos. 450, 451, 452, 453, 454, 455, 456, 457, and 458: The House bill provided for the suspension of time limitations running against the Government, taxpayers, and others, in certain cases, where by reason of the war timely performance of acts affecting Federal tax liabilities and rights is impossible or impracticable. These amend-

ments clarify these provisions in certain respects, and provide further that section 205 of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, shall not apply with respect to any period of limitation prescribed by or under the internal revenue laws. Also added by the Senate is a provision for the refund or credit of interest, penalty, additional amount, or addition to the tax, where amounts thereof are collected, but liability therefor was in reality not incurred by reason of sections 3804 and 3805 of the Code as added by this bill. The House recedes.

Amendment No. 459: This amendment contains special provisions in respect of crediting Federal income and excess profits taxes against amounts repayable to the United States on account of disallowances under cost-plus-a-fixed-fee contract. Under existing law a person who has a legal or equitable claim against the United States is entitled to credit or offset such claim against his liability to the United States, whether such claim arises out of the particular transaction in which he incurred his liability to the United States (*Bull* v. *United States*, 295 U. S. 247) or out of a distinct and separate transaction which would constitute a legal or equitable setoff (*United States* v. *Macdaniel*, 7 Peter's 1, 16, 17; *United States* v. *Ringgold*, 8 Peter's 150, 163–164; *Gratiot* v. *United States*, 15 Peter's 336, 370; *Watkins* v. *United States*, 76 U. S. 759, 765; U. S. Code, title 28, sec. 774). In I. T. 3577, I. R. B. 1942–37, page 5, the Bureau of Internal Revenue has taken the position that in cases in which Government war contracts are renegotiated by reductions applied retroactively to prior taxable year for which returns have been filed, no refund or abatement of the Federal income and excess profits taxes for such prior years shall be made by reason of such renegotiation and that such taxes are to be applied as a credit or offset against the amounts to be repaid pursuant to the renegotiation. By such ruling a similar position is taken in respect of cases involving a cost-plus-a-fixed-fee contract where an item for which the taxpayer has been reimbursed is disallowed as an item of cost chargeable to such contract and the taxpayer is required to repay to the United States the amount disallowed. The amendment adds a new section to the Code, section 3806, to apply the Bureau rule in cases involving cost-plus-a-fixed-fee contracts, to prohibit a taxpayer from deducting in the year of repayment the amount repaid, to provide specifically for the method of computing the amount of taxes to be credited in respect of barred years, to provide a rule as to interest, and to authorize a credit or refund of taxes allowable but not allowed as a credit against the amount to be repaid to the United States. The House recedes with an amendment which provides for similar treatment in cases involving renegotiations of war contracts or subcontracts where the taxpayer is required to pay or repay to the United States or any agency thereof the amount of excessive profits eliminated pursuant to the renegotiation. Under the Senate provisions as thus amended the Government representative who accepts the payment or repayment on behalf of the United States or any agency thereof is, in cases of renegotiation as well as in cases of disallowances under cost-plus-a-fixed-fee contracts, authorized to allow the credit for taxes provided for in the new section 3806. The conference agreement therefore modifies, to conform with section 3806 of the Code, the provision in section 801 of the bill which authorizes the Secretary of the Department con-

cerned to credit against the eliminated excessive profits the amount of Federal income and excess profits paid or payable with respect thereto.

Amendment No. 460: This amendment extends relief from the provisions of the Public Salary Tax Act of 1939 in cases of compensation received in a taxable year beginning after December 31, 1938, for services rendered prior to January 1, 1939. The House recedes with a clerical amendment.

Amendment No. 461: This amendment provides for a Joint Committee to study plans for compulsory savings and other plans whereby money may be raised to assist in the conduct of the war and the avoidance of inflation and plans for the payment currently of taxes. These matters come within the jurisdiction of the present tax committees of the Congress and will be considered in connection with future tax legislation. The Senate recedes.

Amendment No. 462: This amendment abolishes the Processing Tax Board of Review and transfers its jurisdiction to the Board of Tax Appeals. The House recedes.

Amendment No. 463: This amendment makes more explicit the fact that the additional allowance for military and naval personnel, contained in amendment No. 43, applies to the Women's Army Auxiliary Corps and the Women's Reserve branch of the Naval Reserve. The House recedes.

Amendment No. 464: This amendment adds a new provision to the House bill, relating to the powers of the staff of the Joint Committee on Internal Revenue Taxation in securing information, data, estimates and statistics. The amendment is in accord with the spirit and intent of the organic law creating the Joint Committee. The House recedes.

