**The original documents are located in Box 24, folder "1975/03/29 HR2166 Tax Reduction Act of 1975" of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.**



Exact duplicates within this folder were not digitized.

June 4, 1975

FOR THE RECORD:

H.R. 2166 was signed by the President on March 29, 1975, during a public address on television. No OMB letter or other file material was ever received by the Chief Executive Clerk's Office. Attached is all the pertinent information the Records Office could find.

John Heiting

FOR IMMEDIATE RELEASE MARCH 29, 1975

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

THE WHITE HOUSE

ADDRESS BY THE PRESIDENT
LIVE ON NATIONWIDE
RADIO AND TELEVISION

THE OVAL OFFICE

7:31 P.M. EDT

Fellow Americans, and Fellow taxpayers:

Eleven weeks ago, in mid-January, I requested the new Congress to pass as its first priority a simple $16 billion reduction in Federal income taxes in order to stimulate economic activity and put people back to work.

I asked for a one-time refund to individual 1974 taxpayers up to a maximum of $1,000, enough to assist in the purchase of new cars, home appliances, or other improvements, thus helping business and workers in areas that have been especially hard hit by the recession.

I also asked for bigger investment credits to encourage businessmen and farmers to expand and make more jobs.

Jobs were then and are now my main concern. Unfortunately, though some other economic signs are improving, the employment picture remains bleak. I want most to help those who want to get back to work in productive jobs. This can best be done by temporary tax incentives to charge up our free enterprise system, not by government handouts and make-work programs that go on forever.

Therefore, over the past few months, I have repeatedly urged the Congress to get a straightforward tax cut bill on my desk by Easter, one that would restore some of the buying power American families lost to inflation and rising prices in 1973 and 1974.

My objective was to put money in the pockets of the American people promptly rather than have the Congress dream up new schemes for more of your money to be spent by the government in Washington.

MORE

(OVER)

Last Wednesday, before recessing, the Congress did pass a tax reduction bill which is here before me.

The tax cut finally adopted by the Congress represents a compromise between the $16 billion I recommended in January and the $32 billion figure passed by the Senate. I said that I would accept a reasonable compromise and the $23 billion tax reduction is within reason.

However, this bill also distributes the cuts differently and, in my opinion, fails to give adequate tax relief to the millions of middle income taxpayers who already contribute the biggest share of Federal taxes.

But the most troublesome defect of this bill is the fact that the Congress added to an urgently needed anti-recession tax reduction a lot of extraneous changes in our tax laws, some well-intentioned but very ill-considered, which should have waited for deliberate action in committee hearings and full debate by all Members. Instead, they were adopted in a hectic, last minute session before recessing.

This is no way to legislate fundamental tax reforms and every Member of the Congress knows it. Upon their return, I will again ask the House and Senate to work with me on a comprehensive review of our tax structure to eliminate inequities and to insure adequate revenues for the future without crippling economic growth.

I commend those Members of the Congress who fought for a clean and uncomplicated tax cut to create more jobs and speed economic recovery.

If I were still in the House of Representatives I would have opposed extraneous amendments and would have voted to send this bill back to committee for further cleaning up.

As President, however, I cannot, under the Constitution, accept a part of this bill and reject the rest. It comes before me on a take it or leave it basis.

The Congress has gone home. I believe my veto would eventually be sustained but I am by no means sure that this Congress would send me a better bill. It might even be worse.

MORE

The people of this country need to know right now how to plan their financial affairs for the rest of this year. Farmers and businessmen have already waited too long to find out what investments they can make to improve their production and put people back on the payroll.

Confidence depends on certainty, and while the Congress deliberated, uncertainty has clouded financial planning throughout the country.

Our country needs the stimulus and the support of a tax cut, and needs it now.

I have, therefore, decided to sign this bill so that its economic benefits can begin to work. I do this despite the serious drawbacks in the bill. Most of the drawbacks are enacted for only one year. I strongly urge the Members of the Congress to calmly reflect upon these provisions and let the worst expire. However, any damage they do is outweighed by the urgent necessity of an anti-recession tax reduction right now.

Even if I asked the Congress to send me a better bill -- and it did -- it would take too long a time to get one back, and I cannot, in good conscience, risk more delay.

I will work with the Congress to not only remedy the deficiencies in this bill, but also the dangerous actions and attitudes towards huge Federal deficits some Members have already shown in other legislative decisions.

The first part of my economic recovery recommendations last January -- a prompt tax cut of reasonable size -- now becomes law.

The second and equally important part of my economic program was to restrain Federal spending by cutting back $17 billion in existing programs and by a one-year moratorium on all new Federal spending programs, except in the critical field of energy.

So far, these proposals have been mostly ignored or rejected by a majority of the Members of the Congress.

Now that we have reduced our tax revenues by some $7 billion more than I proposed, we must move to reduce Federal spending in every way we can.

We cannot afford another round of inflation due to giant and growing deficits that would cancel out all our expected gains in economic recovery.

MORE

Maybe I can show you the situation better on this chart. If Congress had accepted all my economic recovery proposals, both for tax cuts and spending cuts, the estimated Federal deficit for fiscal year 1976 would have been about $52 billion, as represented by this column.

This kind of a deficit is far too high, but most of it was unavoidable and was brought about by mandatory Federal payment programs already on the statute books by increased unemployment compensation and reduced tax revenues due to the recession.

This is where we are today. The tax cuts in the bill I have just signed and other changes will bring the estimated fiscal year 1976 deficit up to approximately $60 billion.

Since January, Congress has rejected, or ignored, most of my requested spending cuts. If Congress fails to make these reductions it will add up to about $12 billion to the contemplated 1976 deficit. On top of that, as I look at the new spending actions which committees of the Congress are already seriously considering, I can easily add up another $30 billion of spending. This would bring the deficit to the enormous total of $100 billion.

Deficits of this magnitude are far too dangerous to permit. They threaten another vicious spiral of runaway, double-digit inflation which could well choke off any economic recovery.

Interest rates, now starting down, would again climb as the Federal Government borrowed from the private money market to finance its $100 billion deficit. Individual citizens would be unable to borrow money for new homes, cars and other needs. Businesses, despite the increased tax credit, would delay investments and expansions to put the unemployed back to work. I am, therefore, serving notice now that this is as high as our fiscal 1976 deficit should go.

I am drawing the line right here. (Points to $60 billion on chart)

MORE

This is as far as we dare to go.

I will insist (resist) every attempt by the Congress to add another dollar to this deficit by new spending programs. I will make no exceptions, except where our long-range national security interests are involved, as in the attainment of energy independence or for urgent humanitarian needs.

In short, in signing this bill, I am keeping my promise to reach a reasonable compromise with the Congress and to provide a needed boost to the economy.

I must say again, this is as far as I will go.

If we use common sense and prudence, I am confident that the present recession will retreat into history. If your Congressmen and your Senators return from their recess with new awareness of your deep concern and desire for caution and care in steering our difficult economic course, we will soon get back on the broad highway of increasing productivity and prosperity for all our people.

Thank you and good evening.

END (AT 7:45 P.M. EDT)

# Calendar No. 39

| 94TH CONGRESS 1st Session | SENATE | REPORT No. 94-36 |
|---|---|---|

# Tax Reduction Act of 1975

## REPORT

OF THE

## COMMITTEE ON FINANCE

UNITED STATES SENATE

TOGETHER WITH SUPPLEMENTAL VIEWS

ON

H.R. 2166

MARCH 17, 1975 (legislative day MARCH 12, 1975).—Ordered to be printed

Filed under authority of the order of the Senate of March 17, 1975 (legislative day March 12, 1975)

U.S. GOVERNMENT PRINTING OFFICE

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WASHINGTON : 1975

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**Calendar No. 39**

94th Congress, 1st Session } SENATE { Report No. 94–36

# TAX REDUCTION ACT OF 1975

March 17 (legislative day, March 12), 1975.—Ordered to be printed
Filed under authority of the order of the Senate of March 17, 1975 (legislative day March 12, 1975)

Mr. Long, from the Committee on Finance, submitted the following

## REPORT

together with

## SUPPLEMENTAL VIEWS

[To accompany H.R. 2166]

The Committee on Finance, to which was referred the bill (H.R. 2166) to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes, to increase the low income allowance and the percentage standard deduction, to provide a credit for certain earned income, to increase the investment credit and the surtax exemption, and for other purposes, having considered same, reports favorably with an amendment and recommends that the bill as amended do pass.

## I. SUMMARY

The United States economy has experienced its sharpest decline since the 1930's. The unemployment rate in January was 8.2 percent, the highest since 1941, and the unemployment rate in February would have increased above that level but for the fact that many had despaired in looking for jobs and left the labor market. In addition, actual gross national output is over $200 billion below the potential output. The Finance Committee version of this bill deals with these problems by providing a $29.2 billion tax reduction in 1975.

In providing this reduction, the Finance Committee version of the bill—

Reduces taxes for individuals in the middle and lower income brackets, by providing a 4-percentage-point tax reduction and by providing a tax credit in lieu of exemptions for those in the low and middle income brackets.

Removes from the income tax rolls families with income below the poverty level.

Provides relief to earners with dependent children who pay little or no income taxes by providing a refundable tax credit based on earned income.

Stimulates the depressed housing industry by providing a 5-cent credit (up to a maximum of $2,000) for the purchase of personal residences during the remainder of 1975.

Encourages immediate increased investment in equipment by increasing the investment tax credit on a permanent basis to 10 percent. In addition, for a 2-year period the investment credit is increased to 12 percent, subject in certain cases to the condition that half of this 2-percentage-point increase is invested in employee stock ownership plans.

Aids public utilities by allowing them the same investment credit rate as other taxpayers and by increasing the fraction of their income tax liability which can be offset by the investment credit from 50 to 100 percent for a temporary period.

Helps small business by increasing the corporate surtax exemption from $25,000 to $50,000 and by reducing the rate of tax on the first $50,000 to 18 percent.

Provides tax relief to companies with large losses by allowing an extended net operating loss carryback in lieu of the regular carryback and carryforward period provided under present law.

Assists the hard-hit automobile industry by repealing the excise tax on trucks and buses and related parts.

The Finance Committee bill provides tax reductions of $9.5 billion above those available under comparable provisions of the House bill. Of this, $4 billion represents individual income tax decreases and $5.5 billion represents business tax decreases. The increase in the case of individual taxes is attributable to a special tax credit provided by the Finance Committee for home purchases, a 4-percentage-point rate reduction, and a tax credit in lieu of exemptions for those in the middle and lower-income brackets. In the case of businesses, the additional tax reduction under the Finance Committee bill is largely attributable to increases in the investment credit above the House provision (particularly the 2-year increase of the credit to 12 percent), the provision for an optional net operating loss carryback, lowering the corporate tax rate primarily for small businesses, and repealing the excise tax on new trucks.

More specifically, the Finance Committee version of the bill provides the following tax reductions:

*Refund on 1974 tax liability.*—The bill provides a refund on 1974 tax liability to be paid in one installment beginning in May 1975. It will generally equal 10 percent of tax liability up to a maximum of $200. However, each taxpayer is to receive a refund of at least $100 (or the full amount of his or her actual tax liability if less than $100). The refund is to be phased down from the maximum of $200 to $100 as the taxpayer's income rises from $20,000 to $30,000. The revenue loss from the 1974 refund is estimated to be $8.1 billion.

*$200 personal exemption tax credit.*—In lieu of raising the standard deduction, as would the House bill, the committee bill provides a $200 tax credit as an alternative to the $750 personal exemption deduction.



The tax credit is more generous than the personal exemption in all cases where individuals are subject to tax under present law below a 27-percent tax rate. This change involves a revenue loss of $6.3 billion, or approximately $1 billion more than the increase in the standard deduction which would have been provided by the House bill.

*Rate reduction on the first $4,000 of income.*—The committee bill lowers by one percentage point the tax rate applying to the first $4,000 of taxable income in the case of individuals. This reduction for those with higher incomes means a reduction of $40 in each case. This change will result in a revenue loss of $2.3 billion in 1975.

*Refundable credit on earned income or work bonus.*—The bill provides for a refundable credit of 10 percent of earned income up to a maximum of $400—closely matching the employee and employer social security tax on the first $4,000 of income. This credit is to be available only to those with dependent children. The credit is to be phased out from the maximum of $400 to zero as adjusted gross income rises from $4,000 to $8,000. This change involves a revenue loss of $1.5 billion, or about one-half of the provision in the House bill. Federal welfare costs will be reduced by an estimated $0.1 billion.

*Credit for home purchases.*—The committee bill provides a tax credit for the purchase of homes (both new and old homes) which are used as principal residences, where the settlement occurs after March 12, 1975. Generally, the house must be purchased in 1975, except that in limited types of situations purchases begun earlier may be eligible for the credit even if they were not completed until 1976. It is estimated that this provision will result in a revenue loss of $3.0 billion in 1975.

*Capital loss carrybacks.*—The bill provides a 3-year capital loss carryback for individuals where their capital losses on a cumulative basis amounts to $30,000 or more. This carryback may be offset in these prior 3 years only to the extent of capital gains realized in those years. This provision is expected to result in a loss of revenue of $110 million in 1975 and smaller amounts thereafter.

*Increase in the investment credit.*—The investment tax credit rate is increased for all taxpayers (including public utilities) to a permanent rate of 10 percent from the present rate of 7 percent (4 percent in the case of public utilities). In addition, for a 2-year period taxpayers may claim a 12-percent investment tax credit. However, if the taxpayer's qualified investment for a taxable year is more than $10 million, an employer must contribute one-half of the additional 2 percent to employee stock ownership plans. In addition, in the case of public utilities, the limitation on the amount of tax liability that may be offset by the investment credit in a year is increased from 50 percent to 100 percent for a 2-year period and then is gradually reduced back to the 50 percent level over a 5-year period. In the case of long lead-time property, the bill provides that the investment credit is to be available to the extent that progress payments are made during the construction period. Finally, the $50,000 limitation in present law on the amount of used property eligible for the investment credit is eliminated. The revenue loss from these changes in the investment credit is estimated at $4.3 billion with respect to 1975 liabilities, or $1.9 billion more than the House provision.

*Net operating loss carryback.*—The bill provides that businesses generally may elect to substitute for their present 3-year carryback and 5-year carryforward of net operating losses an 8-year carryback and no carryforward. This is to apply for loss years back to 1970. Once such a carryback is elected, a carryforward is not to be available unless the taxpayer revokes his election and in effect recomputes his tax for all of the years involved on the basis of the 3-year carryback and the 5-year carryforward. To be eligible for this treatment initially (except in cases where the tax benefit is small), 25 percent of the tax benefit realized from the first use of the extended loss carryback is to be placed in an employee stock ownership plan or in some cases to a limited extent, in a supplemental unemployment benefit plan. It is estimated that the initial revenue loss from this provision will be $1 billion.

*Decrease in tax to help small business.*—To aid small businesses, the surtax exemption (the amount to which the 22-percent corporate rate presently applies rather than the 48-percent rate) is increased from the present $25,000 to $50,000. In addition, the 22-percent rate applying to this first $50.000 of income is reduced to 18 percent, although no change is made in the 48-percent rate on income above $50,000. Finally, the accumulation credit under the accumulated earnings tax is increased from $100,000 to $150,000. It is estimated that these changes will result in a revenue loss of $1.9 billion, or $700 million more than under the House bill.

*Repeal of truck excise tax.*—The committee bill repeals the 10-percent manufacturers' excise tax on new trucks and buses and also the 8-percent manufacturers' excise tax on truck parts. It is estimated that this will result in a revenue loss of $700 million in 1975.

*WIN tax credit.*—The present tax credit of 20 percent of wages paid to employees hired under the Work Incentive Program is to be available with respect to the hiring of former welfare recipients, even though they have not been in the WIN program, by both business and non-business employers. This supplement to the WIN credit is to be available until July 1, 1976.

*Effective date.*—Most of the provisions included in the committee version of this bill apply only for 1975. However, the increase in the individual rates by 4 percentage points is to apply for 2 years, the investment credit is increased to 10 percent on a permanent basis and to 12 percent for 2 years, and the net operating loss provision for business and the capital loss carryback for individuals are permanent changes. The possibility of making the other changes permanent will be reviewed in subsequent legislation.

## II. REASONS FOR THE BILL

The committee agrees with the House that it is imperative to provide a substantial tax reduction at this time to check the drastic downward slide in our economy and to restore a rate of economic growth that will move us closer to full employment. The Finance Committee version of the Tax Reduction Act of 1975 does this by providing appropriate tax reductions—substantially larger than those provided by the House bill—designed to increase purchasing power and investment incentives. There is widespread agreement among economists that such action is urgently needed at this time to avoid great hardship for large numbers of people and huge waste in unused human resources. Before adopting this bill, the committee held hearings in which it had the benefit of the views of Administration witnesses and eminent economists, businessmen, and labor experts, representing a broad spectrum of our political and economic institutions. Virtually all recommended quick action to cut taxes.

This is not surprising in view of the sharp decline in economic activity which has taken place recently. Although characterized by marked inflation, 1974 was clearly a recession year.

In 1974, real gross national product (that is, GNP in constant prices) registered the largest decline since 1946. (See table 1.) For the year as a whole, money GNP rose to $1,397 billion—7.9 percent over 1973—but this increase merely reflected higher prices. Real GNP fell 2.2 percent. The decine in output and the rise in prices was especially marked in the fourth quarter of 1974, when real GNP fell at an annual rate of 9.1 percent and prices rose at an annual rate of 14.4 percent.

TABLE 1.—GROSS NATIONAL PRODUCT 1929–74

[In billions of dollars]

| Year | Gross national product in current dollars | Gross national product in 1958 dollars | Year | Gross national product in current dollars | Gross national product in 1958 dollars |
|---|---|---|---|---|---|
| 1929 | 103.1 | 203.6 | 1956 | 419.2 | 446.1 |
| 1933 | 55.5 | 141.5 | 1957 | 441.1 | 452.5 |
| 1939 | 90.5 | 209.4 | 1958 | 447.3 | 447.3 |
| 1940 | 99.7 | 227.2 | 1959 | 483.7 | 475.9 |
| 1941 | 124.5 | 263.7 | 1960 | 503.7 | 487.7 |
| 1942 | 157.9 | 297.8 | 1961 | 520.1 | 497.2 |
| 1943 | 191.5 | 337.1 | 1962 | 560.3 | 529.8 |
| 1944 | 210.1 | 361.3 | 1963 | 590.5 | 551.0 |
| 1945 | 211.9 | 355.2 | 1964 | 632.4 | 581.1 |
| 1946 | 208.5 | 312.6 | 1965 | 684.9 | 617.8 |
| 1947 | 231.3 | 309.9 | 1966 | 749.9 | 658.1 |
| 1948 | 257.6 | 323.7 | 1967 | 793.9 | 675.2 |
| 1949 | 236.5 | 324.1 | 1968 | 864.2 | 706.6 |
| 1950 | 284.8 | 355.3 | 1969 | 930.3 | 725.6 |
| 1951 | 328.4 | 383.4 | 1970 | 977.1 | 722.5 |
| 1952 | 345.5 | 395.1 | 1971 | 1,054.9 | 746.3 |
| 1953 | 364.6 | 412.8 | 1972 | 1,158.0 | 792.5 |
| 1954 | 364.8 | 407.0 | 1973 | 1,294.9 | 839.2 |
| 1955 | 398.0 | 438.0 | 1974 [1] | 1,397.3 | 821.1 |

[1] Preliminary.

Source: Department of Commerce.



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The falling GNP figures for 1974 reflect widespread declines in both consumption and investment. The decline in consumption was particularly sharp for durable goods expenditures, including new cars. The leading reasons for the weakness in consumer expenditures were falling disposable income, inflation, and lack of consumer confidence.

Real gross private investment fell 8.2 percent in 1974. The decline in housing starts was even sharper. Housing starts totaled only 1.4 million compared with 2.4 million in 1972 and 2.1 million in 1973. By January 1975, housing starts were running at an annual rate of well under 1 million.

As the economic situation deteriorated, unemployment rates rose—from 5.2 percent in January 1974 to 8.2 percent in February 1975. This compares with average unemployment rates of 4.9 percent in 1973, 5.6 percent in 1972, 5.9 percent in 1971, and rates averaging 3.8 percent or less from 1966 through 1969. The February unemployment rate was the highest since 1941.