Amendments Nos. 465 and 470: The House bill required persons to make their floor stocks tax returns on distilled spirits and wines on or before the first day of the third month following the effective date of the bill. This amendment deletes this requirement and substitutes therefor a provision that such floor stocks tax returns shall be made on or before the end of the thirtieth day following the effective date of the bill. The House recedes.

Amendment No. 466: This amendment provides that alcohol of 160 proof, or greater, may be imported into the United States and be withdrawn, in bond, from customs custody, without payment of the Internal Revenue tax imposed upon the act of importing such alcohol, for transfer to industrial alcohol plants, alcohol bonded warehouses, and denaturing plants for redistillation or denaturation and withdrawal, or withdrawal without redistillation, either free of tax or upon payment of the tax, as the case might be, for all the purposes authorized by part II of subchapter C of chapter 26 (relating to industrial alcohol) of the Code. This amendment also provides that imported alcohol may be withdrawn from customs custody by the United States or any governmental agency thereof for its own use free of Internal Revenue tax. The House recedes.

Amendment No. 467: This amendment provides for a drawback of $3.75 per proof gallon to manufacturers of certain nonbeverage products where fully tax-paid, domestically produced distilled spirits are used, upon the payment of an annual tax graduated from $25 to $100 according to amounts of withdrawal. The amendment pro-

vides for records to be kept and regulations of the Commissioner to be issued and grants investigative powers to the Commissioner through his agents to ascertain the correctness of claims filed. The section also provides the period within which claims may be filed. There is no comparable provision in the House bill. The House recedes.

Amendment No. 468: This amendment deletes the House provision, in respect of fermented malt liquor, for an exemption from the floor stocks tax in favor of retail stocks held by a person on premises as to which such person has incurred occupational tax as retail dealer in liquors or retail dealer in malt liquors for a period beginning on July 1, 1942, but as to which premises no other occupational tax with respect to dealing in distilled spirits or fermented malt liquors has been incurred by such person for a period beginning on such date.

This amendment also deletes the House provision which would require persons to make their returns for the floor stocks tax on fermented malt liquors, on or before the first day of the third month following the effective date of the bill. The amendment substitutes therefor a requirement that such floor stocks tax returns shall be made on or before the end of the thirtieth day following the effective date of the bill.

The House recedes.

Amendment No. 469: This is a technical amendment; and the House recedes.

Amendment No. 471: This amendment changes a section heading in conformity with amendments Nos. 472 to 481, inclusive. The House recedes.

Amendment No. 472: The House bill increases the rate of tax on smoking tobacco from 18 cents per pound to 24 cents per pound. The amendment eliminates this increase; the House recedes.

Amendment No. 473: This is a clerical change; the House recedes.

Amendment No. 474: The House bill increased the tax rates applicable to cigars weighing more than 3 pounds per thousand. The Senate lowers certain of the rates fixed by the House bill as shown by the table below:

Tax rates approved by House			Tax rates approved by Senate		
Class	Made to retail at (cents)	Rate per M	Class	Made to retail at (cents)	Rate per M
A	Not more than 2.5 each	$2.50	A	Not more than 2.5 each	$2.00
B	More than 2.5 and not more than 4.	3.50	B	More than 2.5 and not more than 4.	3.00
C	More than 4 and not more than 6	5.00	C	More than 4 and not more than 6	4.00
D	More than 6 and not more than 8	7.00	D	More than 6 and not more than 8	7.00
E	More than 8 and not more than 11	10.00	E	More than 8 and not more than 15	10.00
F	More than 11 and not more than 15.	13.50			
G	More than 15 and not more than 20.	18.00	F	More than 15 and not more than 20.	15.00
H	More than 20 and not more than 30.	25.00	G	More than 20	20.00
I	More than 30	35.00			

The House recedes with an amendment changing to $2.50 the rate on cigars made to retail at not more than two and one-half cents.

Amendment No. 475: This is a clerical change; the House recedes.

Amendment No. 476: The House bill increased the existing rate of tax on cigarette papers of one-half cent for each 50 papers, or fraction thereof, with an exemption of lots of not less than 25 papers, to one-half cent for each 25 papers or fraction thereof with no exemption. This amendment eliminates this provision of the House bill. The House recedes.

Amendment No. 477: This is a clerical change; the House recedes.

Amendments Nos. 478 and 479: These are technical amendments to correspond to amendment No. 472; the House recedes.

Amendment No. 480: This changes a subsection designation from (f) to (d); the House recedes.

Amendment No. 481: This amendment adds a new provision to the House bill, permitting tax-free removal beyond the jurisdiction of the United States of cigarette papers and tubes. The House recedes.