In the absence of remedial action to cut taxes, the outlook is that the current recession will continue and deepen. Growth in business investment was one of the prime forces fueling the upward movement of our economy prior to the current downturn. However, after adjustment for price changes, capital expenditures for new plant and equipment are expected to fall significantly in 1975, according to the most recent survey of the Commerce Department.[1]

Economic forecasters are practically unanimous in predicting that in 1975 the economy will continue to operate far below its potential. While the precise figure varies with different forecasters, real GNP in 1975 is generally expected to be substantially lower than in 1974, although many forecasters anticipate a modest recovery beginning in mid-1975.

In view of these further expected sharp declines in economic activity, the committee concluded that appropriate tax reductions to stimulate the economy should be enacted promptly. In arriving at this conclusion, the committee gave careful consideration to the large budgetary deficits that are expected in the fiscal years 1975 and 1976 and the prevalence of a rapid rate of inflation despite the economic downturn.

Similarly, the committee does not view with equanimity the fact that in 1974 the consumer price index rose 12.2 percent and the wholesale price index rose 23.5 percent. Although in December 1974 and January 1975 the rate of growth of the consumer price index moderated and the wholesale price index dropped slightly in December 1974 and the early months of 1975, inflationary pressures are still very strong.

However, the committee believes that the present economic situation requires the adoption of an appropriate tax reduction measure now. Without such timely tax reduction, there is the grave risk that the present recession will be prolonged and intensified, resulting in huge waste of resources and human hardship.

The substantial budget deficits in prospect for fiscal years 1975 and 1976 are due in large measure to the economic downturn which has shrunk the tax base and cut tax receipts drastically. This is shown by the fact that if the economy were operating at its full potential, sufficient revenue would be collected with present law taxes to produce

[1] U.S. Department of Commerce News, March 7, 1975.



a budget surplus running at an annual rate of about $30 billion in the second quarter of 1975. The committee believes that the best way to reduce the anticipated large budget deficits would be to take action to restore economic growth and thereby increase tax receipts.

Moreover, without in any way seeking to diminish the vital importance of reducing the budget deficits, the committee believes that it is important to note that the projected budget deficits for fiscal years 1975 and 1976, though large in dollar amounts, are not unusually large in relation to the gross national product for a recession year. They are expected to amount to 2.4 percent and 3.2 percent of the gross national product, respectively. In other recession years the budget deficit amounted to 3.7 percent of gross national product in fiscal 1948, 2.7 percent in fiscal 1959 and 2.3 percent in fiscal 1971.

Furthermore, under present conditions, the adoption of an appropriate tax reduction program will help to revive the economy and increase employment without adding significantly to inflationary pressures. This is because there are now large amounts of available unused resources which can be gainfully employed to add to our output. As the tax reductions stimulate the economy, these at present idle resources will be brought back into use, thus adding more goods and services to match the added purchasing power made available by the tax cut. The size of these unused resources is shown in table 2 which sets forth estimates indicating that in 1975 the actual GNP may be as much as 14 percent below the potential GNP, assuming the present budgetary picture with no tax cut. This gap would amount to $250 billion, or over $1,000 per capita.

TABLE 2.—ACTUAL AND POTENTIAL GNP

[Billions of dollars, seasonally adjusted annual rates]

| Year and quarter | Actual GNP | Potential GNP[1] | GNP gap (potential less actual) |
|---|---|---|---|
| 1971–I | 1,027.2 | 1,081.4 | 54.2 |
| 1971–II | 1,046.9 | 1,105.2 | 58.3 |
| 1971–III | 1,063.5 | 1,126.0 | 62.5 |
| 1971–IV | 1,084.2 | 1,141.0 | 56.8 |
| 1972–I | 1,112.5 | 1,164.3 | 51.8 |
| 1972–II | 1,142.4 | 1,182.9 | 40.5 |
| 1972–III | 1,166.5 | 1,202.6 | 36.1 |
| 1972–IV | 1,199.2 | 1,223.8 | 24.6 |
| 1973–I | 1,248.9 | 1,258.3 | 9.4 |
| 1973–II | 1,277.9 | 1,293.0 | 15.1 |
| 1973–III | 1,308.9 | 1,332.1 | 23.2 |
| 1973–IV | 1,344.0 | 1,373.2 | 29.2 |
| 1974–I | 1,358.8 | 1,427.7 | 68.9 |
| 1974–II | 1,383.8 | 1,474.3 | 90.5 |
| 1974–III | 1,416.3 | 1,532.0 | 115.7 |
| 1974–IV | 1,430.2 | 1,599.1 | 168.9 |
| 1975–I | [2] 1,432.5 | [3] 1,642.0 | 209.5 |
| 1975–II | [2] 1,454.0 | [3] 1,686.9 | 232.9 |
| 1975–III | [2] 1,483.5 | [3] 1,727.7 | 244.2 |
| 1975–IV | [2] 1,520.3 | [3] 1,770.3 | 250.0 |

[1] The increase of potential GNP assumes a growth rate in real terms of 4 percent each year, composed of an increase in the labor force of 1.8 percent, a decline in hours worked of 0.3 percent and a rise of output per man-hour of 2.5 percent. These trends may not be an accurate reflection of conditions during the oil embargo of late 1973 and early 1974. Like all measures of capacity, these are subject to a wide margin of error.

[2] Forecasts of Chase Econometrics, Inc., assuming no tax reduction.

[3] Staff estimates using the methodology of the Council of Economic Advisers.

Source: Business Conditions Digest.

Appropriate tax reductions will also increase incomes, both directly and through the multiplier effect, and the increased saving from this additional income will provide the flow of funds needed to purchase the government securities issued to finance the increase in the deficit resulting from the tax cut.

In view of these considerations, the committee provided tax reductions, totaling $29.2 billion in the calendar year 1975. Of this amount $21.2 billion, or 73 percent, is to go to individuals in their personal capacity. This reduction is designed to restore purchasing power and in this way to stimulate the economy. The remaining $8 billion of tax reductions, or 27 percent, is to go to businesses (both corporate and other) and is designed to stimulate investment.

The committee's bill is similar in a number of important respects to the House-passed bill, reflecting the basic similarity in objectives. However, the committee's bill also differs from the House bill in a number of important respects.

The $29.2 billion total tax reduction provided by the committee's bill for calendar year 1975 is $9.3 billion larger than the $19.9 billion tax reduction provided by the House bill for that year.

The committee increased the total tax reduction because it believes that a tax reduction in the neighborhood of $30 billion is required to bring the economy out of its present slump. While it would be helpful, the $19.9 billion tax cut provided in the House bill would not be adequate to do this job particularly in view of the fact that the economic situation has generally continued to deteriorate since the House action was taken. Moreover, because of the large amount of available unused resources which can be gainfully employed, the economy, at this time, is able to absorb a tax cut approaching $30 billion without creating undue inflationary pressures. Substantial tax reductions are also justified at the present time because individuals have incurred a tax increase of over $7 billion in 1974 alone as a result of increases in money incomes pushing them into higher tax brackets and the lack of adjustment of the tax brackets, the personal exemption and the minimum and maximum standard deduction for inflation.

The Finance Committee bill also provides reductions in 1975 liability both for individuals who itemize as well as those who take the standard deduction, instead of limiting these reductions only to those who take the standard deduction. While both version of the bill provide an earned income credit, the committee bill has redesigned the House credit both to double its size and also to direct it exclusively to families with children. The committee has also added a significant stimulant for the construction and sale of housing during the remainder of this year. On the business side, it has, for a limited period of time, increased the investment credit by two additional percentage points, and has also made provision for a longer net operating loss carryback. The major changes made by the committee bill which are described further below.

*Individual Tax Reductions*

The $21.2 billion of individual income tax reductions [2] consists of $8.1 billion from a refund of part of 1974 tax liability, $6.3 billion from a $200 tax credit in lieu of exemptions, $1.5 billion for a refundable credit on earned income, $3.0 billion from the 5-percent tax credit for home purchases, $2.3 billion from tax rate reductions, and approximately $100 million from the addition of a capital loss carryback provision.

[2] There also is a $800 million investment credit tax reduction in the business tax liabilities of individuals. This is included in the next discussion on business tax liabilities.



While the committee's bill adopts the same $8.1 billion refund provision as is in the House bill, the committee believes that the individual income tax reduction should be weighted less in favor of a lump-sum payment and more toward tax cuts that are reflected in lower withholding. The lump-sum payment based on 1974 tax liability has the advantage of providing a quick increase in disposable income in a form that will encourage taxpayers to spend their refunds on consumer durable goods, a sector of the economy where much of the current decline in production has occurred. Many individuals, however, will save any lump-sum payment, or use it to repay debts, and to the extent this occurs, the tax cut will not increase income and employment. The tax reductions reflected in lower withholding will increase disposable income more slowly than a lump-sum payment, but individuals will be more likely to spend this additional income than the income they receive as a lump-sum payment. The committee believes that the best way to make sure that the tax reduction provides the desired stimulus is to supplement any refund by significant reductions in withheld taxes.

The committee believes that concentrating the tax reduction in the low- and middle-income brackets, as the committee bill does, is equitable in that these are the taxpayers who have been affected the most by inflation. Also, a tax cut concentrated in these brackets probably will be more effective since these people are more likely to spend the tax cut and in this way increase income and employment.

To an appreciable extent, this tax reduction reflected in withholding also compensates individuals for the increase in their real tax burden that results from inflation. Inflation erodes the value of the personal exemption and minimum and maximum standard deductions, and it pushes taxpayers into higher rate brackets even when they have not experienced an increase in their real income. The tax increase caused by inflation was approximately $7 billion in 1974 alone.

The withholding changes made by the bill are to take effect on May 1, 1975. The new withholding rates will reflect the personal exemption tax credit, the earned income credit, and individual tax rate reductions.

*Refund on 1974 tax liability.*—As in the House bill, the committee has provided individual income taxpayers a refund on 1974 tax liability amounting to 10 percent of tax liability (after credits) up to a maximum of $200. However, taxpayers with $1,000 of tax liability or less are to receive a refund of $100 or the amount of their actual tax if it is less than $100. (Married people who file separate returns are to receive $50 each unless a spouse's tax payment is less than $50, in which case that spouse is to receive a refund of the full amount of his or her tax liability.) For taxpayers whose adjusted gross income (AGI) exceeds $20,000, the refund is to be phased down from the maximum of $200 to $100 as AGI rises from $20,000 to $30,000. The $100 minimum refund is designed to provide some rebate for all taxpayers and especially to channel the greater portion of the total revenue to families in the income levels which are more likely to spend it. The committee considered phasing out the refund entirely for upper-income families, but decided it was more appropriate to give this group the same $100 minimum refund provided to other taxpayers. The revenue loss from the refund is estimated to be $8.1 billion.

Taxpayers should begin receiving these payments approximately six weeks after the date of enactment of this bill. There is no need for them to make any adjustments on their 1974 tax returns; the Internal Revenue Service will make the appropriate calculations and mail the refund checks without any action by taxpayers other than filing their 1974 tax returns.

*$200 personal exemption tax credit.*—In the present situation it is essential to extend relief generally to as broad a group of taxpayers as possible, both for equity and economic reasons. The House bill, however, provides only limited tax relief to a large group of individuals, namely, those who itemize their tax deductions. This is because all of the relief on 1975 liability provided by the House bill is granted in the form of a higher standard deduction which provides no benefits to individuals who continue to itemize their deductions. In order to remedy this situation, the Finance Committee bill substitutes for the larger standard deduction provided in the House bill a $200 tax credit that the taxpayer may take in place of the $750 personal exemption. This $200 personal exemption tax credit has the advantage of being available to taxpayers regardless of whether they itemize their deductions or take the standard deduction.

In addition, the tax credit provided by the committee is a more effective means of aiding low and middle-income taxpayers than the higher standard deduction provided in the House bill. As shown in table 3 the new credit raises the tax-free income level above poverty income levels. As is indicated in this table, in the case of families with more than one dependent, the tax credit is more successful in bringing the tax threshold above the poverty level than would be the changes in the minimum standard deduction provided by the House bill. Moreover, the credit has the effect of generously increasing the personal exemption for low and middle-income taxpayers, which is needed to take account of the increased cost of maintaining dependents in the face of rising prices. At the same time, taxpayers whose marginal tax rate exceeds 27 percent will continue to take the regular $750 personal exemption, thus conserving revenue.

TABLE 3.—1975 POVERTY LEVELS AND TAX THRESHOLDS UNDER PRESENT LAW, INCREASED MINIMUM STANDARD DEDUCTION [1] AND FINANCE COMMITTEE BILL [2]

| | 1975 poverty level | Present law tax thresholds | Tax threshold under increased minimum standard deduction in House bill | Tax threshold under $200 credit |
|---|---|---|---|---|
| Family size: | | | | |
| 1 | $2,694 | $2,050 | $2,650 | $2,733 |
| 2 | 3,470 | 2,800 | 4,000 | 4,167 |
| 3 | 4,253 | 3,550 | 4,750 | 5,405 |
| 4 | 5,442 | 4,300 | 5,500 | 6,458 |
| 5 | 6,423 | 5,050 | 6,250 | 7,511 |
| 6 | 7,226 | 5,800 | 7,000 | 8,563 |

[1] Minimum standard deduction of $1,900 for single persons and $2,500 for joint returns and $750 per personal exemption deduction.
[2] Including rate reductions in lower tax brackets, but excluding the refundable earned income credit.



The personal exemption tax credit involves a revenue loss of $6.3 billion for 1975. 5 percent of the reduction goes to taxpayers with incomes under $10,000, and 47 percent to taxpayers with incomes between $10,000 and $20,000. 57 million taxpayers will receive a tax reduction from this provision.

*Earned income credit.*—The Finance Committee's bill adopts the general concept of the earned income credit provided in the House bill, but significantly revises this provision in order to improve its impact on the low-income taxpayers with children.

The Finance Committee bill revises the House earned income credit generally to conform with the work-bonus concept reported by the committee previously. Under the committee's bill, the refundable credit is to be 10 percent of earned income up to a maximum credit of $400 (on $4,000 of earnings). The credit is set at 10 percent in order to correspond roughly to the added burdens placed on workers by both employee and employer social security contributions. The credit is to be phased out as adjusted gross income rises between $4,000 and $8,000. The credit is to be available only to taxpayers with dependent children—those who are most in need of the relief.

This new refundable credit will provide relief to families who currently pay little or no income tax. These people have been hurt the most by rising food and energy costs. Also, in almost all cases, they are subject to the social security payroll tax on their earnings. Because it will increase their after-tax earnings, the new credit, in effect, provides an added bonus or incentive for low-income people to work, and therefore, should be of importance in inducing individuals with families receiving Federal assistance to support themselves. Moreover, the refundable credit is expected to be effective in stimulating the economy because the low-income people are expected to spend a large fraction of their increased disposable incomes.

The new credit provided by the committee's bill involves an estimated revenue loss of $1.5 billion per year. It is estimated that Federal welfare costs will be reduced $0.1 billion.

*Individual rate reduction.*—The committee bill reduces individual income tax rates in the lowest tax brackets in order to provide additional relief to the low and middle-income taxpayers and to offset the tendency of the House bill to provide insufficient relief to individuals who itemize their deductions. More specifically, the bill reduces tax rates in the lower brackets—those applicable to taxable income under $4,000. For those at or above this income level the reduction is $40. These rate reductions result in a revenue loss of $2.3 billion. Of this amount, 35 percent goes to taxpayers with incomes under $10,000, and 46 percent to taxpayers with incomes between $10,000 and $20,000, although all taxpayers benefit from the reduction in the bottom rates.

*Tax credit for home purchases.*—The bill also provides a 5-percent tax credit (with a $2,000 maximum) for the purchase of a new or used home which is a taxpayer's principal residence. This credit is to be available only for the purchase of homes between March 13 and December 31, 1975. This includes condominiums and trailer homes. This new credit is designed to stimulate the housing industry, which has been operating at depression levels over the past year or so. In view of the fact that in January 1975, housing starts were running at an annual rate of well under one million, the committee believes that it is imperative to provide additional tax incentives to the housing industry, both to increase the supply of housing to fulfill vital needs and help put the entire economy back on an economic growth path. While it is difficult to measure the exact impact, the committee expects that the new housing credit provision will increase home purchases by close to 100,000 units. This might raise residential construction by something like $3 billion for the year, and probably will also increase the purchases of furniture and major appliances by close to half a billion dollars. This, of course, (as also is true of other individual tax reductions provided in the bill) will increase the gross national product significantly for 1975. This, in turn, will result in an increase in revenues for the year, offsetting an important part of the revenue loss involved in this provision. The revenue loss from this provision is expected to be $3.0 billion in 1975 and $0.6 billion in 1976.

*Capital loss carryback.*—Under present law, individuals with capital losses exceeding capital gains are allowed to carry forward these losses to future years. There is no limitation on the number of future years to which these capital losses may be carried. However, such losses may not be carried back to past years. This imposes a hardship on individuals who have incurred substantial capital losses and who have little or no expectation of capital gains in future years against which they can offset such losses, but who in past years have paid tax on large capital gains. To give such individuals relief, the committee bill allows individuals whose cumulative capital losses in the current year exceed $30,000 to carry back the losses to offset capital gains in the previous 3 years. This provision is intended not only as a relief measure for those with substantial capital losses, but also to help sustain current investment in common stocks. The revenue loss from this provision is estimated to be $110 million in 1975 and to decrease in subsequent years.

### *Business Tax Reductions*

*Increase in the investment credit.*—In view of the low and decreasing level of economic activity and the poor expected level of investment, the committee concluded that a balanced program which encourages both consumption and investment will be a more effective method of stimulating the economy than attempting to focus all of the tax stimulus on consumption. In addition to providing short-run stimulus to the economy, an increase in the amount of investment is desirable for other reasons. The investment not only creates jobs both directly and through the multiplier effect, but it also increases productivity. This is anti-inflationary because it increases the amount of output available to meet future consumer demands and because it results in lower production costs which means that money wage increases will not exert the same degree of upward pressure on product prices that they would in the absence of growing productivity. Increased productivity also has favorable implications for our balance of payments and the exchange rate of the dollar. Finally, unless in the future the stock of capital is increased significantly, there will be serious problems in providing enough jobs for those entering the labor force.

The House bill seeks to respond to these problems by increasing the investment credit for one year (with limited extensions beyond that year) from 7 to 10 percent generally (from 4 percent for public



utilities), and by adopting a number of other liberalizations in the credit designed to facilitate the use of the credit and increase the amount of relief provided by the credit. However, the Finance Committee believes that the current economic situation and the low level of investment now prevailing call for stronger remedies than those provided in the House bill. For this reason, the committee decided to increase the investment credit to 12 percent for 1975 and 1976, the 2 years in which most forecasts indicate the investment stimulus will be particularly needed. In addition it decided to make the 10-percent investment credit permanent for 1977 and later years. Thus under the Finance Committee action the investment credit rate will not return to the 4- or 7-percent rate provided by present law (as under the House bill).

In order to encourage the growth of employee stock ownership plans, the committee bill provides that a corporate taxpayer who elects the 12-percent credit (for 1975 and 1976) must agree to put an amount equal to one-half of the excess over 10 percent (or one percentage point of the credit) into an employee stock ownership plan if the corporation has more than $10 million of qualified investment property for the year.

*Investment credit applicable for public utilities.*—Under existing law, a 4-percent investment credit is provided for most public utilities, as compared to the 7-percent investment credit which applies generally. This lower investment credit for public utilities discriminates against investment in utilities and impedes such investment at a time when the public utilities need large amounts of capital to build up their capacity to meet the growth in demand for their services and to convert from oil and gas to other energy sources.

Public utilities have experienced very considerable difficulty in recent years in securing capital for essential expansion in view of the depressed state of the stock market, tight money, and the reluctance of regulatory commissions to grant rate increases to cover increased costs. The results have been especially severe for the electric utilities which have incurred sharp rises in costs as a result of substantially higher prices for their sources of energy.

As a result, the committee concluded that the investment credit for eligible investment in public utilities should be increased from 4 percent to the 12-percent rate provided in the bill for all other taxpayers for 1975 and 1976 and to the same 10-percent rate for 1977 and later years which was provided for corporations generally.

The committee believes that it also is not only appropriate to increase the investment credit from 4 percent to 12 percent and then to 10 percent for utilities, but also agrees with the House that it is necessary to focus the incentive effect of the investment credit on the less profitable utilities which are faced with increasing problems because of rising energy costs. The bill does this by increasing the limitation on the amount of income tax liability which can be offset by the investment credit in any one year from 50 percent of tax liability (above the first $25,000 of tax liability) to 100 percent. This 100-percent limit applies for 2 years and then the limitation is gradually phased back to 50 percent over a period of 5 years.

In addition, in order to increase the effectiveness of the credit as a means of granting relief to public utilities, the committee deleted

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from the bill a House provision limiting to $100 million the total amount of additional credit that would be provided to any utility or group of utilities.

Utilities also will be provided another opportunity to elect to normalize the investment credit as under the Revenue Act of 1971.

*Investment credit for progress payments.*—Under present law the investment tax credit is available only when property is placed in service. This has been considered an inequity in the case of property with a long construction period where payments are made during the course of construction but are not eligible for the credit until the property is completed and placed in service. The committee believes it is appropriate to make the credit available to the extent progress payments are made in the case of property which requires a long period of construction. As a result, the committee's bill accepts a House provision that in the case of long lead-time property, that is, property that requires at least 2 years to construct, the investment tax credit is to be available to the extent that progress payments are made during the construction period (rather than in the year when the property is ultimately placed in service). This provision has an initial 5-year transitional period to phase in the new system. The availability of the investment tax credit during the construction period of long lead-time property will also provide an additional financial incentive to encourage utilities and others to undertake longer term projects.

*Investment credit for used property.*—In order to encourage the acquisition of used property that will increase the productivity of small businesses, which are frequently unable to afford new equipment, the House bill increased the $50,000 limit of present law on the amount of used property eligible for the investment credit to $75,000. The Finance Committee concluded that even this limit was inappropriate for small businesses, and therefore eliminated the limitation on used property eligible for the investment credit. This is expected to cost $0.1 billion.

The estimated total revenue loss from the increased investment credit is $4.3 billion in 1975.

*Net operating loss carryback.*—The committee adopted a new provision designed to provide immediate tax relief to companies which are hard-pressed financially and which might otherwise fail. Under present law, taxpayers generally are allowed a 3-year carryback and 5-year carryforward as a period over which to average their net operating losses with their income. While an 8-year period generally grants adequate relief for losses, the relatively brief 3-year carryback period fails to grant sufficient relief in cases where taxpayers have incurred very substantial losses and anticipate little or only moderate profits in the period ahead.

In order to grant such taxpayers relief, the committee's bill generally extends the present 3-year loss carryback for 5 additional years for taxpayers who elect to forego the 5-year carryforward of present law.[3] This treatment, it should be noted, does not extend the overall period over which net operating losses can be deducted, since the period during which either a carryback or a carryforward may be utilized remains 8 years. However, it does provide substantial relief to businesses

[3] Where the carryforward period is more than 5 years (as in the case of the 7-year net operating loss carryforward for regulated transportation companies), the carryback is lengthened by this additional number of years.



which are hard-pressed in the current recession by giving them the opportunity to obtain refunds immediately through the use of carrybacks in exchange for an eventual recoupment through a carryforward. Companies with losses which elect to take the longer carryback period can thereby arrange to get immediate relief at a time when they need the cash, instead of waiting for profitable future years to take their loss carryforwards. Moreover, the provision is less likely to be subject to abuse than is a carryforward since, in many cases, companies are, in effect, "sold" largely to obtain the benefit of a carryforward. However, had a carryback been available instead, it would either have been used up or would not be available to offset the other company's past profits.

This provision involves an estimated $1 billion revenue loss. However, it is believed that much of this (over one-half) will be recouped by smaller loss offsets on carryforwards in future years. Approximately $150 million of this benefit will go to the Chrysler Corporation, $40 million to Pan American World Airways, Inc., and $65 million to Lockheed Aircraft Corporation. Under this provision, 1970 is the first loss year which may be taken into account for this purpose.

Those electing the new operating loss carryback rule (where the tax benefit is $10 million or more) in the initial application are required to devote an amount equivalent to 25 percent of the tax savings to employee stock ownership plans. In those cases where the company owner has a supplemental unemployment compensation benefits plan (SUB), however, in order to assist the unemployed, the company and any union plan subject to such a contract may elect to satisfy this obligation in part by putting an amount up to one-half of 25 percent of the tax savings into the SUB fund. No tax deduction is to be available for any amount so used.

*Surtax exemption and rates applicable to small corporations.*—The committee (like the House) was concerned that concentrating all the tax relief to business in the form of an increase in the rate of the investment tax credit alone would not provide sufficient financial relief to small corporations, particularly to those that are not capital intensive. The committee agreed with the House that the best way to provide financial relief for hard-pressed small corporations was through a rate reduction applicable primarily to them. This result was sought in the House bill by an increase in the surtax exemption from $25,000 to $50,000. This, in effect, increases from $25,000 to $50,000 the income of any corporation subject only to the 22-percent tax rate rather than the full 48-percent tax rate. The committee agreed with this House provision. However, it realized that while the relief provided by the House bill is of benefit to corporations with income of more than $25,000, it provided no tax relief for corporations with smaller incomes. To achieve this result, the committee, in addition to enlarging the surtax exemption, reduced from 22 percent to 18 percent the tax rate applicable under the House bill to the first $50,000 of taxable income. As a result, on the first $50,000 of taxable income, corporations will be taxed at a rate of 18 percent rather than at a rate of 22 percent on the first $25,000 of their income as under present law.

*Increase in minimum accumulated earnings credit.*—The bill also aids small business by increasing the minimum credit in the accumulated earnings tax from $100,000 to $150,000. This reflects the rise in the price level that has occurred since 1958, when the credit was raised to $100,000.

The increase in the surtax exemption to $50,000 is estimated to cost $1.2 billion, and the reduction in the 22-percent tax rate to 18 percent is estimated to cost approximately $700 million more, for a total of approximately $1.9 billion.

*Repeal of excise tax on trucks and buses and related parts.*—The committee also repealed the 10-percent tax on trucks and buses and the 8-percent tax on truck parts effective for sales after March 13, 1975. This should aid in offsetting the badly lagging sales of trucks and truck trailers, the sales of which have dropped dramatically in recent months. At the same time it should reduce the price of trucks to businesses and consumers who have been faced with rapidly rising prices for trucks and truck parts. The tax revenues in these cases are devoted under present law to the Highway Trust Fund which, because of impoundments by the administration, presently is not spending all of its funds. As a result this lessening of revenue for the Highway Trust Fund is not likely to reduce highway construction. Moreover, since it does not affect the general fund it will not affect other programs. The revenue cost of this provision for 1975 is approximately $700 million.

*Extension of work incentive program.*—The bill also modifies the tax credit of 20 percent of the first year's wages paid to employees hired under the Work Incentive Program (WIN) in an attempt to make the tax incentive workable. The program has not been effective in moving welfare recipients into employment because of administrative complexities that have been added by the Labor Department. Consequently, the bill extends the credit to nonbusiness employees as well as the present business employees, and makes it available for welfare recipients whether or not in the WIN program if they have been on welfare for 90 days or more. In addition, after the eligible employee has worked the first 30 days, the employer would receive the credit for the wages paid or incurred by the employer for the first 30 days of employment plus the wages for all days the employee continued to work after the original 30-day period. This liberalization is provided as a supplement to the present WIN credit, and this supplement is to terminate on July 1, 1976.

## III. REVENUE EFFECTS

The bill is estimated to result in a reduction in tax liability of $29.2 billion through calendar year 1975. Table 1 shows how the impact of this reduction is divided between individuals and business organizations. It shows that $21.2 billion of the reduction goes to individuals in their nonbusiness capacity and $8.0 billion to businesses. Thus, almost 73 percent of the tax reduction goes to individuals (in their nonbusiness capacity) and 27 percent to business.

The $21.2 billion of tax reduction for individuals (in their nonbusiness capacity) is made up of an $8.1 billion refund on 1974 income tax liability, a $6.3 billion increase relating to a $200 exemption tax credit, a $2.3 billion tax decrease relating to a 1-percentage point decrease in rates on the first $4,000 of taxable income, a $3.0 billion credit for the purchase of homes and a $1.5 billion earned income credit. Addition of a $794 million liberalization of the investment credit for individuals in their business capacity (plus the effect of a few other items) raises the total reduction for individuals through 1975 to $22.3 billion. The $8.0 billion reduction in corporate tax liability is made up almost entirely of $4.3 billion ascribable to liberalization of investment credit, $1.9 billion derived from increasing the corporate surtax exemption from $25,000 to $50,000 and from decreasing the starting rate for corporations, $1 billion from liberalizing the net operating loss carryback provisions, and $500 million from repeal of excise taxes on trucks.

Table 2, which presents the data from Table 1 on a quarterly and a fiscal year basis, shows the impact of the tax reduction on the economy so far as timing is concerned. As this table shows, almost 43 percent of the total tax reduction ($12.5 billion) is estimated to occur during the second quarter of calendar year 1975. Most of this will go to individuals ($1.8 billion will go to corporations). In the last two quarters of calendar year 1975 tax collections are estimated to decline, because of the reductions called for in the committee bill, by $13.9 billion with $11 billion of the decreased collections affecting individuals. Part of this latter sum reflects underwithholding which will be recouped in the first two quarters of calendar year 1976. The whole of fiscal year 1976 shows individuals benefiting from $13.4 billion of decreased receipts and corporations by $7.0 billion.

Table 3 shows, by adjusted gross income class, the distribution of the effect of the refund of part of 1974 tax liability which produces a tax reduction of $8.1 billion.

Table 4 shows the effect of the 1-percentage-point decrease in individual tax rates with respect to the first $4,000 of taxable income. As is indicated in this table, this represents a tax reduction of $2.2 billion, of which 35 percent is distributed to those with incomes under $10,000, and 47 percent to those with incomes between $10,000 and $20,000.

Table 5 shows the effect of allowing the $200 credit in lieu of the $750 personal exemption deduction. As indicated in this table, this provision will make 7.2 million returns nontaxable and provide tax reductions for 57.3 million returns. The tax reduction in this case is $6.1 billion, of which 51 percent goes to those with incomes below $10,000 and 47 percent to those with incomes between $10,000 and $20,000.

Table 6 shows the effect of the 10-percent refundable earned income credit provided by the bill. (The amounts shown in the body of this table do not include $200 million represented by credits for those who are not filers.) The total revenue cost of this provision is $1.5 billion and 100 percent of the amount of the tax decrease goes to those with incomes below $8,000.

Additional tables are provided in the Statistical Appendix of this report. These tables, numbered 1 through 5, give the tax burden under present law and (1) under the provision of the bill which grants a refund of 1974 tax liability; (2) under the provision of the bill which decreases tax rates by 1-percentage point on each of the brackets applicable to the first $4,000 of taxable income; (3) under the provision which grants a nonrefundable $200 tax credit in lieu of the $750 personal exemption deduction; (4) under the provision of the bill which grants an earned income credit; and (5) under the combined provisions of the bill which grant a 1-percentage point rate reduction to the first $4,000 of taxable income and a nonrefundable $200 tax credit in lieu of the $750 personal exemption. The tax burdens are given for single persons and married couples with differing numbers of dependents with selected levels of adjusted gross income under the assumption that deductible personal expenses are equal to 17 percent of adjusted gross income.



TABLE 1—ESTIMATED DECREASE IN INDIVIDUAL AND CORPORATE TAX LIABILITY UNDER THE BILL—CALENDAR YEARS 1974–77

[In millions]

| Provision | Decrease in tax liability | | | |
|---|---|---|---|---|
| | 1974 | 1975 | 1976 | 1977 |
| Granting a 100-percent refund of 1974 individual income tax liability up to $100 with no phaseout and a 10-percent refund of tax above $1,000 with a maximum refund of $200 with the refund phased out between $20,000 and $30,000 of adjusted gross income but not below $100 [2] | $8,125 | | | |
| Decreasing by 1 percentage point the tax rates applicable to the 1st $4,000 of taxable income | | $2,289 | $2,406 | |
| Granting a nonrefundable optional $200 tax credit in lieu of the $750 personal exemption deduction | | 6,327 | | |
| Granting a nonrefundable tax credit equal to 5 percent of the purchase price of new and used homes (including mobile homes) to be used as the principal residence of the taxpayer | | 3,000 | 600 | |
| Granting returns with dependent children a refundable credit of 10 percent of wage and salary and self-employment income with a $400 maximum credit with a phaseout of the credit between $4,000 and $8,000 of adjusted gross income [3] | | 1,455 | | |
| Total, individuals, nonbusiness [4] | 8,125 | 13,071 | 3,006 | |
| Granting individuals election of a 3-year carryback of capital losses | | 110 | 55 | $30 |
| Increasing the rate of investment credit to 12 percent for 1975 and 1976 and to 10 percent thereafter; repealing the $50,000 limitation on used property qualified for credit; and allowing the investment credit on progress payment: | | | | |
| Individuals, business | | 794 | 892 | 572 |
| Corporations | | 3,515 | 4,122 | 2,943 |
| Total | | 4,309 | 5,014 | 3,515 |
| Increasing the corporate surtax exemption from $25,000 to $50,000 on 1975 income subject to tax | | 1,200 | | |
| Lowering the rate of corporate normal tax from 22 percent to 18 percent and increasing the rate of corporate surtax from 26 percent to 30 percent on 1975 income subject to tax | | 700 | | |
| Repealing excise tax on trucks, buses and trailers: | | | | |
| Individuals, business | | 162 | 173 | 165 |
| Corporations | | 378 | 403 | 385 |
| Total | | 540 | 576 | 550 |
| Repealing excise tax on parts and accessories of trucks: | | | | |
| Individuals, business | | 53 | 49 | 48 |
| Corporations | | 123 | 115 | |
| Total | | 176 | 164 | 159 |
| Modifying tax credit to employers of public assistance recipients under the work incentive program (WIN): | | | | |
| Individuals, business | | 1 | 1 | |
| Corporations | | 2 | 1 | |
| Total | | 3 | 2 | |
| Liberalizing net operating loss carryback provisions: increase in refunds | | 1,000 | 500 | 200 |
| Increasing the accumulated earnings credit allowance from $100,000 to $150,000 | | (5) | (5) | (5) |
| Total | 8,125 | 21,109 | 9,317 | 4,454 |
| Individuals | 8,125 | 14,191 | 4,176 | 815 |
| Corporations | | 6,918 | 5,141 | 3,639 |
| Individuals, nonbusiness | 8,125 | 13,071 | 3,006 | |
| Business (individuals and corporations) | | 8,038 | 6,311 | 4,454 |

[1] The individual income tax liability figures in this table are based on income levels of the respective years and therefore may differ from those in the distributional tables which are based on 1974 income levels.

[2] Under the language of the bill this item is viewed as a refund of a payment deemed to have been made on 1974 individual income tax rather than a decrease in tax liability.

[3] Includes tax credits and/or payments, the latter going to tax returns where the tax liability before the credit is not big enough to absorb the credit and to specially designed returns where there is no tax liability and no tax return.

[4] Exclusive of the portion of the decreased tax liability under the loss carryback provision which may be ascribable to individuals in a nonbusiness capacity.

[5] An undeterminable amount deemed to be small.

TABLE 2.—ESTIMATED CHANGE IN INDIVIDUAL AND CORPORATE TAX COLLECTIONS UNDER THE BILL—FISCAL YEARS 1975 AND 1976

[In millions]

| Provision | Collections: Calendar year 1975, 2d quarter | 3d quarter | 4th quarter | Calendar year 1976, 1st quarter | 2d quarter |
|---|---|---|---|---|---|
| Granting a 100-percent refund of 1974 individual income tax liability up to $100 with no phaseout and a 10-percent refund of tax above $1,000 with a maximum refund of $200 with the refund phased out between $20,000 and $30,000 of adjusted gross income but not below $100 [1] | [2] −$8,125 | | | | |
| Decreasing by 1 percentage point the tax rates applicable to the first $4,000 of taxable income | −446 | −$1,190 | −$1,190 | −$433 | −$438 |
| Granting a nonrefundable optional $200 tax credit in lieu of the $750 personal exemption deduction | −1,424 | −3,796 | −3,796 | +1,107 | +1,582 |
| Granting a nonrefundable tax credit equal to 5 percent of the purchase price of new and used homes (including mobile homes) to be used as the principal residence of the taxpayer | −300 | −150 | | −765 | −1,845 |
| Granting returns with dependent children a refundable credit of 10 percent of wage and salary and self-employment income with a $400 maximum credit with a phaseout of the credit between $4,000 and $8,000 of adjusted gross income.[3] | −140 | −375 | −375 | +61 | −626 |
| Total, individuals, nonbusiness [4] | −10,435 | −5,511 | −5,361 | −30 | −1,327 |
| Granting individuals election of a 3-year carryback of capital losses | −11 | −6 | | −27 | −72 |
| Increasing the rate of investment credit to 12 percent for 1975 and 1976 and to 10 percent thereafter; repealing the $50,000 limitation on used property qualified for credit; and allowing the investment credit on progress payments: | | | | | |
| Individuals, business | −79 | −40 | | −203 | −562 |
| Corporations | −1,055 | −527 | −527 | −759 | −1,884 |
| Total | −1,134 | −567 | −527 | −962 | −2,446 |
| Increasing the corporate surtax exemption from $25,000 to $50,000 on 1975 income subject to tax | −360 | −180 | −180 | −240 | −240 |
| Lowering the rate of corporate normal tax from 22 percent to 18 percent and increasing the rate of corporate surtax from 26 percent to 30 percent on 1975 income subject to tax | −210 | −105 | −105 | −140 | −140 |
| Repealing excise tax on trucks, buses and trailers: | | | | | |
| Individuals, business | −67 | −42 | −42 | −42 | −42 |
| Corporations | −157 | −98 | −98 | − 98 | −98 |
| Total | −224 | −140 | −140 | −140 | −140 |
| Repealing excise tax on parts and accessories of trucks: | | | | | |
| Individuals, business | −26 | −12 | −12 | −12 | −12 |
| Corporations | −60 | −28 | −28 | −28 | −28 |
| Total | −86 | −40 | −40 | −40 | −40 |
| Modifying tax credit to employers of public assistance recipients under the work incentive program (WIN): | | | | | |
| Individuals, business | | | | | −1 |
| Corporations | | | −1 | | −1 |
| Total | | | −1 | | −2 |
| Liberalizing net operating loss carryback provisions: increase in refunds | | −800 | −200 | −400 | −100 |
| Increasing the accumulated earnings credit allowance from $100,000 to $150,000 | | (5) | (5) | (5) | (5) |
| Total | −12,460 | −7,349 | −6,554 | −1,979 | −4,507 |
| Individuals | −10,618 | −5,611 | −5,415 | −314 | −2,016 |
| Corporations | −1,842 | −1,738 | −1,139 | −1,665 | −2,491 |
| Individuals, nonbusiness | −10,435 | −5,511 | −5,361 | −30 | −1,327 |
| Business (individuals and corporations) | −2,025 | −1,838 | −1,193 | −1,949 | −3,180 |

See footnotes at end of table p. 21.



TABLE 2.—ESTIMATED CHANGE IN INDIVIDUAL AND CORPORATE TAX COLLECTIONS UNDER THE BILL—FISCAL YEARS 1975 AND 1976—Continued

[In millions]

FISCAL YEAR SUMMARIES

| Provision | Collections: Calendar year 1975, 2d fiuarter | 3d quarter | 4th quarter | Calendar year 1976, 1st quarter | 2d quarter |
|---|---|---|---|---|---|
| Fiscal year 1975: | | | | | |
| Individuals | −$10,618 | | | | |
| Corporations | −1,842 | | | | |
| Individuals and corporations | −12,460 | | | | |
| Individuals, nonbusiness | −10,435 | | | | |
| Business (individuals and corporations) | −2,025 | | | | |
| Fiscal year 1976: | | | | | |
| Individuals | −13,356 | | | | |
| Corporations | −7,033 | | | | |
| Individuals and corporations | −20,389 | | | | |
| Individuals, nonbusiness | −12,229 | | | | |
| Business (individuals and corporations) | −8,160 | | | | |

[1] Under the language of the bill this item is viewed as a refund of a payment deemed to have been made on 1974 individual income tax rather than a decrease in tax liability.
[2] According to the Internal Revenue Service this refund will take place in fiscal year 1975 except for refunds to certain fiscal year taxpayers and late filers.
[3] Includes tax credit and/or payments, the latter going to tax returns where the tax liability before the credit is not big enough to absorb the credit and to specially designed returns where there is no tax liability and no tax return.
[4] Exclusive of the portion of the decreased tax liability under the loss carryback provision which may be ascribable to individuals in a nonbusiness capacity.
[5] An undeterminable amount deemed to be small.