Amendment No. 482: The House bill increased from 10 percent to 15 percent the rate of tax on telegraph, cable or radio dispatches or messages. The amendment restores the 10 percent rate with respect to international dispatches or messages. The House recedes.

Amendment No. 483: This amendment, in order to conform to the establishment of an additional rate by amendment No. 482, changes the provision of the House bill for tax computation based upon the sum of all charges for telegraph, cable or radio dispatches or messages covered by a bill, to provide for separate computation of tax at each rate. The House recedes.

Amendment No. 484: The House bill increased from 10 to 25 percent the rate of tax applicable to photographic apparatus, exempted from tax cameras weighing more than 4 pounds, exclusive of lens and accessories, and increased from 10 to 15 percent the rate of tax applicable to photographic films and plates and sensitized paper. The amendment reduces the 25 percent rate to 10 percent, removes the exemption with respect to cameras weighing more than 4 pounds, exclusive of lens and accessories, and exempts sensitized papers for use in the reproduction of drawings, records, and other documents for industrial or commercial purposes. The Senate recedes.

Amendment No. 485: This is a technical amendment to conform to amendment No. 486; the House recedes.

Amendment No. 486: This amendment adds a provision extending to members of the military and naval forces of any of the other United Nations an exemption from the tax on certain amounts paid for transportation, and seats and berths connected therewith, like that extended by existing law to personnel of the United States Army, Navy, etc. The House recedes.

Amendment No. 487: This amendment adds to the articles exempted by the House bill from jewelry tax, watches designed especially for use by the blind; the House recedes.

Amendment No. 488: The House bill exempted from the tax on the sale or lease of refrigerators and other cooling equipment, the lease or renewal of a lease of a water cooler leased prior to October 1, 1941. The amendment eliminates the specific exemption relative to water coolers, which the amendment makes unnecessary and limits the tax to (a) household type refrigerators, (b) articles for or suitable for use as parts of or with such household type refrigerators, and (c) self-con-

tained air-conditioning units, including in each case parts or accessories therefor sold on or in connection with the sale thereof. The House recedes.

Amendment No. 489: This amendment adds a new provision to the bill, increasing from $50 to $100 the annual tax on coin-operated gaming machines. The House recedes.

Amendment No. 490: This is a clerical change; the House recedes.

Amendment No. 491: The House bill classified as an amusement machine subject to the tax of $10 per annum, thus excluding from tax as a gaming machine, a vending machine operated by insertion of a one cent coin, which, when it dispenses a prize, never dispenses a prize of a retail value of, or entitles a person to receive a prize of a retail value of, more than 5 cents. The amendment requires as a further condition to such classification that any prize dispensed shall be merchandise and not cash or tokens. The House recedes.

Amendment No. 492: This amendment provides that trade stimulator machines shall not be construed as gaming devices. The Senate recedes.

Amendment No. 493: The House bill made inapplicable to coin-operated gaming machines section 3275 of the Code, which provides for the keeping of a list of special taxpayers open to public inspection and the furnishing of copies to prosecuting officers for a stated fee. The amendment strikes out this provision of the House bill.

Under the House bill amendments relative to coin-operated machines were made applicable to the year beginning July 1, 1942, except that no tax would be payable for a period prior to the effective date of the amendments with respect to an article not taxable prior to the amendments. The Senate amendment provides that the amendments relative to coin-operated machines shall be first applicable (1) where a machine previously taxable is subjected by the amendments to an increased rate of tax, with respect to the year beginning July 1, 1943; (2) where a machine was not previously taxable, with respect to the taxable period beginning with the effective date of the amendments; and (3) where the amount of the prize is limited to 5 cents, with respect to the year beginning July 1, 1942. The House recedes.

Amendment No. 494: This amendment eliminates the tax imposed by the House bill on pari-mutuel or totalizator wagering on any racing or any other sporting event of 5 percent of the amount wagered and received into the pool to be paid by the person conducting or having control thereof. The House recedes.

Amendments Nos. 495 and 496: These are clerical changes; The House recedes.

Amendment No. 497: This amendment eliminates from the House bill a tax on amounts paid for the transportation of property. The House recedes with an amendment restoring the tax and providing that the tax is imposed at the rate of 3 percent of the amount paid, except that in the case of coal the rate is 4 cents per short ton.

Amendment No. 498: This amendment incorporates a new section which exempts from the tax on the first domestic processing of certain oils, the use of palm oil in the manufacture of iron or steel products or any subsequent use of palm oil residue resulting from the manufacture of iron or steel products, corresponding to a similar exemption now existing with respect to palm oil used in the manufacture of tin plate or terne plate, and the subsequent use of the residue of such palm oil. The House recedes with a clerical amendment.