TABLE 3.—EFFECT OF THE PROVISION IN THE BILL WHICH GRANTS A REFUND OF 1974 TAX LIABILITY [1]

[By adjusted gross income class—1974 income levels]

| Adjusted gross income class (thousands) | Number of returns affected (thousands): Total number with tax decrease | Number made nontaxable | Decrease in tax liability: Amount (millions) | Percentage distribution of total decrease: By income class | Cumulative | By segment |
|---|---|---|---|---|---|---|
| 0 to $3 | 4,057 | 3,097 | $230 | 2.8 | 2.8 | |
| $3 to $5 | 7,579 | 1,280 | 685 | 8.4 | 11.2 | 35.7 |
| $5 to $7 | 8,273 | 339 | 795 | 9.8 | 21.0 | |
| $7 to $10 | 11,428 | 186 | 1,197 | 14.7 | 35.7 | |
| $10 to $15 | 15,952 | 59 | 2,178 | 26.8 | 62.5 | 48.9 |
| $15 to $20 | 9,856 | 16 | 1,796 | 22.1 | 84.6 | |
| $20 to $50 | 9,006 | 3 | 1,162 | 14.3 | 98.9 | |
| $50 to $100 | 655 | (2) | 65 | 0.8 | 99.7 | 15.3 |
| $100 and over | 160 | (2) | 16 | 0.2 | 99.9 | |
| Total | 66,966 | 4,980 | 8,125 | 100.0 | 100.0 | 100.0 |

[1] Granting a 100-percent refund of 1974 income tax liability up to $100 without a phaseout and a 10-percent refund of tax above $1,000 with a maximum refund of $200 with the refund phased out between $20,000 and $30,000 of adjusted gross income but not below $100.
[2] Less than 500 returns.

Note.—Details may not add to totals because of rounding.

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TABLE 4.—EFFECT OF THE PROVISION IN THE BILL WHICH DECREASES BY ONE PERCENTAGE POINT THE TAX RATES APPLICABLE TO THE FIRST $4,000 OF TAXABLE INCOME [1]

[By adjusted gross income class—1974 income levels]

| Adjusted gross income class (thousands) | Number of returns with tax decrease (thousands) | Decrease in tax liability | | | |
|---|---|---|---|---|---|
| | | Amount (millions) | Percentage distribution of total decrease | | |
| | | | By income class | Cumulative | By segment |
| 0 to $3 | 4,057 | $18 | 0.8 | 0.8 | |
| $3 to $5 | 7,579 | 115 | 5.3 | 6.1 | 35.5 |
| $5 to $7 | 8,273 | 236 | 10.8 | 17.0 | |
| $7 to $10 | 11,428 | 403 | 18.5 | 35.5 | |
| $10 to $15 | 15,952 | 621 | 28.5 | 64.0 | 46.6 |
| $15 to $20 | 9,856 | 392 | 18.0 | 82.0 | |
| $20 to $50 | 9,006 | 359 | 16.5 | 98.5 | |
| $50 to $100 | 655 | 26 | 1.2 | 99.7 | 18.0 |
| $100 and over | 160 | 6 | 0.3 | 100.0 | |
| Total | 66,966 | 2,177 | 100.0 | 100.0 | 100.0 |

[1] The tax rates are as follows; for taxable income brackets not shown the tax rates are the same as under present law.

| Taxable income bracket (thousands): | Tax rate (percent) |
|---|---|
| Joint returns: | |
| 0 to $1 | 13 |
| $1 to $2 | 14 |
| $2 to $3 | 15 |
| $3 to $4 | 16 |
| Single person returns: | |
| 0 to $0.5 | 13 |
| $0.5 to $1 | 14 |
| $1 to $1.5 | 15 |
| $1.5 to $2 | 16 |
| $2 to $4 | 18 |
| Returns of heads of households: | |
| 0 to $1 | 13 |
| $1 to $2 | 15 |
| $2 to $4 | 17 |

Note.—Details may not add to totals because of rounding.

TABLE 5.—EFFECT OF THE PROVISION IN THE BILL WHICH GRANTS A $200 TAX CREDIT IN LIEU OF THE $750 PERSONAL EXEMPTION DEDUCTION

[By adjusted gross income class—1974 income levels]

| Adjusted gross income class (thousands) | Number of returns affected (thousands) | | Decrease in tax liability | | | |
|---|---|---|---|---|---|---|
| | Total number with tax decrease | Number made nontaxable | Amount (millions) | Percentage distribution of total decrease | | |
| | | | | By income class | Cumulative | By segmen |
| 0 to $3 | 4,057 | 2,834 | $217 | 3.6 | 3.6 | |
| $3 to $5 | 7,579 | 1,748 | 598 | 9.8 | 13.4 | 51.0 |
| $5 to $7 | 8,273 | 1,356 | 844 | 13.8 | 27.2 | |
| $7 to $10 | 11,413 | 974 | 1,456 | 23.8 | 51.0 | |
| $10 to $15 | 15,147 | 278 | 2,080 | 34.1 | 85.1 | 47.1 |
| $15 to $20 | 8,834 | 31 | 801 | 13.1 | 98.2 | |
| $20 to $50 | 2,011 | 3 | 109 | 1.8 | 100.0 | |
| $50 to $100 | 3 | 1 | 1 | (1) | 100.0 | 1.8 |
| $100 and over | 1 | (1) | (1) | (1) | 100.0 | |
| Total | 57,317 | 7,225 | 6,106 | 100.0 | 100.0 | 100.0 |

[1] Less than 500 returns, $500,000, or 0.05 percent.

Note.—Details may not add to totals because of rounding.



TABLE 6.—EFFECT OF THE PROVISION IN THE BILL WHICH GRANTS A REFUNDABLE EARNED INCOME CREDIT [1]

[By adjusted gross income class—1974 income levels]

| Adjusted gross income class (thousands) | Number of returns affected (thousands) | | Decrease in tax liability | | | |
|---|---|---|---|---|---|---|
| | Total number with tax decrease [2] | Number made nontaxable | Amount [3] (millions) | Percentage distribution of total decrease | | |
| | | | | By income class | Cumulative | By segment |
| 0 to $3 | 1,126 | 66 | $238 | 18.5 | 18.5 | |
| $3 to $5 | 1,565 | 804 | 531 | 41.2 | 59.7 | |
| $5 to $7 | 2,218 | 732 | 447 | 34.7 | 94.4 | 100.0 |
| $7 to $8 | 1,520 | 9 | 71 | 5.5 | 100.0 | |
| $8 and over | | | | | | |
| Total | 6,429 | 1,611 | 1,288 | 100.0 | 100.0 | 100.0 |

[1] Granting returns with dependent children a refundable tax credit of 10 percent of wage and salary and self-employment income with a maximum credit of $400 and a phaseout of the credit between $4,000 and $8,000 of adjusted gross income.
[2] Does not include returns representing beneficiaries who are nonfilers under the 1970 filing requirements.
[3] Does not include an additional $200,000,000 to cover the credit on wage and salary and self-employment income of earners who are nonfilers under the 1970 filing requirements.

Note.—Details may not add to totals because of rounding.

# IV. GENERAL EXPLANATION

## A. Individual Income Tax Reductions

### 1. Refund of 1974 Individual Income Taxes (Sec. 101 of the bill and secs. 6428 and 6611(e) of the code)

Under present law, individual taxpayers generally are required to file their 1974 tax returns by April 15, 1975. (This is true in the case of calendar year taxpayers who account for the great bulk of all individual taxpayers.)

In order to achieve the objective of infusing additional purchasing power into the economy as speedily as possible, and on a broad basis, your committee's bill and the House bill provide for refunds to be made to individual taxpayers of a portion of their Federal income tax liabilities for the year 1974. To achieve this objective, it is expected that the Internal Revenue Service will make every effort to pay out all refunds on returns filed by April 15 within 60 days of that date.

Under the provision adopted by the committee and the House, the general rule is that individuals are to receive a refund of 10 percent of their tax liability for 1974, but this refund is not to be less than $100 (except that the refund is not to exceed an individual's tax liability) or more than $200. In addition, for taxpayers with adjusted gross incomes of $20,000 or more, the size of this refund is to be phased down to $100 for those with adjusted gross incomes of $30,000 or more. These computations will not have to be made by the taxpayer but instead will be made by computers in the Internal Revenue Service.

The refund is to be $100 where the taxpayer's tax liability is at least $100 and not more than $1,000. For tax liabilities of less than $100 the refund is to be the full amount of the 1974 tax. Where the tax liability is over $1,000 but not over $2,000, the amount of the refund is to be 10 percent of the tax liability (subject to the adjusted gross income limitation described below). As a result, in this tax liability range the refund will vary from a low of $100 to a high of $200. Where tax liability exceeds $2,000, the refund remains at the maximum of $200 (also subject to the income limitation described below).

In cases where a taxpayer is entitled to a refund of more than $100 by reason of his tax liability for 1974 but has an adjusted gross income of over $20,000, the amount of refund over the $100 minimum is reduced. The amount of the reduction is computed by applying to the refund in excess of the $100 minimum the ratio of his adjusted gross income over $20,000 to $10,000 (the total difference of the phaseout between adjusted gross income of $20,000 and $30,000). For example, if a taxpayer whose adjusted gross income is $25,000 would otherwise be entitled to the maximum refund of $200 by reason of his tax liability, $100 of this maximum amount—that is, the amount over and above the minimum refund—must be reduced by 50 percent, reflecting the ratio between $5,000 (the amount of adjusted gross income over

$20,000) and $10,000 (the total difference between $20,000 and $30,000). As a result, this taxpayer's 1974 refund would be $150 ($100 minimum refund, plus $100 additional refund by reason of tax liability, less $50 reduction in the latter amount by reason of adjusted gross income).[1]

This phaseout on account of adjusted gross income in excess of $20,000 is to reduce the refund to $100 if the adjusted gross income is $30,000 or more—the phaseout is not to reduce the refund below $100 no matter how high the adjusted gross income. This minimum is $100 unless the taxpayer's 1974 tax liability apart from the refund is less than $100, in which case he is entitled to no more than a refund of the full amount of that tax liability.

In the case of married taxpayers who file separate returns for 1974, the minimum and maximum refunds and the income limitation referred to above are cut in half with respect to each spouse. Each spouse is entitled to a refund of all of his or her tax liability for 1974 if that liability is less than $50. If the spouse's tax liability is $50 or more, he or she will be entitled to a minimum refund of $50 and a maximum refund of $100, subject, however, to reduction by reason of his or her adjusted gross income. Where a spouse filing a separate return has adjusted gross income of more than $10,000 but not more than $15,000, the amount of refund to which the spouse would be entitled based on his or her tax liability for 1974 is reduced in proportion to the amount by which his or her adjusted gross income exceeds $10,000.[2]

Table 1 in the Statistical Appendix provides specific examples of the amount of refund which a single person or a married couple filing a joint return, assuming different family size and income levels, is to obtain under your committee's bill.

*Eligibility for refunds.*—The refund of all or part of 1974 taxes applies only to taxpayers who are individuals. This includes single persons, heads of households, surviving spouses (within the meaning of sec. 2(a)), and married persons, whether they file joint returns or separate returns. Where married taxpayers file a joint return for 1974, the amount of the refund is determined by reference to the joint income tax liability and adjusted gross income figures as if the spouses were one individual.

Refunds are not to be available under the bill in the case of nonresident aliens and trusts and estates.[3]

The refund is available, of course, in a situation where a decedent's executor or other representative files a final return of the decedent for 1974. In such a case, the refund is available for the decedent's final return, but not for the estate's return for the remainder of that year. The refund is also available in the case of a so-called grantor trust (secs. 671–678) where the person to whom the trust's income is

[1] If the same taxpayer's tax liability apart from the refund were $1,500, so that he would be entitled to a $150 refund by reason of tax liability, the income limitation would reduce the refund by $25 (i.e., 50 percent of the excess of $150 over $100). As a result, this taxpayer's refund would be $125.

If the same taxpayer's tax liability apart from the refund were only $80, his refund would be $80. No reduction in that amount would occur under the income limitation since the taxpayer is not otherwise entitled to more than the $100 minimum refund.

[2] To illustrate the effect of the income limitation, a spouse filing a separate return who would be entitled to a maximum $100 refund based on tax liability, and whose adjusted gross income on his or her separate return is $13,000, is entitled to a refund of $70 by reason of the income limitation. The $100 refund amount is reduced by $30, i.e., $3,000/$5,000 of the $50 excess of the $100 refund based on tax liability over the minimum $50 refund.

[3] Where income in respect of a decedent is includible in the income of an estate under present law (sec. 691), no refund is available with respect to such income since the liability for tax on such income is that on the estate.



taxable is an individual, and to the extent that the trust's income is taxable to such person. There, too, the refund is available to the individual and not to the trust. In addition, the refund is available in fiduciary situations such as a guardianship where the tax liability reflected on the return is that of the individual beneficiary.

*Taxable year affected.*—The refund provisions of the bill generally apply to the year of a taxpayer which began during the 1974 calendar year. Thus, individuals who use the calendar year 1974 for tax reporting purposes, as well as those who report on a fiscal year which began in 1974 and ends during 1975, generally are entitled to refunds to the extent provided in the bill. However, if an individual has two taxable years which began during 1974 (where one taxable year was a short year), the refund provisions of the bill apply only to the first of the two taxable years.

*Procedures for making refunds.*—Under both the committee and the House bill a taxpayer computes his tax liability for 1974 as he has done in the past when no special refund was made. Therefore, in preparing his return for 1974, a taxpayer should not reduce his tax liability by the amount which he anticipates will be refunded to him under this bill. Instead, after the taxpayer's return has been filed, the Internal Revenue Service will initiate the refund based on the taxpayer's tax liability and adjusted gross income for the year.

In order to carry out this procedure, both versions of the bill provide that the taxpayer is to be treated as if he made an additional payment to the Treasury against his 1974 income tax liability. This constructive payment is to be treated as if made on the due date of the taxpayer's 1974 return (without taking into account any extension of time to file the return) or, if later, on the date on which he actually files his 1974 return.

This constructive payment is to be in most cases processed by the Service as an overpayment of tax by the taxpayer and, as such, is to be paid to him in the form of a refund of tax. In accord with the general rule that Federal income tax refunds do not constitute income, refunds received under the bill will likewise not constitute income (for Federal income tax purposes) to the taxpayers who receive them.[4]

*Other aspects of the refunds.*—The tax liability which determines the amount of the refund under the bill is the taxpayer's tax liability for 1974, reduced by the so-called "nonrefundable" credits against this liability to which he may be entitled. These credits are the foreign tax credit (sec. 33), the retirement income credit (sec. 37), the investment credit (sec. 38), the work incentive credit (sec. 40), and the credit for contributions to candidates for public office (sec. 41). The tax liability will also be computed with certain other adjustments necessary in order to assure speedy and efficient processing of the refunds through the Service's computer facilities.

Although under present law (sec. 6601(f)(1)), interest which a taxpayer owes on an underpayment of his tax liability is treated as part of his liability for "tax," your committee intends that interest not be treated as part of the tax liability for purposes of determining the refunds to be made under this bill.

[4] By deeming the amount of 1974 tax which is to be refunded under the bill as a payment of 1974 Federal income tax by the taxpayer on the due date of his return, the committee expects that for State income tax purposes, States will treat the Federal refund of this deemed payment as a refund of an overpayment of Federal income tax. Such treatment would also reflect the committee's view that the refunds under the bill do not involve any reduction in the taxpayer's Federal income tax liability as such for 1974.

In determining marital status for purposes of the refund provisions of the bill, the provisions of section 143 of present law are to be utilized. As a result a married person living apart from his or her spouse will, under certain conditions, be treated the same as a single person, and have his or her 1974 refund determined accordingly.

The amount of the refund which a taxpayer may receive and retain is to be determined by reference to his tax liability as finally determined for Federal income tax purposes. Consequently, the refund is not finally determined by the amount of tax liability shown on the return as filed by the taxpayer, but (like refunds generally) may be subsequently increased or decreased depending on adjustments which may be made in the taxpayer's final tax liability for 1974.

Since a refund does not result from a reduction in tax liability for 1974 (but instead results from a constructive payment against a taxpayer's liability for tax), the two versions of the bill do not affect the definition of a "deficiency" in tax under present law (sec. 6211), or the computation of the negligence or civil fraud penalties (imposed by sec. 6653 of present law), which are based on the amount of the deficiency.

*Interest on refunds.*—Under present law, the Internal Revenue Service is not required to pay interest on an overpayment of income tax if it makes a refund within 45 days after the last date prescribed for filing the return (without regard to extensions) or, if the return is filed late, within 45 days after the date on which the return is actually filed (sec. 6611(e)). In order, however, to facilitate the speedy processing of the special 1974 refund by the Internal Revenue Service, a provision is included which is designed to give the Service up to 60 days to make 1974 refunds to individuals without incurring an obligation to pay interest on the refund. In the interest of administrative feasibility, the bill extends the 45-day interest-free period both for the special one-time refund under your committee's bill and for refunds of 1974 tax generally under present law. This special extension of the 45-day period under present law applies to refunds of any tax under Subtitle A of the code (secs. 1–1564) which are made to an individual for a taxable year which began during the calendar year 1974. As under present law, the 60-day period will run from the later of the due date of the return (disregarding extensions) or the date on which the return is actually filed.

If the Service takes more than 60 days to make the refund, it must pay interest on the refund (as occurs under present law with refunds generally).

This 60-day provision does not extend to refunds made to an estate or trust, to a nonresident alien individual or to a corporation. As to these taxpayers, the 45-day period of present law continues to apply. The 45-day period is also the governing rule for all other taxable years, i.e., those beginning before and after 1974.

*Revenue effect.*—The refunds for 1974 individual income tax liability are estimated to result in a revenue loss of $8.1 billion.

### 2. Disregard of Refunds with Respect to Federally Assisted Benefit Programs (Sec. 102 of the bill)

In some instances individuals who receive refunds of 1974 income tax payments under the bill will also be receiving benefits or assistance under one or more Federal or Federally assisted State social programs



based on individually determined needs. Such programs include those which provide supplemental security income benefits, aid to families with dependent children, medicaid, food stamps, educational and housing benefits, and veterans' pensions.

For example, an individual who is a member of a family receiving a payment under the program for aid to families with dependent children might receive, during some month in 1975, a tax refund for 1974 under the bill which, if considered to be income to the recipient during that month, might make him ineligible to continue receiving aid for that month. In some States the refund might also disqualify persons for medicaid or from eligibility to purchase food stamps, or, if treated as income, the refund might make the individual ineligible for a loan, or for a reduced rental, etc., under other aid programs.

Your committee does not believe that these refunds of 1974 tax should change an individual's eligibility for these assistance programs for the month in which the refund is received. In addition, the cost of identifying and making the adjustments might well exceed any savings in assistance funds were the refunds to be taken into account for these purposes.

Accordingly, both the House and your committee have included a provision in the bill which provides that 1974 income tax refunds under the bill are not to be considered income or resources for purposes of determining who is eligible to receive benefits or assistance, or the amount or extent of benefits or assistance, under any Federal or Federally assisted program. For this purpose the concept of benefits or assistance is intended to include all assistance benefits in which the Federal Government participates, including those made in a form other than cash, such as a reduced rental and eligibility for a loan. Your committee also intends that a refund which an individual receives pursuant to the bill should not be considered part of his resources or assets for that month for purposes of any resources test under the applicable social program.

The treatment of refunds of 1974 tax, were it not for this provision, would be a problem since these, in effect, are additional payments made by the Federal Government on behalf of the individuals involved.

### 3. $200 Personal Exemption Tax Credit (sec. 201 of the bill and secs. 2, 42, 63, 151, and 6201 of the code).

Present law provides a $750 personal exemption deduction for each taxpayer and each dependent with an additional exemption for taxpayers who are age 65 or over or who are blind. In addition, present law provides a low income allowance (also known as the minimum standard deduction) to determine the minimum amount of income an individual must have in order to pay Federal income taxes. Under present law, the low income allowance is $1,300 for both single individuals and for married couples filing joint returns ($650 for a married individual filing a seaparate return). This means that under present law a single individual does not pay tax unless income exceeds $2,050 (the $1,300 allowance plus $750 for one personal exemption), a married couple does not pay tax unless their income exceeds $2,800 (plus $750 for each dependent); and a married individual filing a separate return does not pay tax unless his income exceeds $1,400 (plus $750 for each dependent). Under present law, the percentage standard deduction is 15 percent of adjusted gross income, with a maximum deduction of $2,000.

As indicated above in the reasons for the bill, your committee agrees with the House that persons whose income falls below the poverty levels should not pay income tax. The House bill met the poverty level thresholds for payment of tax by raising the minimum standard deduction from $1,300 to $1,900 for single persons and $2,500 for joint returns. In addition, the House bill increases the percentage standard deduction from 15 percent of adjusted gross income with a maximum of $2,000 to 16 percent with a maximum of $2,500 for single persons and $3,000 for joint returns.

The committee concluded, however, that it would be more appropriate to provide a $200 tax credit as an alternative to the $750 personal exemption deduction instead of increasing the minimum standard deduction and the percentage standard deduction.

The committee believes that an exemption credit of $200 is a more effective way to increase the tax-free income level above the poverty income levels than increasing the minimum standard deduction, as provided by the House (except for single persons and married couples with no dependents where the effect of the two approaches is virtually identical), as is shown in the table in the *Reasons For The Bill* section, above.

The committee was also concerned because the standard deduction changes provided by the House bill do not cover middle income taxpayers who itemize their deductions. Since the credit provides the same amount of tax reduction for taxpayers who itemize their deductions as for those who take the standard deduction, your committee believes that tax reductions provided in the form of a $200 exemption tax credit is more equitable in providing tax reductions to low and middle income taxpayers than increases in the standard deduction.

Moreover, a tax credit of $200 in lieu of the personal exemption deduction provides the same tax relief for low and middle income taxpayers as does an increase in the personal exemption deduction without giving excessive relief to high income taxpayers for whom an increase in the $750 exemption deduction is worth a great deal more.

The committee concluded that such tax relief to larger families is appropriate to compensate for the greater burden placed on families with more children by the recent inflation. This has been a severe problem for those lower and middle income taxpayers who itemize their deductions and would receive relatively little benefit from the House bill.

The committee bill provides that taxpayers are to compute their tax by using either the $750 exemption deduction of present law or the tax credit of $200 per exemption provided by the bill, depending on which alternative results in a lower tax liability. For taxpayers using the optional tax tables of section 3 (i.e., those with incomes of less than $10,000 who take the standard deduction), no additional computation is required by this provision since the tax tables will automatically reflect the credit when it is worth more than the exemption. A taxpayer not using the tax tables is to compute his tax either by subtracting $750



per exemption from adjusted gross income in arriving at taxable income as under present law, or by subtracting only his itemized deductions (or standard deduction), computing the tax on the resulting income, and then subtracting $200 per exemption from the resulting tentative tax to obtain his tax liability. Most of these taxpayers will not need to compute their tax both ways to determine which method to use, since the exemption deduction is worth more than the credit for taxpayers with a marginal tax rate at 27 percent or above. This is the case for taxable income (after the deduction of $750 per exemption as well as the standard or itemized deduction) above $10,000 for single persons and $16,000 for joint returns. Your committee expects that the Internal Revenue Service will provide guidelines to eliminate the need for taxpayers to compute their tax both ways. Of course, the personal exemption credit which may require a taxpayer to compute his tax in two ways is similar in principle to the choice between the standard deduction and itemized deductions.

The bill provides that any overstatement of tax liability resulting from incorrectly choosing the personal exemption deduction instead of the credit (or vice versa) will be treated by the IRS as a math error. Thus, the IRS will automatically check the computation made on each return and will refund (or credit) any excess amounts paid resulting from the overstatement of tax liability.

The overall tax reduction from the personal exemption tax credit is $6.1 billion in 1975. This is an increase of approximately $1 billion over the standard deduction changes in the House bill, which amount to $5.1 billion.

The personal exemption tax credit is to apply on a one-year basis for a taxable year beginning in 1975 only.

### 4. Tax Rate Reduction for Individuals (sec. 202 of the bill and sec. 1 of the Code)

Under present law, the individual income tax rates for joint returns begin with a 14 percent rate on the first $1,000 of taxable income and an increase to 15, 16, and 17 percent for each additional $1,000 of taxable income, as shown in the table below.[1] For single persons the first 4 rates are the same as for joint returns, but the brackets in each case relate to $500 of taxable income rather than $1,000. The fifth bracket which begins at $2,000, relates to the next $2,000 of income.

As indicated in the reasons for the bill, the committee concluded that a reduction in the lower tax rates is the best way of focusing tax relief on low and middle income bracket taxpayers without an excessive revenue cost. Moreover, a reduction in tax rates provides tax relief to tapayers whether they itemize their deductions or take the standard deduction, in contrast to changes in the standard deduction. The committee also believes that a reduction in the tax rates is appropriate as a partial offset to the effect of inflation in moving low and middle income taxpayers into higher tax brackets even though they have no increase in real income. The House did not include a provision for individual rate reductions.

The committee bill provides a one-percentage-point reduction in the four tax rates applicable to the first $4,000 of taxable income in

[1] For heads of households the rates are 14 percent on the first $1,000 of taxable income, 16 percent on the second $1,000 of taxable income and 18 percent on the next $2,000 of taxable income.

the case of joint returns. In the case of single persons and married individuals filing separate returns, there are 5 brackets for the first $4,000 of taxable income (3 brackets in the case of heads-of-households). The bill also reduces each of these brackets by one percentage point. Thus, for all taxpayers (except heads-of-households), the 14-percent rate is cut to 13 percent, the 15-percent rate to 14 percent, the 16-percent rate to 15 percent, and the 17-percent rate to 16 percent. Since single persons have 5 brackets for the first $4,000 of taxable income, the 19-percent rate in the 5th bracket is also reduced one percentage point from 19 percent to 18 percent.[2] These rate reductions are shown in the table below. (The Internal Revenue Service will prepare new tax tables for the optional tax tables (under sec. 3 of the code) to reflect these changes for taxpayers with adjusted gross income under $10,000 who take the standard deduction.)

A one-percentage-point cut reduces the tax to be paid by $10 at the top of a $1,000 bracket and by $5 for a $500 bracket. These four-percentage point reductions provide tax savings of $40 for taxable income of $4,000 and above on joint returns; the five-percentage point reduction for single returns also saves $40 for taxable income of $4,000 and above in single persons' returns, as shown in the table below.

LOWER BRACKET TAX AND RATES UNDER PRESENT LAW AND UNDER THE COMMITTEE BILL

| Taxable income brackets | Tax and rate | |
|---|---|---|
| | Present law | Committee bill |
| Joint returns: | | |
| 0 to $1,000 | 0 plus 14 percent | 0 plus 13 percent. |
| $1,000 to $2,000 | $140 plus 15 percent | $130 plus 14 percent. |
| $2,000 to $3,000 | $290 plus 16 percent | $270 plus 15 percent. |
| $3,000 to $4,000 | $450 plus 17 percent | $420 plus 16 percent. |
| $4,000 to $8,000[1] | $620 plus 19 percent | $580 plus 19 percent. |
| Single person returns: | | |
| 0 to $500 | 0 plus 14 percent | 0 plus 13 percent. |
| $500 to $1,000 | $70 plus 15 percent | $65 plus 14 percent. |
| $1,000 to $1,500 | $145 plus 16 percent | $135 plus 15 percent. |
| $1,500 to $2,000 | $225 plus 17 percent | $210 plus 16 percent. |
| $2,000 to $4,000 | $310 plus 19 percent | $290 plus 18 percent. |
| $4,000 to $6,000[1] | $690 plus 21 percent | $650 plus 21 percent. |

[1] Change in tax at the lower end of the bracket but no change in tax rate.

This rate reduction is to apply for tax years 1975 and 1976.

Approximately 62 million taxpayers will receive tax reductions from these rate reductions. The total amount of the tax reduction is estimated to be $2.3 billion. The tax savings for illustrative taxpayers is shown in table 2 of the Statistical Appendix.

### 5. Earned Income Credit (sec. 203 of the bill and secs. 43, 6201 and 6401 of the code, and sec. 402(a)(7) of the Social Security Act).

Under present law an individual is not required to pay income tax unless his income exceeds the amount of the minimum standard deduction plus the sum of available personal exemptions. Social security taxes, however, are paid on all covered earnings by workers and employers, regardless of how small the amount of earnings. For 1975,

[2] For heads of households the tax rate for the first bracket of $1,000 is reduced from 14 percent to 13 percent, for the second bracket of $1,000 the tax rate is reduced from 16 percent to 15 percent and for the next tax bracket of $2,000 the tax rate is reduced from 18 percent to 17 percent.



the social security tax rate on employees is 5.85 percent of employee wages up to $14,100. Self-employed individuals pay a tax at a 7.9 percent rate on net earnings from self-employment income up to $14,100 if that income exceeds $400.

As indicated in the section above on reasons for the bill, your committee agrees with the House that it is appropriate to use the income tax system to offset the impact of the social security taxes on low-income persons in 1975 by adopting a refundable income tax credit against earned income. Although the earned income credit may be viewed as a method to help compensate wage earners of low income families for the social security taxes they pay, your committee wishes to have it clearly understood that this provision of the bill is not intended to provide a way of reducing social security taxes paid by low income wage earners. The financing of the social security program is a matter which the committee will be required to review in depth in subsequent legislation.

The House bill provides a new refundable income tax credit for individuals, called the earned income credit, to compensate low income wage earners (and low income self-employed persons) for the social security taxes (or self-employment taxes) they pay. The amount of the credit provided by the House bill is 5 percent of earned income, up to a maximum of $200 per taxpayer. The credit is phased out at income levels between $4,000 and $6,000.

As indicated above, the committee agrees with the House that this tax reduction bill should provide some relief at this time from the social security tax and the self-employment tax for low income individuals. The committee believes, however, that the most significant objective of the provision should be to assist in encouraging people to obtain employment, reducing the unemployment rate and reducing the welfare rolls. Thus, the provision should be similar in structure and objective to the work bonus credit the committee has reported out previously.

As a result the committee does not agree with the House that the earned income credit should be available to all individuals who have earned income regardless of their marital status or family requirements. For example, the House bill grants the credit to students and retired individuals, who often have low amounts of earned income because they work part-time or for short periods of time and may receive most of their support from family relatives or through social security or private pension plans. More importantly, Federal welfare programs apply primarily to married couples with dependent children and it is in this area where this program can be most effective in reducing any tax disincentive to work.

In addition, the committee believes that the amount of the credit adopted in the House bill should be increased for those who are to be eligible for the credit. Here, also, the larger credit will largely remove the disincentive that the social security tax produces against seeking employment for low-income people. It will thus encourage low income individuals to seek part-time or full-time work.

As a result the committee bill provides an income tax credit of 10 percent of earned income up to a maximum of $400. The amount of the credit is to be reduced by the amount of adjusted gross income, or the amount of earned income, if greater, which exceeds $4,000 per year on the basis of $1 of credit for each $10 of income in excess of $4,000. Thus, the credit is phased out for individuals with income levels of $8,000 and over.

An individual is eligible for the credit only if he maintains a household (within the meaning of sec. 214(b)(3)) in the United States for himself and for one or more children (of his own or legally adopted), who can be claimed as a dependent by the individual under the personal exemption provision (sec. 151(e)(1)(B)). A single individual is considered to be maintaining a household if the individual provides over half of the cost of maintaining the household (including costs attributable to children who are dependents). A married individual is considered to be maintaining a household if the individual and his spouse together furnish over one-half of the cost of maintaining the household.

Individuals otherwise eligible for the credit are not to receive the credit if they have amounts which are excluded from gross income under the exclusion for income earned abroad (sec. 911) or the exclusion of income from possessions of the United States (sec. 931).

Earned income eligible for the credit (up to the phaseout amount) includes all wages, salaries, tips, and other employee compensation, plus the amount of the taxpayer's net earnings from self-employment as that term is presently defined in the code (sec. 1402(a)). This broad definition of earned income can include some types of wages and other income not subject to social security tax (such as government employees' wages) but simplifies the process of determining what income is eligible for the credit. It is anticipated that a taxpayer will be able to calculate the amount of earned income eligible for the credit merely by adding together the amounts reported on form 1040 (the individual income tax return) as wages, salaries, tips and other employee compensation (line 9 of form 1040) with any amounts reported as net earnings from self-employment (line 13 of Schedule SE of form 1040).[1] Net earnings from self-employment are to be taken into account even though they are less than $400 (even though they are not subject to the self-employment tax).

Earned income generally is to be eligible for the credit only if it is includible in the gross income of the taxpayer during the taxable year in which the credit is claimed. Earned income of an individual is to be computed without regard to community property laws (so that a taxpayer is to take into account his or her own earnings for purposes of the earned income credit even though, under the community property laws, part of those earnings would be includible in the gross income of the spouse and not that of the earner). Amounts received as pension or annuity benefits are not to be taken into account for purposes of the credit.

Finally, the earned income credit is not to be available for income of nonresident alien individuals which is not connected with a U.S. trade or business (i.e., income not currently reported on a 1040NR form).

Because the credit as provided by the committee bill applies only to individuals who maintain a household and who are entitled to claim a child as a dependent, the bill omits the special rules for individuals under 18 years old and for individuals employed by a family relative,

[1] However, amounts included as net earnings from self-employment are not also to be included as wages, salaries, tips and other employee compensation.



both of which were provided in the House bill. These rules were aimed at preventing abuses in cases of young individuals and students; under the committee bill they would have no significant application.

The credit is to be calculated on a return-by-return basis. Individuals who are married and file joint returns are eligible for one credit on the combined income of the spouses. Married individuals filing separate returns are not to be eligible for the credit. A married individual who is treated as not being married (under sec. 143(b)) for return-filing purposes (i.e., a head of a household whose spouse has not been a member of the household for the entire year) is eligible for the credit in the same manner as a single individual who maintains a household and claims his child as a dependent (and any of the absent spouse's income attributed to him or her under State community property laws is to be disregarded).

The credit is generally available only for taxable years representing a full 12 months. However, in the case of a short year closed by reason of the death of the taxpayer, the credit is to be allowed.

Since the credit is refundable, eligible individuals with low incomes on which little or no income tax is due are to receive a cash payment equal to the amount of the credit reduced by any tax due. It is anticipated that low income individuals not required to file returns will be provided with a simple method of obtaining any payment due by filling out a brief form (such as the 1040A form) and attaching to it a copy of their W-2 withholding statements. It is hoped that through the simplicity of this form, plus efforts by the Internal Revenue Service to build public awareness of the availability of the credit, all eligible taxpayers will file for the credit available to them.

The amount of the credit received is to be taken into account as "other income" under the Social Security Act for purposes of determining eligibility for aid for dependent children payments (sec. 402(a)(7) of the Social Security Act).

The earned income credit is to apply only to taxable years beginning in 1975.

It is estimated that this provision will decrease 1975 income tax liabilities by $1.5 billion, compared with $3.0 billion under the House version of the bill. Of this $1.5 billion amount, $0.1 billion will be offset by reduced AFDC payments resulting from the increase in income for those receiving the credit. The savings under this tax reduction for illustrative taxpayers is shown in — the Statistical Appendix.

### 6. Changes in Withholding Tables to Reflect the Exemption Tax Credit, the tax rate reduction, and the earned income credit (sec. 204 of the bill and sec. 3402(a) of the code).

Under present law, the amount of the personal exemption, the low income allowance and the percentage standard deduction are reflected in statutory withholding tables. The bill requires the Secretary of the Treasury to prescribe new withholding tables which reflect the $200 exemption tax credit, the rate reduction, and the earned income credit as well as the features of present law.

It is anticipated that the new withholding tables will be effective from May 1, 1975. Since income tax withholdings for the first one-third of the year will have been at current rates, which on an annual basis would result in considerable over-withholding for lower income employees and employees who claim the standard deduction, the withholding rates for the last two-thirds of the year are to be additionally reduced so that amounts withheld by the end of the year would approximately equal 1975 tax liabilities after the reductions made by this bill. The changes in the withholding rates prescribed by the Secretary are therefore to reflect the changes listed above in such a way that the withholding change for the last 8 months of the year match as nearly as possible the change in tax liability for 1975. The committee expects the new withholding tables to be available for inclusion in the final legislation.

Another change in withholding rates will be required effective January 1, 1976, to put the withholding rates on a full year basis and to reflect the expiration of the earned income credit and personal exemption tax credit. A third change will be required on January 1, 1977, to reflect the fact that the rate reductions are effective only for 1975 and 1976.

The withholding changes made by the bill are to take effect on May 1, 1975. This will provide the Internal Revenue Service approximately 45 days to prepare and distribute new tables.

**7. Housing Purchase Credit (Sec. 205 of the bill and sec. 44 of the code)**

There is no tax credit under present law for the purchase of homes. However, homeowners (including ownership of condominiums and in certain cases tenant-stockholders in housing cooperatives) are able to deduct their mortgage interest and property taxes as itemized deductions. Although no similar provision applies to renters, owners of rental units can take deductions for accelerated depreciation and may expense their interest and tax charges during the construction period of the building.

The current weakness in the economy is centered disproportionately on the housing industry. Housing starts have declined from a level of approximately 2.4 million units in 1972 to a level of approximately 1.4 million units in 1974. This decline has created severe unemployment problems among the various construction trades and industries supplying construction materials. The average rate of unemployment in the construction industry is significantly higher than the average based on the overall labor force.

According to Department of Labor statistics, as of January 1974, the overall average unemployment rate was 5.2 percent (seasonally adjusted), while the average unemployment rate in the construction industry was 9.1 percent (seasonally adjusted). Similarly, as of January 1975, the overall unemployment rate was 8.2 percent (seasonally adjusted), while the unemployment rate for the construction industry was 15.0 percent (seasonally adjusted).

While general tax cuts stimulate the economy, the effect of the stimulation is diffused throughout all segments of the economy. The committee believes that it is necessary to direct a portion of the economic stimulus specifically toward the housing industry, which has suffered disproportionately from the current economic downturn.

To provide this needed stimulus, the committee has provided a tax credit in the case of the purchase by an individual taxpayer of a new or used home (but not rental apartment units) which is used by the



taxpayer as his principal place of residence. Under the bill, the definition of home includes, but is not limited to, a condominium, mobile home or cooperative housing unit. The rate of the credit is to be equal to 5 percent of the taxpayer's basis in the home. The amount of the credit is not to exceed the lesser of the taxpayer's tax liability or $2,000. In the case of a husband and wife who file a joint return, the $2,000 limitation applies to the joint return. In the case of married taxpayers who file separate returns, the amount of the credit is limited to $1,000 per return. Further, in the case of the joint purchase of a residence, the total credit allowable to the joint owners is not to exceed $2,000.

For purposes of computing the credit, the purchase price of a newly acquired residence must be reduced by any gain attributable to the sale of a former residence if such gain was not recognized for tax purposes by reason of a timely reinvestment in another residence (sec. 1034 of the code). However, no reduction will be made for any gain excluded from tax by reason of the special treatment provided under the tax laws in the case of a sale by a taxpayer who has attained age 65 (sec. 121 of the code). In any case where part of the property is to be used by the taxpayer as his principal residence and part is to be used for other purposes, an allocation of the purchase price of the property must be made. Only so much of the purchase price as is allocable to the residential portion is to be eligible for the credit.

Generally, to be eligible for the credit, the taxpayer must have acquired the home as his principal place of residence after March 12, 1975, and before January 1, 1976. However, a taxpayer will still be eligible for the credit even though the contract for purchase was entered into prior to March 13, 1975 (and even if equitable title passed prior to such date), if the settlement and occupancy occurred on or after that date (and before 1977). On the other hand, a taxpayer will be entitled to the credit if he has entered into a binding contract for the purchase of a home before January 1, 1976, even though he does not enter into settlement before that date, so long as the settlement occurs and the taxpayer occupies the home as his principal place of residence before 1977.[1]

The credit is also to apply in the case of a principal place of residence that is constructed, reconstructed, or erected by the taxpayer where he occupies the home as his principal place of residence before 1977, so long as the construction actually began before 1976. In this case, however, the credit is to be available only with respect to that part of the basis of the property attributable to construction, etc., after March 12, 1975. Construction is to be considered to begin only when physical work actually begins (i.e., not design, blueprints, planning, etc.).

A taxpayer will not be eligible for the credit if he purchases a residence from related persons whose relationship to the taxpayer would result in the disallowance of losses (sec. 267). Further, if a taxpayer acquires a residence by gift or inheritance he will not be eligible for the credit except to the extent of any reconstruction by him.