Amendment No. 499: This is an amendment to section 1700 (e) (1) of the Code. This provision of the Code imposes the 5 percent tax on amounts paid for admission, refreshment, service, or merchandise at any roof garden, cabaret, or similar place furnishing a public performance for profit. In order to allay possible questions under the present statute, the amendment specifies that the tax, levied on amounts paid by or for any patron or guest entitled to be present during any portion of the performance, shall be applicable although no increase is made in the charges for admission, refreshment, service, or merchandise by reason of the furnishing of the performance. Thus the tax will be collected although a cabaret does not increase its prices for food or beverages while its floor show is in progress. The amendment confirms the Treasury Department's interpretation of the present statute by stating that the tax is applicable in the case of any room in any hotel, restaurant, hall, or other public place where music and dancing privileges or any other entertainment, except instrumental or mechanical music alone, are afforded the patrons in connection with the serving or selling of food, refreshment, or merchandise. The House recedes with a clerical amendment.

Amendment No. 500: This amendment changes the provision of existing law that the sale of a toilet preparation to, and the resale by, a person operating a barber shop, beauty parlor, or similar establishment, shall both be considered a sale at retail, but there shall be credited against the tax payable upon the resale the tax paid on the sale to such person. The amendment provides that sale to such person for use in such operation shall be deemed a sale at retail, but sale to such person for resale shall not be deemed a sale at retail. Use in such operation of an article purchased for resale shall be considered a sale at retail at a price equivalent to the amount paid for the article. The House recedes with a clerical amendment.

Amendment No. 501: This amendment exempts from the retailers' excise taxes retail sales at post exchanges and ships' service stores. The Senate recedes. This recession is not to be given any effect in interpreting existing law. The conference believes the matter requires further study.

Amendment No. 502: This amendment postpones the increase in the rates of tax imposed by the Federal Insurance Contributions Act by providing that the 1 percent rate shall remain effective through the calendar year 1943, and that the 2 percent rate shall apply to wages paid and received during the calendar years 1944 and 1945. The House recedes.

Amendment No. 503: This amendment adds to the House bill title VIII, relating to renegotiation of war contracts, which amends section 403 of the Sixth Supplemental National Defense Appropriation Act (Public Law 528, 77th Cong., 2d Sess.). Title VIII includes the following provisions:

(1) Renegotiation is made applicable to the Treasury Department.

(2) The terms "subcontract" and "article," which are not defined in the present statute, are defined to mean, in the case of "subcontract", any purchase, order or agreement to perform all or any part of the work, or to make or furnish any article, required for the performance of another contract or subcontract, and in the case of "article," as including any material, part, assembly, machinery, equipment or other personal property.

(3) In the discretion of the Secretary of the Department concerned, the provision for the renegotiation of the contract price may fix the period for renegotiation, and may provide that renegotiation shall apply only to a portion of the contract or subcontract.

(4) The Secretary may renegotiate contracts or subcontracts as a group.

(5) In determining the excessiveness of profits, the Secretary shall recognize the properly applicable exclusions and deductions which the contractor or subcontractor is allowed under chapter 1 and chapter 2E of the Code.

(6) The Secretary of the Department concerned is authorized to credit against excessive profits eliminated pursuant to this section the amount of Federal income and excess profits taxes paid or payable with respect to such profits.

(7) No renegotiation may be commenced more than one year after the close of the fiscal year of the contractor or subcontractor within which completion of the contract or subcontract occurs.

(8) Contracts and subcontracts for certain mineral or natural deposits, or timber, are exempted from renegotiation.

(9) The Secretary of the Department is authorized to exempt specified categories of contracts and of subcontracts.

Amendment No. 504: This amendment makes clerical changes in the table of contents. The House recedes with an amendment conforming the table of contents to the bill as agreed to in conference.

The House recedes with an amendment designed to clarify the language of the Senate provisions which provides that the credit for income and excess profits taxes shall be determined in accordance with the provisions of amendment No. 459.

The committee of conference does not feel that the amendments which are made by the bill to the renegotiation law contain all the changes and improvements which it might be desirable to make. No attempt has been made to study and reexamine all the possible methods for dealing with excessive profits realized on war contracts. The bill merely attempts to remove some of the more pressing objections to the present law and to make the law administratively workable. It is anticipated that the Ways and Means Committee will study section 403 in connection with matters now pending before the committee, with an eye to a more general revision than is contained in the 1942 revenue bill.

R. L. DOUGHTON,
JERE COOPER,
JOHN W. BOEHNE, JR.,
WESLEY E. DISNEY,
ALLEN T. TREADWAY,
HAROLD KNUTSON,
DANIEL A. REED,
Managers on the part of the House.

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