Under the committee's bill, there will be a recapture of the credit if the taxpayer disposes of the home within 3 years from the date of

[1] Of course, if a calendar year taxpayer enters into settlement in 1976, he will be entitled to the credit in 1976, not in 1975.

purchase. However, to the extent that the taxpayer acquires or constructs another principal residence by reinvesting the proceeds from the disposition of his former principal residence within one year from the date of disposition, there is to be no recapture if the combined period of use satisfies the 3-year requirement. In addition, there would be no recapture if the taxpayer died before the 3-year period expired.

Thus, if the taxpayer received a credit of $2,000 for the purchase of a home and subsequently sold this home before the 3-year period expired, realizing $60,000 from the sale, there will be no recapture if the taxpayer purchases another home to be used as his principal residence within one year from the date of disposition, and the acquisition cost is at least $60,000 or more. However, if the taxpayer's acquisition cost is only $45,000, one-fourth of the credit, or $500, would be recaptured. In this latter case, the amount recaptured is the amount which bears the same ratio to the credit allowed as the amount realized from the sale of the first residence minus the cost of acquisition of the newly acquired residence bears to the amount realized from the sale of the first residence.

It is estimated that the credit described above would result in a revenue loss of approximately $3.0 billion for calendar year 1975, and a revenue loss of approximately $.6 billion for 1976. This estimate does not take into account the stimulative effect which such a provision might provide.

### 8. Capital Loss Carryback for Individuals (sec. 206 of the bill and sec. 1212 of the code)

Under present law individuals can deduct their capital losses to the extent of their capital gains in the taxable year. In addition, if an individual's capital losses exceed his capital gains, he can deduct capital losses against up to $1,000 of ordinary income each year ($500 for married individuals who file separate returns). If the excess capital losses are short-term these may be deducted on a dollar-for-dollar basis (up to the $1,000 limitation);[1] but only 50 percent of long-term capital losses incurred in taxable years beginning after December 31, 1969, in excess of short-term capital gains, can be deducted against ordinary income. (Thus, $2,000 of post-1969 long-term capital losses is required to offset $1,000 or ordinary income.) Individuals' capital losses in excess of the $1,000 limitation may not be carried back to prior years, but there is an unlimited carryover to future years. The same rules apply to estates and trusts.

As indicated above, if an individual sustains capital losses in one year and capital gains in the next year, he can carry over the capital losses and deduct them against the subsequent capital gains. However, if his capital gains precede his capital losses, he cannot carry the capital losses back and deduct them against prior capital gains. Your committee believes that a capital loss carryback should be permitted where a taxpayer has large capital losses. The House had no such provision in its bill.

The bill therefore provides that individuals with more than $30,000 of capital losses in a year (including carryforwards from prior years) may elect to carry them back for up to 3 years and deduct them against

[1] Capital losses incurred in taxable years beginning before January 1, 1970, also are deducted on a dollar-for-dollar basis.



their capital gains in those prior years. Individuals who elect the capital loss carryback will have to recompute their regular income tax liability for the years to which the losses are being carried back. They will first carry their losses back to the third year prior to the year for which the carryback election is made and will carry back to the second prior year only those losses that cannot be deducted against capital gains in the third prior year. Similarly, the only losses that may be carried back to the year immediately preceding the year in which the carryback election is made will be those losses that are not usable as carrybacks to the third and second prior years. The amount of losses that may be carried back to a prior year will be limited to the capital gains in that year. In addition, a capital loss carryback may not create or increase a net operating loss in a prior year. All capital losses that are carried back (both short-term and long-term) will be treated as long-term capital losses and hence will be deductible first against long-term capital gains. They may be deducted against short-term capital gains in a year only after that year's long-term capital gains are exhausted.

Capital losses which are carried back but are in excess of the capital gains for the 3 prior years may be carried forward indefinitely, as under present law.

In order to determine whether a taxpayer has capital losses in excess of $30,000 for a year, the capital losses in that year may be aggregated with capital loss carryforwards from prior years in order to reach the $30,000 minimum. For example, if a taxpayer has a capital loss in a year of $25,000, this special capital loss carryback provision is not available. However, if the taxpayer also has capital losses from prior years of $10,000 which are carried forward, the taxpayer will thus qualify for the $30,000 level since the current capital loss of $25,000 plus the prior capital loss of $10,000 is in excess of the $30,000 level. Thus, the taxpayer in this case may carry back the $35,000 capital loss in the manner described above.

When a taxpayer carries a capital loss back, he will not recompute his minimum tax.

The capital loss carryback will result in a revenue loss of $110 million in 1975, $55 million in 1976, and $30 million in 1977.

The capital loss carryback applies to losses incurred in taxable years beginning after December 31, 1974, including carryforwards into those years.

## B. Business Income Tax Reductions

### 1. Investment Credit

(Secs. 301, 302, and 304 of the bill and secs. 46, 47, and 48 of the code)

Present law provides a 7-percent investment credit (4 percent with respect to certain public utility property). The investment credit is available with respect to: (1) tangible personal property; (2) other tangible property (not including a building and structural components) which is an integral part of manufacturing, production, etc., or which constitutes a research or storage facility; and (3) elevators and escalators. Generally, the credit is not available with respect to property used outside the United States.

To be eligible for the credit, the property must be depreciable property with a useful life of at least 3 years. Property with a useful life of 3 or 4 years qualifies for the credit to the extent of one-third of its cost; property with a useful life of 5 or 6 years qualifies with respect to two-thirds of its cost; and property with a useful life of 7 years or more qualifies for the credit to the full extent of the property's cost. (However, in the case of used property, not more than $50,000 of cost may be taken into account by a taxpayer as qualified investment for purposes of the credit for a taxable year.)

Property becomes eligible for the credit when it is placed in service. Property is considered to be placed in service in the earlier of (1) the taxable year in which depreciation on the property begins, or (2) the taxable year in which the property is placed in a condition or state of readiness and availability for a specifically assigned function.

The amount of the credit that a taxpayer may take in any one year cannot exceed the first $25,000 of tax liability (as otherwise computed) plus 50 percent of the tax liability in excess of $25,000. Investment credits which because of this limitation cannot be used in the current year may be carried back 3 taxable years and then carried forward 7 taxable years and used in those years to the extent permissible within the limitations applicable in those years.

Present law provides for a recapture of the investment credit to the extent property is disposed of before the end of the period (that is, 3–5, 5–7, or 7 or more years) which was used in determining the amount of the credit originally allowed. Thus, if property is disposed of, or otherwise ceases to be qualified, the tax for the current year is increased (or unused credit carryovers are reduced) by the reductions in investment credits which would have resulted if the credit were computed on the basis of the actual useful life of the property rather than its estimated useful life.

Public utility property to which the 4-percent investment tax credit applies is property used predominantly in the trade or business of furnishing or selling (1) electrical energy, water, or sewage disposal services, (2) gas through a local distribution system, or (3) telephone service, telegraph service through domestic telegraph operations, or other communications services (other than international telegraph services). In general, the reduced credit applies only if the rates for these services or items are established or approved by certain types of governmental regulatory bodies.

With respect to the treatment of the investment credit of regulated companies for ratemaking purposes, special limitations are imposed on the allowance of the credit to prevent the tax benefits of the credit from immediately being passed on to the consumers. These limitations are applicable to property used predominantly in the trade or business of furnishing or selling (1) the products or services described in the preceding paragraph and (2) steam through a local distribution system or the transportation of gas or steam by pipeline if the rates for those businesses are subject to government regulation.

The special limitations generally provide that the investment credit is not to be available to a company with respect to any of its public utility property if any part of the credit to which it would otherwise be entitled is flowed through to income (i.e., increases the utility's income for ratemaking purposes); however, in this case the tax benefits derived from the credits may (if the regulatory commission so requires) be used to reduce the rate base, if this reduction is restored over the useful life of the property.



If, within 90 days after enactment of the Revenue Act of 1971 the taxpayer has so elected, then the investment credit is to be available to the taxpayer with respect to any of its public utility property if the credit to which it would otherwise be entitled is flowed through to income ratably over the useful life of the property; however, in this case there must not be any adjustment to reduce the rate base. An additional elective rule was provided to permit certain types of utilities (primarily electric utilities) to immediately flow through benefits to consumers. Immediate flow through is permitted in situations where the tax benefits of accelerated depreciation rules enacted under the Tax Reform Act of 1969 are flowed through to consumers. This election was provided in recognition of the special competitive conditions under which a company subject to the accelerated depreciation flow-through rules was operating. A special election is provided with respect to local steam distribution systems and gas or steam pipelines where the regulatory body involved determined that the natural domestic supply of gas or steam was insufficient to meet the present and future requirements of the domestic economy. In this case, if the taxpayer elected (within 90 days after enactment of the Revenue Act of 1971) the investment credit is not to be available unless (1) no part of the credit is flowed through to income, and also (2) no part of the credit is used to reduce the rate base.

*Increase in rate.*—As indicated in the discussion of the reasons for the bill, the committee concluded as did the House, that the 7-percent investment credit (or 4 percent in the case of public utility property) should be increased in order to stimulate the economy.

Generally, under the House bill, the investment credit rate for 1975 would be increased for all taxpayers (including public utilities) to 10 percent from 7 percent, or from 4 percent in the case of certain public utility property. Generally, the House bill made the 10-percent investment credit available only for property placed in service in 1975, after January 21, although it also made the credit available for property placed in service in 1976 which was acquired under an order placed before that time. In addition, in the case of constructed property, the 10-percent credit would be available for the portion of the construction (that is, the basis) attributable to the construction which occurs after January 21, 1975, and before January 1, 1976.

The committee concluded that the 10-percent rate should be adopted without a termination date in order to provide a stimulus to investment in productive equipment on a long-run basis. Moreover, in light of the current economic situation, the committee concluded that the rate for all taxpayers should be further increased to 12 percent for a period of nearly two years. Thereafter, the 10-percent credit is to apply.

Thus, under these provisions if certain requirements are met, a 12-percent credit is to be available with respect to property acquired and placed in service after January 21, 1975, and before January 1, 1977. Similarly, in the case of property constructed, reconstructed, or erected by the taxpayer, the 12-percent credit is also to be available with respect to property completed by the taxpayer after January 21, 1975, to the extent of the part of the basis of the property properly attributable to construction, etc., after January 21, 1975, and before January 1, 1977. In addition, the 12-percent rate is to be available for qualified progress expenditures (described below under *Progress payments*) for the period after January 21, 1975, and before January 1, 1977.

In cases where the property on which a taxpayer may claim an investment credit (qualified investment in property) for a year exceeds $10 million, the 12-percent rate is to be available only if the taxpayer establishes or maintains an employee stock ownership plan (described below under 3. *Employee stock ownership plan*).

To be eligible for the 12-percent rate in this case, a corporation will be required to contribute to the plan for the taxable year common stock, securities convertible into common stock (or cash for the acquisition of such stock or securities) of the employer in an amount equal to one of the additional 2-percentage-point increase above the 10-percent rate (i.e., one-twelfth of the total allowable investment credit in this case). If these requirements are not satisfied, only the 10-percent rate is to be available for the investment, and not the 12-percent rate. However, the 12-percent rate will be available without regard to the requirement for an employee stock ownership plan if the qualified investment property for the taxable year is less than $10 million.

*Limitation on rate increase.*—Under the House bill, a limit of $100 million is imposed on the increase in the investment credit that could be claimed by any one public utility by reason of the increase in the rate of the investment credit. This limit applies only to American Telephone and Telegraph Company.

The committee's bill deletes this limitation.

*Increase in 50-percent limit for public utility property.*—The committee agrees with the House that the 50-percent limitation on the amount of tax liability that may be offset by the investment credit should be temporarily increased in the case of public utility property. The committee adopted this provision of the House bill with a minor change. Under the House bill the temporary increase in the 50-percent limit applies for taxable years beginning in 1975. However, there are many public utilities on fiscal years ending in the latter half of the calendar year, which under the House bill would not benefit from the temporary increase in the 50-percent limit until 1976. To provide benefits for these companies sooner, the committee made the increase in the 50-percent limit available for taxable years *ending* in 1975 (and ending in each of the following years during the temporary period) rather than *beginning* in those years. This change will have no effect on calendar year taxpayers but will accelerate the increase in the 50-percent limit by one year for fiscal year taxpayers.

Under the bill the percentage limitation for public utility property is increased in 1975 and 1976 to 100 percent of the income tax liability (computed without regard to the investment credit, and in the manner provided under existing law). In each of the next succeeding taxable years the percentage limitation is reduced by 10 percentage points until, in taxable years ending in 1981 and thereafter, the 50-percent limitation goes back into effect. Thus, the percentage limitation is 90 percent in 1977, 80 percent in 1978, 70 percent in 1979, and 60 percent in 1980.

Public utility property for this purpose means property used predominantly in the trade or business of the furnishing or sale of (1) electrical energy, water, or sewage disposal services, (2) gas through



a local distribution system, or (3) telephone service, most domestic telegraph service, or other communications services—but only where the rates for the furnishing or sale are regulated by a utilities commission or similar agency. (This modification of the 50-percent limit does not apply to communication property even though used predominantly for communication purposes if the rates for furnishing of the services are not regulated.)

The computation of the percentage limitation for public utility property is to be made on a taxpayer-by-taxpayer basis. Thus, a group of corporations which file a consolidated return together are to be treated as one taxpayer.

Your committee intends that the benefit of the relaxation of the 50-percent limit go primarily to public utilities. However, it recognizes that many public utilities have varying amounts of nonpublic utility property. In addition, many public utilities are members of controlled groups that file consolidated returns. To achieve this objective in the most practical way administratively, the committee decided to prorate the increase in the credit limit in accordance with the extent to which the company (or the group filing the consolidated return) has qualified investment in public utility property, as compared to its qualified investment in other property.

Thus, if in 1975, 50 percent of the company's qualified investment is in public utility property, then the applicable limit is to be 75 percent of tax liability (the basic 50-percent limit plus one-half of the maximum additional limit allowable in 1975). If 70 percent of the company's qualified investment is in public utility property, then the applicable limit is to be 85 percent of the tax liability. In order to simplify such computations for most companies, if 75 percent or more of the qualified investment for a given year is in public utility property, then the full increase is to apply to that company for that year. Thus, the typical public utility, which has relatively little qualified investment in other property, is to get the full benefit of the increase in the percentage limitation.

If less than 25 percent of the qualified investment consists of public utility property, then no part of the additional limitation is to apply. In such a case, the company (or the group filing the consolidated return) is to be treated in its entirety as not being a public utility under this provision.

The percentage applicable to a taxpayer for a year is to apply to the aggregate of the credits arising from the taxpayer's public utility property and other property—it is not to apply separately to each category of property.

If a taxpayer has credit that remains unusable despite the higher limits, any such excess is to be allowed as a carryback (3 years) and carryover (7 years), as under present law. If there is a carryover or carryback to a year to which these higher limits apply, then the exact amount of the applicable limit is to be determined by the relative investments in the year to which the excess credit is carried. For example, assume that in 1975, 50 percent of company X's qualified investment is in public utility property. The maximum percentage limit in this case, as indicated above, is 75 percent of tax liability. Assume, further, that in 1976, 75 percent of company X's qualified investment consists of public utility property. The maximum credit for 1976 would then be (as indicated above) 100 percent of tax liability. If any of the excess credit from 1975 would be carried over to 1976 (after having been first carried back to 1972, 1973, and 1974, as under present law), the 1976 limit would not be affected by whether the amount carried over to that year could be traced originally to public utility property or to other property.

*Treatment of credit for ratemaking purposes.*—The House bill did not contain any new provisions relating to the treatment of the increase in the investment credit for ratemaking purposes. The effect of this was to leave the rules applied as a result of the action taken in 1971 still in effect. The committee, however, was concerned that the stimulation for the acquisition of productive facilities intended by the increase in the investment tax credit allowable with respect to public utility property would be frustrated if any of the benefits were required to be flowed through immediately to consumers in the form of lower rates. Moreover, the committee believed that public utilities should have the opportunity to make new elections with respect to the treatment of the additional credit provided under the bill.

Under the committee's bill, the additional credit provided for a public utility by reason of the rate increase or the increase in the limitation based on tax liability is generally not to be available if the additional credit is used to reduce the rate base, unless the credit is then restored to the rate base at least as fast as ratably over the useful life of the property. Also, this additional credit is generally not to be allowed if it is flowed though to income as a reduction in cost faster than ratably over the useful life of the property to which the increased credit applies. This rule with respect to the additional credit is to apply with respect to property used predominantly in the trade or business of the furnishing or sale of electrical energy, water, or sewage disposal services, gas through a local distribution system, telephone service, domestic telegraph service, or other domestic communications service, if the rates for the furnishing or sale are regulated by a governmental body.

Under the bill, if the governmental regulatory agency requires ratable flow through to income, it cannot require any adjustment to the rate base; if the agency requires adjustments to the rate base, it cannot require flow through to income.[1]

A special election is provided to permit the immediate flow through of the additional credit without the consequence of disallowance in certain cases. This election is to be available only with respect to property where the benefits of accelerated depreciation are flowed through to customers. The election must be made by the taxpayer within 90 days after the date of enactment of the bill. In this case, the taxpayer must make the election at its own option and without regard to any requirement imposed by a regulatory body.

Under the bill, if a regulatory agency requires the flowing through of a company's additional investment credit at a rate faster than permitted, or insists upon a greater rate base adjustment than is permitted, the additional investment credit is to be disallowed, but only after a final determination (made after enactment of this bill) is put

[1] The bill also provides that the additional allowable credit may be taken into account ratably over the useful life of the utility property as a reduction in the cost of service for ratemaking purposes if the taxpayer elects this treatment within 90 days after the date of enactment of the bill. This treatment is also to be available if the taxpayer previously made such an election under the comparable provisions enacted under the Revenue Act of 1971.



into effect. The rules provided under present law with respect to determinations made by a regulatory body and the finality of its orders would apply to this provision.

*Limitation on investment in used property.*—Present law provides that in the case of used property, not more than $50,000 ($25,000 in the case of a husband and wife filing separate returns) of cost may be taken into account by a taxpayer as qualified investment for purposes of the credit for a taxable year. As an aid to small business, the House bill increases the limitation on used property to $75,000 ($37,500 in the case of a husband and wife filing separate returns).

The committee believes that in view of the special needs of small business the limitation on used property should be eliminated entirely. As a result, the committee's bill repeals the present limitation with respect to used property acquired by a taxpayer after January 21, 1975.

*Progress payments.*—Under present law, a tax credit may be taken for investment in qualified property at the time the property is placed in service and therefore is ready for use. The committee agrees with the House that in cases where taxpayers pay for long lead time property as it is being constructed and substantially before the property can be placed in service, to wait for the allowance of the investment credit until the property is placed in service represented too long a delay in the claiming of the credit. The bill overcomes this problem in present law by allowing an investment credit for what are called "progress payments."

The Committee adopted the provisions of the House bill without change. Under the bill, a taxpayer, at his election, is to be permitted to treat "qualified progress expenditures" made for new property as a part of the base for which he can claim an investment credit. In general, these qualified progress expenditures are amounts actually paid (or incurred in the case of self-construction property) for construction (or acquisition or reconstruction) of property which has a normal construction period of at least two years and which will have an estimated useful life in the hands of the taxpayer of at least seven years.

The normal construction period generally begins when physical work on the property commences (i.e., not design, blueprints, planning, etc.) and ends when the property is available to be "placed in service" by the taxpayer.

The commencement of physical work for this purpose is to include the physical work done by a subcontractor. For example, if a shipyard orders a turbine before it begins work on building a ship, the normal construction period is to be considered as beginning when the builder of the turbine commences physical work on it. Thus, the 2-year construction period is measured by the time it normally takes the subcontractor to complete its work (if it is normal for such work to precede the work of the main contractor) and the time it would normally take the prime contractor to complete the property once it receives the property from the subcontractor. Of course, for the work of any subcontractor to be included, the work must be specifically designated as part of the project. The normal construction period, in no case, includes a period of construction before January 22, 1975 (the general effective date of these provisions), and, where progress payment treatment is elected by the taxpayer for years beginning after that date, no normal construction period will begin before the first day of the taxable year for which the election is in effect.

Where possible, the normal construction period is to be estimated by reference to normal industry practice in producing similar items. The estimate is to be based on the information available at the close of the taxable year in which physical work on the property is started (or, if later, the close of the first taxable year for which the taxpayer has elected to change to this "progress payments" method). Once the normal construction period has been reasonably estimated, the actual time that it takes to complete work on the property would generally be irrelevant for purposes of determining the property tax treatment of the taxpayer's progress payments.[2]

For purposes of the 2-year test, property which will be placed in service by the taxpayer separately is to be considered separately (for example, if two ships were contracted for at the same time, each ship would be considered separately). On the other hand, property which must be placed in service by the taxpayer as part of an integrated unit (for example, equipment which will all be placed in service at the same time as part of the same plant) is to be treated as a unit for purposes of the test.[3] Thus, if the taxpayer is constructing a pipeline which will not be operational for five years after construction begins, the fact that some equipment used in connection with the pipeline (such as pumps for the pumping stations) take less than five years to manufacture, is not to affect the status of the pipeline for progress payment purposes. Also, the taxpayer may treat all amounts expended in connection with the pipeline as progress payments (including amounts expended for the pumps). On the other hand, if some segments of the pipeline can be placed in service in less than two years, progess payment treatment is not to be available with respect to that segment.

In the case of self-constructed property (i.e., property where it is reasonable to believe that the taxpayer will bear more than half of the construction costs directly) "qualified progress expenditures" will generally equal the costs incurred by the taxpayer which are properly chargeable to capital account in connection with that property (for purposes of the investment credit). Thus, qualified progress expenditures would not include any depreciation sustained with respect to other property (machinery, equipment, etc.) used in the construction of new section 38 property (because such depreciation is not part of the basis for purposes of section 38 although it is capitalized for other purposes), nor generally would it include the adjusted basis of reconstructed property at the time the reconstruction is commenced.

Also, in the case of self-constructed property, qualified progress expenditures can include amounts expended for materials by the taxpayer to the extent that the taxpayer can establish, to the satisfaction of the Internal Revenue Service, that these materials have been irrevocably allocated to the construction of the property. For purposes of these rules, an item which is suitable only for use in connection with

[2] Of course, if there were a significant error in estimating the normal construction period, this could be evidence that the estimate had not been reasonable in the first place, particularly where the error could not be explained by a later change in circumstances.

[3] Of course, the construction period for property not qualifying for the investment credit, such as real estate, will not affect the "normal construction period" of any qualifying property which may be used on the premises. Thus, if a plant is being constructed, and qualifying equipment has a normal construction period of less than two years, the progress payments for the equipment are not to be treated as qualified investment, even if the building in which the equipment is to be housed will take more than two years to construct.



the property is to be regarded as irrevocably allocated, even though the item has not yet become a part of the property, and even though it has not yet been delivered to the site of the property. Other items may be treated as allocated when they have been delivered to the site under circumstances where it would be impractical to then remove the items to some other project (i.e., pumps delivered to locations on a tundra pipeline could be treated as allocated to that pipeline even though they (but for their location on the tundra) would be usable on other projects). In many cases, the items would not be treated as allocated until they were actually attached or consumed in the construction of the property. Mere bookkeeping notations are not to be sufficient to establish to the satisfaction of the Secretary or his delegate that the necessary allocation has occurred.

In the case of acquired property, qualified progress expenditures are to be the amounts paid by the taxpayer to the manufacturer, but only to the extent that there is actual progress made in the construction of the property. (This is further limited by the "pro rata" rule, discussed below.)

For this purpose, "progress" will generally be the percentage of completion, measured in terms of the manufacturer's incurred cost, as a fraction of his anticipated cost (as adjusted from year to year) based upon cost accounting records or in some cases on engineer or architect certificates.[4]

Where several manufacturers or contractors are used in connection with the same property, "progress" is to be measured on a manufacturer-by-manufacturer basis, so that the taxpayer may utilize payments made to a manufacturer who has made "progress" within the meaning of these rules, even if payments have also been made to another manufacturer who has made no progress. By the same token, payments to one manufacturer in excess of that manufacturer's progress are not to give rise to credits merely because another manufacturer's progress exceeds the payments made to that other manufacturer.

In the case of self-constructed property, "progress" will generally equal "progress expenditures," so no separate percentage-of-completion test is needed.

"Progress expenditures", as well as "progress" are not to be taken into account to the extent that they occur before the start of the "normal construction period" of the property nor to the extent allocable to nonqualified property. Thus, progress expenditures and progress which occur before January 22, 1975, cannot be utilized by the taxpayer to increase his qualified investment prior to the year in which the property is placed in service. Likewise, progress expenditures and

[4] For example, assume that in 1980 a taxpayer makes a payment of $11,000 under a contract which provides for delivery of the property in 1985, with a fixed purchase price of $110,000 and an estimated cost to the manufacturer of $100,000. During 1980, the manufacturer incurs $10,000 of cost in connection with the property.

Under these circumstances the manufacturer will be considered to have made 10 percent progress in connection with the property ($10,000 of costs incurred divided by $100,000 of total estimated cost). The taxpayer will be permitted to treat his full $11,000 payment as qualified investment for 1980, since this payment does not exceed 10 percent of the total cost, to the taxpayer, of the section 38 property.

If, on the other hand, the manufacturer had incurred only $5,000 of costs in connection with the property in 1980, the taxpayer would be allowed to treat only 50 percent of his $11,000 payment as qualified investment in 1980 ($5,500) because there had been only 5 percent "progress" in that year. However, in that case, if the manufacturer incurred an additional $5,000 of cost in connection with the property in 1981, the taxpayer could treat the $5,500 of unused 1980 payment as qualified investments for 1981 (receiving, in effect, a carryover of his unused 1980 payment) even if no further payments were made to the manufacturer in 1981.

progress which occur before the year for which the taxpayer first elects to come under the progress payment rules cannot be so utilized. Similarly, progress expenditures and progress allocable to a building (or its structural components) would not be taken into account.

To prevent a possible abuse situation, where a manufacturer might certify unrealistic amounts of progress in connection with a project, the committee bill contains a "pro rata" rule. Under this rule, it will be presumed that generally progress will not occur with respect to a project more rapidly than ratably over the expected construction period for the property.[5] However, this presumption could be rebutted if the taxpayer shows by clear and convincing evidence that progress had, in fact, been more rapid.

Progress expenditures may be made in cash, or in the form of property furnished by the taxpayer to the manufacturer for use in the construction of the property. However, if the taxpayer furnishes property, that property is to be taken into account only to the extent that that property could be included in the basis of the completed section 38 property at the time that it is placed in service.

Progress payments may be made out of the taxpayer's capital, or from borrowed funds. However, to prevent an obvious abuse situation, the committee bill provides that progress expenditures made with funds borrowed, directly or indirectly, from the manufacturer of the property may not be treated as qualified investment.

Under the committee bill, the taxpayer is to be allowed to claim the full credit to which he is entitled with respect to property in the year in which it is placed in service. Of course, amounts which were treated as qualified investments with respect to the property in preceding years, due to the operation of the progress payment rules, are to be subtracted from the amount for which the taxpayer may obtain a credit.[6]

The provisions discussed above are to apply only if the taxpayer makes an election (in a time and manner to be prescribed in regulations) to come under these rules. Once made, the election would apply to all subsequent taxable years, and can only be revoked with the permission of the Commissioner. It is anticipated that taxpayers generally will exercise the election because this will accelerate their opportunity to use the investment credit. However, taxpayers who are currently in a loss situation may not wish to make the election, so that progress payments are not treated as qualified investments until the year in which the property is placed in service, in order to obtain a more favorable carryover period with respect to those payments.

If property is sold or otherwise disposed of by the taxpayer before he places it in service, or if (under Treasury regulations) it becomes apparent that the property will not be section 38 property when placed

[5] For example, if physical work pursuant to a contract is begun by July 1, 1980, for the manufacture of a machine to be delivered on July 1, 1985 (5 years later) it will be presumed that there would not be more than 10 percent progress during calendar 1980, and not more than 20 percent progress during the fiscal year from July 1, 1980, through June 30, 1981. (The determination as to the normal construction period of the property will be made only once, at the close of the taxable year in which work on the property commences.)

[6] Otherwise, the taxpayer might obtain two credits with respect to the same property. For example, assume that section 38 property placed in service in 1985 has a basis of $100,000, and that of that amount $10,000 has been treated as qualified investment in each of the years 1982, 1983, and 1984 under the progress payment rules. The taxpayer's basis in the property, for purposes of determining his qualified investment in 1985 is to be $70,000. (Of course, the taxpayer's basis for purposes of determining depreciation, or his gain or loss from the sale of the property, would not be affected by this adjustment, which is made for investment credit purposes.)



in service, any amounts which were treated as qualified investments in prior years are, of course, to be subject to full recapture in a manner generally similar to present law.[7]

As discussed above, progress expenditure treatment is to be allowed only in the case of property which has an estimated useful life (measured from the time the property is placed in service by the taxpayer) of seven years or more. If the estimated useful life of the property is less than seven years at the time it is placed in service (even if previous estimates were for a longer useful life and were reasonable when made) any excess credits previously allowed under the progress payment rules are to be subject to recapture.[8]

Where the rate of the investment credit for the year in which qualified progress expenditure treatment was allowed with respect to the property is different from the rate in effect for the year of recapture, then recapture is to occur with respect to the rate in effect when qualified progress expenditure treatment was allowed. For example, recapture of 1975 progress expenditures would be 12 percent of those expenditures for taxpayers entitled to a 12-percent credit for that year.

Where the actual useful life of the property is less than the estimated life (estimated as of the time when the property is placed in service), any excess credits previously allowed under the progress payment rules will be subject to recapture on the same basis as other excess credits.

In the case where property is subject to a sale-leaseback transaction before the property is placed in service, the following rules are applicable. Where the seller-lessee makes progress payments, but the property is sold to a lessor before the property is placed in service, generally this will be treated as a recapture situation. For example, if a seller-lessee makes progress payments of $10,000 each in 1980, 1981, and 1982, but the section 38 property is sold to a lessor for $100,000 in 1984, before the property is placed in service, the lessor would be entitled to the investment credit on his $100,000 basis, but credits previously allowed to the seller-lessee based on his $30,000 of progress expenditures would be subject to recapture.

However, where the lessor and lessee enter into an agreement providing that the seller-lessee will be entitled to some or all of the credit, it is contemplated that there would be no recapture of the credits previously allowed with respect to the seller-lessee's progress expenditures since recapture would, in effect, permit the seller-lessee to revive

[7] For example, sale of the property, or of the contract rights to the property before the property is placed in service, is to be treated as a disposition. A similar result is to follow if the contract for the property is cancelled, or if the project is abandoned by the taxpayer. Conveyance of the property by gift is also to be treated as a disposition. However, there would be no recapture in the event of a transfer by death, or pursuant to a sec. 381 transaction, but the decedent, or corporation (as the case may be) would be treated as a "predecessor" of the person receiving the sec. 38 property, and progress payments of the predecessor would have to be taken into account in reducing the qualified investment of the successor.

[8] For example, if a taxpayer made $10,000 of progress expenditures in 1980 with respect to a piece of section 38 property, reasonably believing at that time that the property would have a seven-year useful life in his hands (so that a full credit was allowable with respect to those payments) but reduces the estimated useful life to 5 years in 1983, when the property is placed in service, so that only a two-thirds credit is allowable, the one-third excess credit previously allowed in connection with the 1980 payment is subject to recapture at the time the property is placed in service.

otherwise unusable investment credits.[9] Accordingly, recapture is provided except to the extent that the lease agreement provides for the pass through of the credit to the seller-lessee.

To minimize the possible doubling up effect of these provisions, where taxpayers would be taking investment credits for all property placed in service this year (even though progress payments had been made with respect to that property in prior years) as well as progress payments made in the year, the committee bill provides that the progress payment provisions are to be phased in over a 5-year period.

Under these transition rules, 20 percent of a taxpayer's 1975 progress expenditures may be treated as part of his qualified investment for 1975. The remaining 80 percent of those payments may be taken into account ratably over the next 4 years (20 percent a year); 40 percent of the progress expenditures made in 1976 may be taken into account in 1976, with the remaining 60 percent of the payments to be taken into account in the remaining 3 years of the phase in period; 60 percent of the progress expenditures made in 1977 can be treated as qualified investments in 1977, with 40 percent of the payments to be phased in ratably in the succeeding two years; 80 percent of the taxpayer's progress expenditures in 1978 could be taken into account as qualified investments in 1978, while the remaining 20 percent of the payments would be taken into account in 1979. By 1979, the phase in period would be complete, and all progress expenditures made in that year and later years could be treated as qualified investments. Also, in 1979 the taxpayer would take into account the final 20-percent phase-in portions of the expenditures in fact made in the four preceding years.

For example, assume that a progress expenditure of $10,000 were made in 1975. Two thousand dollars of this amount would be treated as a qualified investment in that year, and $2,000 would be available to be treated as qualified investment in each of the next 4 years. On the other hand, if a $10,000 progress expenditure were to be made in 1977 then $6,000 of that payment would be treated as a qualified investment in that year, and the remaining $4,000 would be taken into account ratably in 1978 and 1979.

When a taxpayer places in service the property with respect to which the taxpayer has been making progress payments, the taxpayer is to be entitled to the full investment credit, reduced by the progress payments credits already taken. In the case of property placed in service by such a taxpayer during the 5-year transition period, this would also include the remaining portions of the credit that otherwise would have been phased in at the rate of 20 percent each year.

The progress payment rules will apply to progress expenditures made after January 21, 1975, in taxable years ending after December 31, 1974.

*Revenue effect.*—The changes in the investment credit under the House bill result in a revenue loss of $2.4 billion in 1975 and $1.5 billion is expected to occur in 1976.

[9] For example, assume that the taxpayer (who has elected to use the progress payment rules) has been constructing a long-lead-time piece of property for a number of years and has had excess investment credits for those years (i.e., his investment credits have exceeded the amount that could be used because his taxable income was low for those years). Assume further that it becomes evident that some of these excess investment credits will not be able to be used in any of the years to which they could be carried under the carryover rules. The taxpayer is not to be permitted to "revive" those unused credits by entering into a sale-leaseback operation which would result in a recapture of the prior (unusable) credits and could result in the taxpayer and the new lessor agreeing to pass the new investment credit on to the taxpayer when the property is placed in service (when the taxpayer expects good profit years and therefore expects that the full credit could be utilized in those years).



The changes made by the committee increase the revenue loss to $4.3 billion. The revenue effect in 1975 of increasing the rate of the investment credit to 12 percent is $3.4 billion (or $1.4 billion above the $2 billion revenue loss of the 10-percent rate in the House bill). Eliminating the $100 million limitation on public utilities adds $400 million to the House bill. The elimination of the ceiling on used property results in a revenue loss of $175 million over the $85 million in the House bill (which increased the amount of used property eligible for the credit from $50,000 to $75,000). Allowing the investment credit on progress payments costs $90 million. (This was not changed from the provision in the House bill.)

*Effective date.*—In general, the rate increase provisions are to apply with respect to property acquired after January 21, 1975, the basis of property constructed, reconstructed, or erected after that date, and to qualified progress expenditures made after that date.

The 12-percent rate would terminate with respect to property acquired and placed in service after January 1, 1977. Property acquired or constructed during this period is to be subject to the 10-percent rate if the taxpayer does not satisfy the requirements for the 12-percent rate. Upon expiration of the temporary 12-percent rate, a 10-percent rate is to be generally in effect for all taxpayers.

The increase in the 50-percent-of-tax-limitation applicable with respect to public utility property is to apply to taxable years ending after 1974.

The provisions relating to the treatment of the additional credit allowable for public utility property for ratemaking purposes are to take effect on January 1, 1975.

The elimination of the limitation upon the amount of used property which is eligible for the investment tax credit is to apply with respect to used property acquired and placed in service after January 21, 1975.

The provisions relating to qualified progress expenditures are to apply to taxable years ending after December 31, 1974.

### 2. Election to increase net operating loss carryback (sec. 304 of the bill and sec. 172 of the code)

Present law, in general, provides that a taxpayer is allowed to carry a net operating loss back as a deduction against income for the 3 years preceding the year in which the loss occurred and to carry any remaining unused losses over to the 5 years following the loss year. This general rule enables taxpayers to balance out income and loss years over a moving 9 year cycle, to the extent of taxable income in the 3 years preceding and the 5 years following any loss year.[1]

[1] Present law also provides exceptions to the general three year carryback-five year carryover rule in the case of certain industries or categories of taxpayers. One exception allows certain regulated transportation corporations to carry back and deduct net operating losses for the usual 3 years and to carry over such losses for 7 years. Another exception prohibits the carryback of a net operating loss to the extent the net operating loss was attributable to a foreign expropriation loss. However, a 10-year carryover period is allowed for the foreign expropriation loss (15 years in the case of a Cuban expropriation loss). A third exception, applicable to financial institutions for taxable years beginning after December 31, 1975, will lengthen the carryback period for net operating losses to 10 years and allow the usual 5-year carryover period. Similarly, a bank for cooperatives is presently allowed to carry net operating losses back for 10 years and forward for 5 years. A fourth exception is provided for taxpayers which have incurred net operating losses resulting from increased imports of competing products under trade concessions made pursuant to the Trade Expansion Act of 1962. Where a taxpayer has elected to obtain certification as provided by this Act, it is allowed a 5-year carryback period and the usual 5-year carryover period. Finally, present law also contains a provision designed for American Motors Corporation permitting a 5-year carryback period and a carryover period of 3 years for losses incurred for taxable years ending after December 31, 1966, and prior to January 1, 1969.

Your committee's bill, as an aid to all sectors of the business community adversely affected by the current recession, provides for an election whereby taxpayers may obtain needed funds through additional refunds of income taxes which have been paid for prior years. Taxpayers presently covered by the general rule, which allows a 3-year carryback and a 5-year carryover for net operating losses incurred in a particular year, may, under the bill, elect to convert the 5-year carryover period into a carryback period and thereby obtain an 8-year carryback period and no carryover period. This provision applies to all business taxpayers, both individuals and corporations.[2]

The election does not apply to certain taxpayers allowed extended carryover or carryback periods under present law—those having foreign expropriation losses which qualify under section 172(b)(1)(D), certain financial institutions which qualify under section 172(b)(1)(F), and Banks for Cooperatives which qualify under section 172(b)(1)(G).

This election is applicable to net operating losses for taxable years ending after January 1, 1970.

If the taxpayer has more than one taxable year which has ended prior to the time the election is made and in which net operating losses were incurred, it may select the year for which the election is to be first applied. However, a net operating loss for any year subsequent to the first loss year to which the election is applied must also be carried back pursuant to the election. For example, if a taxpayer subject to the general 3-year carryover and 5-year carryback rule had net operating losses for each of calendar years 1972, 1973, and 1974 and the election is made during 1975 to convert carryover years to carryback years, effective with the 1973 loss, the election must also be applied to the net operating loss for 1974 and such loss may not be carried over so long as the taxpayer is governed by the election. However, the 1972 loss remains governed by the regular carryback and carryover rules, and to the extent it is not absorbed by income from 1969, 1970 and 1971, this loss may be carried over and applied against income for 1975, 1976 and 1977. Your committee intends, however, that the present rules of sec. 172(b)(2), pertaining to priorities in the application of net operating losses, shall continue to apply.[1]

*Revocability of election; redetermination of tax liability.*—Once a taxpayer has elected to obtain an extended net operating loss carryback, the election continues to apply (unless revoked on the conditions described below) to net operating losses incurred in taxable years subsequent to such loss year (or years).

[2] Similarly, the bill allows elective 10-year carryback periods with no carryovers to taxpayers with net operating losses arising from increased imports of competing products and which, under present law, may carry a loss back 5 years and forward 5 years. The bill also allows certain regulated transportation corporations (of the type which are presently subject to the provisions of section 172(b)(1)(C) to elect to switch their present 7-year carryover period to an additional carryback period, which will result in a 10-year carryback and no carryover for these taxpayers.

[1] As a result, the 1972 loss in this example will be applied first against income for the years 1969 through 1971, and will have priority in this application as compared to the 1973 and 1974 losses. Similarly, the 1973 loss must be carried back to the eighth preceding taxable year and then to subsequent profit years prior to 1973 until it is absorbed, after which the 1974 loss may be carried back and applied. If the application of the 1973 and 1974 losses completely eliminates income for the years from 1965 through 1968 and some portion of these losses remain, the application of the 1972 loss to 1969 through 1971 continues to have priority. Also, the losses to which the election applies must be carried back in their entirety to the earliest year to which these losses may be carried under the election, even if these losses had previously been carried back for three years under the regular rule. In the example above, assuming that there was income rather than loss for 1972 and that the 1973 loss had, prior to the enactment of this provision, been carried back to 1970, 1971, and 1972 under the regular rules, the election to carry back the 1973 loss for 8 years under this provision will result in a recomputation of taxable income for 1970, 1971, and 1972.



The bill permits a taxpayer to revoke the election and to return to the carryback and carryover periods to which he would be entitled if he had not made the election. A taxpayer might want to revoke the election, for example, if, after having incurred a net operating loss for which he elected an extended carryback under the bill, he incurs another net operating loss in the following year and then, in the year after that, has an operating profit. In such a situation (or in comparable situations), the taxpayer should not be permitted, by reason of having obtained an extended carryback, to obtain a tax benefit which he would not have obtained if he had not made the election. In order to accomplish this objective, when a taxpayer revokes an election, so as to become entitled to carry over a subsequent net operating loss, the bill provides that the taxpayer must determine the tax benefit, if any, which he obtained from the additional carryback and in effect repay that benefit (without interest). He makes this determination by recalculating his tax liability for taxable years preceding the taxable year in which he revokes the election as if he had not obtained an extended carryback of one or more net operating losses. The taxpayer must recompute his tax liability for the earliest taxable year effected by the carryback of a net operating loss under the election, and for each succeeding taxable year up to (but not including) the taxable year in which the election is revoked. In such latter year (the taxable year in which the election is revoked), the taxpayer must increase his tax liability for that year by the amount of tax liability of which he was relieved by reason of carrying back a net operating loss for additional years under the election.

A special rule which affects the redetermination of tax liability in cases where a taxpayer was required to fund an employee stock ownership plan as a condition to obtaining an extended loss carryback is described below.

*Special requirement for certain extended carrybacks.*—Where a corporate taxpayer will obtain a large current refund as a result of making an election under the bill, your committee believes that the company should share with its employees the financial benefit which it receives from the extended loss carryback. Such benefit should be shared through an employee stock ownership plan in a manner analogous to the provision in sec. 301 of your committee's bill, which conditions a portion of the increase in the investment credit on the taxpayer's creating or funding such a plan for the benefit of its employees.

Under the net operating loss provision of the bill, an employee stock ownership plan is required where a company, as a result of electing the extended net operating loss carryback, becomes entitled to an aggregate credit or refund of more than $10 million. (This requirement is discussed in more detail below in *3. Employee Stock Ownership Plans.*)

However, once an employee stock ownership plan is created and funded by a taxpayer by reason of one or more carrybacks, the taxpayer is not again to be required to make payments for such a plan as a result of carrying subsequent losses back to a taxable year in an extended carryback period. Nevertheless, payments must be made into an employee stock ownership plan for all loss years ending prior to the time the first extended carryback election is made if the aggregate amount of refunds or credits from these carrybacks amounted to more than $10 million.

*Allowance for employee plan contribution in later redetermination of tax liability when election is revoked.*—In cases where a taxpayer is required to create and fund an employee stock ownership plan as a condition to carrying back a net operating loss for an extended period, the bill provides a special rule which comes into play if and when the taxpayer revokes his election. In recomputing the company's tax liability for the additional carryback years obtained under the election (as if the election had not been made), the taxpayer can reduce his redetermined tax liability for these additional carryback years by the amount actually paid in to an employee plan up to the date of the redetermination. (This reduction for amounts paid in to an employee plan only applies if the taxpayer received an aggregate refund of more than $10 million.)

*Other aspects of the election.*—Under the bill, an election by the taxpayer applies with respect to the entire net operating loss of a given year and cannot be made with respect to only a portion of such a loss.

A taxpayer may revoke an election under the bill in such manner and at such time as the Service prescribes by regulations. The bill provides that a taxpayer may revoke a previous election without obtaining the consent of the Commissioner at any time within 60 months after the close of the taxable year in which he originally made the election. If the taxpayer desires to revoke his election at any later time than this 60-month period, he must obtain the consent of the Commissioner. (This latter requirement is imposed in order that the Commissioner can be satisfied that, if the election is revoked, sufficient records will be available from which the redetermination of tax liability for the extended carryback years can be made.)

Under the bill, an election which a taxpayer revokes on or before the due date for filing his return for a given taxable year (including extensions of time for filing the return) is effective with respect to such taxable year. An election which is revoked after the due date for filing a return for a given taxable year (including extensions of time to file the return) is effective with respect to the taxable year in which the revocation is actually made. Thus, for example, if a taxpayer incurs a net operating loss in 1975 which (under the bill) he elects to carry back for a total of 8 years, and then incurs another net operating loss in 1976 followed by a profit in 1977, he may want to revoke his election in order to be able to carry over his 1976 loss against his 1977 income. If the taxpayer makes his revocation during 1977 or early in 1978, before the due date for filing his return for 1977, the revocation is effective with respect to 1977, so that the taxpayer may benefit as to his income for that year by any carryover of his 1976 loss to which he may be entitled in light of the revocation of his carryback election.

A taxpayer is not limited to only one election under the bill. Thus, a taxpayer who makes an election to obtain an extended carryback and then later revokes his election may make another election in a later year to carry back a net operating loss for the extended period, as provided in the bill.[2]

[2] However, the taxpayer may not make a second extended carryback election for a loss year which had previously been subject to an election. In addition, a loss from a year for which an election had previously been made and revoked may not be carried over to any years after a subsequent loss year for which the election is in effect. Such carryover losses in this situation become a part of the loss for the subsequent year and are carried back as with the loss for the subsequent loss year.



In the case of a net operating loss year which begins before the date of enactment of the bill, the taxpayer is allowed to elect under these provisions and to file for a tentative or "quickie" refund attributable to the election within 90 days following enactment of this provision or within the 12-month period prescribed by sec. 6411(a), whichever provides the taxpayer with the longer time in which to file the tentative refund application. For years for which the period for filing a tentative refund application has expired, the taxpayer may file a claim for refund during the time provided by sec. 6511(d)(2), which is generally by the end of the 15th day of the 40th month following the end of the net operating loss year, or by the end of the 39th month following the loss year in the case of corporations.

In the case of loss years beginning before the date this bill is enacted, a refund received pursuant to an election under the bill is considered to have been paid for the first taxable year ending after the date of enactment for the purposes of computing interest on the refund. Similarly, the statute of limitations, for purposes of determining a deficiency attributable to a loss year (or attributable to a year to which a loss is carried back) under this election beginning before the date this provision is enacted, will be considered to begin to run as if the loss year was the first taxable year ending after the date this provision is enacted.

The bill also provides for measures to prevent abuse of these provisions in corporate acquisition situations where different loss carryback and carryover periods are in effect for the acquiring corporation and the transferor corporation. The bill amends sec. 381(c) to delegate authority to the Secretary or his delegate to prescribe regulations for these situations. Your committee also contemplates the Secretary will similarly draft regulations to prevent abuse where corporations with differing loss carryback and carryover periods file consolidated income tax returns.

By substituting the elective carryback provisions of the bill for sec. 172(b)(1)(E) of present law, the bill in effect repeals the "American Motors rule," which has ceased by its own terms to be applicable and can be removed from the code as obsolete.

### 3. Employee stock ownership plans (secs. 301 and 304 of the bill)

The committee bill generally requires corporations to establish or maintain an employee stock ownership plan if they are to claim a 12 percent (instead of a 10 percent) investment credit and if they are to elect a long carryback (generally 8 years). A corporation electing a 12-percent credit must establish an employee stock ownership plan only if its qualified investment property is in excess of $10 million. If a corporation's qualified investment is above $10 million and it elects the 12-percent rate (instead of the 10-percent rate) the amount to be contributed is 1/12 of the investment credit.

The committee bill also provides that for certain corporations to be eligible for the optional long net operating loss carryback, they are to contribute to an employee stock ownership plan 25 percent of the tax benefit received from the additional years of the carryback in the first year in which this carryback is used. A corporation is to be subject to this requirement if the refund it receives on the first use of the long carryback exceeds $10 million.

The committee has conditioned these two tax benefits on the establishment and maintenance of an employee stock ownership plan because it believes that some of these tax benefits should flow directly to the employees and not just to the employer. Also, through their participation in an employee stock ownership plan, employees will be able to share in the ownership of corporate capital and in the growth and profitability of the employer. In addition, the employee stock ownership plan offers the companies involved a new technique of finance to meet their general financing requirements. The committee believes that through the employee stock ownership plan, many corporate employers will be introduced to a new technique of corporate finance that will enable the company to build its own investment capital while providing equity ownership for their employees, and in this way benefit society as a whole.

Since the assets which are to be contributed by the employer to the plan come from tax benefits (the investment credit or a refund based on net operating loss carrybacks), the contribution required by the bill is not to be deductible. Of course, any additional contribution over the required amounts is to be deductible under the rules of present law. Contributions may be in stock or in cash; however, if cash is contributed, it is to be used to buy common stock of the employer (or securities convertible into common stock).

An employee stock ownership plan is required under the committee bill only for corporations, since only in this case can the employees acquire ownership of stock of their employer.[1]

*Investment credit and employee stock ownership plans.*—Under the committee bill, for a corporation (subject to these provisions by reason of having qualified investment in excess of $10 million) to have an investment credit of 12 percent (instead of 10 percent) for the years 1975 and 1976, it is to contribute to an employee stock ownership plan an amount equal to one of the two additional percentage points above the 10-percent rate (that is, $1/12$ of the available credit).

To meet the contribution requirement under the investment credit rules, amounts are to be contributed to the employee stock ownership plan not less rapidly than ratably over a ten year period from the date of claim for the credit. The amount of securities to be contributed over the 10 year period is to be determined by the value of the securities at the time the claim is made so the employees will receive the benefit of any appreciation in value over the 10 year period. If the employer fails to make the required contributions, it will not be eligible for the credit (or refund, in the case of the long carryback). In addition, the employer is to be subject to a nondeductible civil penalty equal to the amount involved in failing to make the required contributions. This penalty is to be not less than one-half of 1 percent of the total amount that (over 10 years) must be contributed to the plan under these provisions.

Your committee recognizes that in many cases the amount of investment credit would be too low to justify requiring the employer to establish and contribute to a plan. Therefore, the committee bill includes a "de minimis" rule, so that contributions to an employee

[1] However, it is intended that an employee stock ownership plan is not to be required for those corporations which, by the very nature of their organization and operation, do not issue stock to shareholders. For example, an employee stock ownership plan would not be required for mutual insurance companies. However, this exclusion does not apply to corporations which have the option of issuing stock but choose not to do so.



stock ownership plan are to be required only if the amount of its qualified investment property is more than $10 million for the year. For example, if in 1975 the company has qualified investment of $12 million, then $1/12$ of the applicable investment credit (or $1/12$ of $1,144,000) is to be contributed to a plan if the employer is to qualify for the 12-percent credit (rather than the 10-percent credit). However, if in 1976 the company has qualified investment of $9 million, then no contributions would be required to the plan in 1976 for the employer to receive the full 12-percent rate in that year.

If the company prematurely disposes of the eligible property so there is a recapture of the investment credit, the recapture is to be computed without regard to the fact that a contribution to an employee stock ownership plan was attributable to the allowance of credit. For example, if the recapture would be $1 million had there been no employee stock ownership plan contribution, this same amount is to be recaptured even if a percentage of the credit with respect to the property in question had previously been contributed to a plan.

The committee recognizes that good faith errors may occur in following the employee stock ownership plan requirement. For example, since it may be difficult to value an employer's stock, if stock is contributed to the plan it may not be possible to know whether a sufficient amount of the stock has been contributed. The committee intends that if the employer makes a good faith effort to establish the fair market value of the stock and makes contributions to the plan on the basis of this good faith valuation, the employer will be entitled to the investment credit even if, on later audit, it is determined that more stock should have been contributed. In this case, however, the employer is to make up the deficiency by contributing additional shares of stock (based on the value at the time the contribution originally was to have been made) plus dividends paid between the time that the contributions should have been made and the actual time of contribution. The burden is to be on the employer to demonstrate a good faith effort in complying with the rules of this provision. To sustain this showing, it may be necessary for the employer to have his stock valued by an independent, reputable outside organization.

*Net operating loss carryback and employee stock ownership plan.*—Under the committee bill, for a corporation to use the optional long net operating loss carryback, it is to contribute to an employee stock ownership plan 25 percent of the tax benefit derived from the additional years of the carryback the first time it is used. For example, if the initial refund under this provision is $40 million, $10 million is to be contributed to an employee stock ownership plan. In later years, however, no contribution would be required.

In the case of net operating loss carrybacks, the committee bill also includes a "de minimis" rule. Under the bill, a contribution to an employee stock ownership plan is not required unless the tax benefit (that is, the refund received) from the first use of the optional carryback provision is more than $10 million.

Good faith errors may occur in the case of the net operating loss carryback as well as with the investment credit. As with the investment credit, the employer will be able to correct such good faith errors as long as any contributions plus dividends lost to the plan on account of such errors are contributed by the employer.

Following the rule with respect to the investment credit, the required amounts are to be contributed not less rapidly than ratably over a ten year period from the date of claim for the refund. The amount of securities to be contributed over the ten year period is to be determined by the value of the securities at the time the claim is made. In this way the employees will receive the benefit of any appreciation in the value of the securities over the ten year period.

If the claim for refund is denied (or, in the case of the investment credit, if the investment credit is not fully allowed), all or part of these amounts, as appropriate, (plus dividends earned on the contribution) may be returned to the employer.

The employee stock ownership plan will benefit persons who are currently employed by the employer. However, the committee recognizes that because of the current recession people who otherwise would be employed by corporations that will benefit from the net operating loss carryback may be out of work. The committee also understands that the basic financial support of such people may be a supplemental unemployment compensation benefit plan. Consequently, the committee bill provides that the employer may elect to contribute to a supplemental unemployment compensation benefit plan cash in an amount up to one-half of the amount that would otherwise go to the employee stock ownership plan. To be eligible for this election, the employer must currently participate in a supplemental unemployment compensation benefit plan, and the plan and trust must meet the requirements of sec. 501(c)(17). Following the basic provisions, the employer may choose to contribute to this plan ratably, over a 10-year period.

*Employee stock ownership plan defined.*—Generally, an employee stock ownership plan is a stock bonus plan designed to invest primarily in securities of the employer. Also, a money purchase pension plan may be coupled with the stock bonus plan. Additionally, in some cases a profit-sharing plan may be used. The committee understands that a key element of the employee stock ownership plan is that it provides a new technique of corporate finance. Therefore, an employee stock ownership plan is to provide that it may be used (i) to meet general financing requirements of the corporation, including capital growth and transfers in the ownership of corporate stock; (ii) to build into employees beneficial ownership of stock of their employer or its affiliated corporations, substantially in proportion to their relative incomes, without requiring any cash outlay, any reduction in pay or other employee benefits, or the surrender of any other rights on the part of such employees; and (iii) to receive loans or other forms of credit to acquire stock of the employer corporation or its affiliated corporations, with such loans and credit secured primarily by a legally binding commitment by the employer to make future payments to the trust in amounts sufficient to enable such loans to be repaid. Since the committee intends that this is to be an introduction to the employee stock ownership plan concept, the plan is to include these provisions, but there is to be no requirement that the plan engage in the activities authorized by these provisions.

The committee also understands that, through this technique of corporate finance, the employee stock ownership plan may be used to provide employees with the ownership of equity capital. In this regard, generally the plan will borrow money needed by the corporation for expansion purposes, and will use this money to buy stock of the employer. The employer then will guarantee the debt obligation of the plan and will agree to make annual contributions to the plan sufficient to meet the plan's obligation of paying interest and principal on its debt. As the plan's debt is paid off, the employees share in the profitability of the employer and in any increase in the market value of the employer's securities. In this way, workers may share in the ownership of corporate capital without redistributing the property or profits from existing assets belonging to existing shareholders.



Under the committee bill, an employee stock ownership plan may be a tax-qualified plan or a nonqualified plan. While the committee recognizes that the full benefit of financing through an employee stock ownership plan may occur only under a qualified plan, nevertheless it also recognizes that a company may prefer to establish a nonqualified plan, in which case the provisions of title I of the Employee Retirement Income Security Act of 1974 generally are to apply. An employee stock ownership plan also is to meet such other requirements as may be prescribed by the Secretary of the Treasury.

*Terms of employee stock ownership plan.*—Under the committee bill, a plan established pursuant to the investment credit and net operating loss carryback provisions is not to be used as a tradeoff for other existing employee benefits or rights. Therefore, if the employer already has a pension, profit-sharing, etc. plan, the contribution required under the investment credit or net operating loss provisions is to be "added on" to the benefits of the existing plan. (Additionally, if an employer wishes to take advantage of both the operating loss carryback and the 12-percent investment credit provisions, a contribution is to be required under each of these provisions.) If the employer already has an existing plan which meets the requirements of an employee stock ownership plan or which is amended to meet these requirements, the benefits under that plan may be increased as required by the committee bill rather than a new plan being formally established.

The committee intends that plan benefits under the investment credit and net operating loss carryback provisions are not to be dependent upon contributions by the employees. Consequently, "matching" plans or other mandatory contribution plans are not to qualify under this provision. If a company has an existing matching plan, it may use this plan to meet the requirements of the bill, as long as no matching payment is required with respect to amounts contributed under the terms of the bill, and as long as participation in the plan with respect to these contributions is not dependent upon employee payments.

Generally, contributions to the plan are to be allocated to participants' accounts in proportion to their annual compensation. For this purpose, annual compensation which is greater than $100,000 is to be disregarded. Also, a qualified and nonqualified plan is to meet the requirements of sec. 415. Under the bill, if contributions in any one year to a participant's account would exceed the limits of section 415, the contribution is to be reallocated to the accounts of other participants (in proportion to annual compensation) until the additions to the account of each person participating in the plan reach the limits of sec. 415. If, even after such reallocation, contributions otherwise required under the investment credit and net operating loss carryback provisions would be greater than otherwise allowed by the limits of sec. 415, it is intended that this amount may be held in escrow and may be allocated to participants' accounts in later years in proportion to annual compensation. The beneficiary of the escrow is to be the plan. The employer may establish the escrow and contribute stock or cash to the escrow, but there is to be no reversion of assets from the escrow to the employer unless the employer is not entitled to the full tax benefit on which the contribution is based. The escrow agent is to transfer assets to the plan each year to the maximum extent possible without violating the limitations of sec. 415.

If a plan is not tax-qualified, nevertheless the participation rules of the Internal Revenue Code are to apply. Since plan assets are to be allocated to participants in proportion to compensation (without regard to compensation in excess of $100,000 per year), the plan is not to be integrated directly or indirectly with social security.

To qualify, the employee stock ownership plan is to provide that the employees are to have the right to vote any stock allocated to their accounts.

Under the bill, cash or employer securities may be contributed to the employee stock ownership plan. If cash is contributed, it is to be used to purchase qualifying employer securities. Qualifying employer securities are to be common stock with voting and dividend rights that are the same as those of outstanding common stock. In addition, qualifying securities may be preferred stock that is convertible into common stock. Qualifying securities also may be stock of an affiliate of the employer. For this purpose, it is intended that an "affiliate" be defined by sec. 407(d)(7) of ERISA. Cash contributed to an employees' stock ownership plan may be used to buy new or existing shares.

The bill requires employee stock ownership plans to invest in securities of the employer (or its affiliates). Therefore, even if these securities earn no current income (and even if it appears that the company whose stock is held by the plan will have little if any earnings in the future), the plan trustees may acquire and hold these securities without being subject to any penalty or surcharge and without violating any law that may govern the prudence or quality of investment (including the Employee Retirement Income Security Act of 1974). The committee intends that no inference is to be drawn in this respect with regard to any other plans.

The committee intends that there is not to be a partial termination of an employee stock ownership plan because the rate of contribution to the plan is decreased after the employer has made his required contributions under the investment credit and net operating loss provisions.

In the case of amounts contributed to nonqualified plans under these provisions, beneficiaries generally are to be taxed on distribution to them (under sec. 72) and not at an earlier date (and therefore, not under sec. 83).

**4. Increase in corporate surtax exemption and reduction in rates (sec. 303 of the bill and sec. 11(d), 12(7), 962(c), and 1561(a) of the code)**

Under present law, corporate income is subject to a normal tax at a rate of 22 percent and a surtax at a rate of 26 percent (for a total tax rate of 48 percent). However, the first $25,000 of corporate income



is exempt from the surtax. In effect, then, the first $25,000 of corporate income is taxed at the rate of 22 percent and the income in excess of $25,000 is taxed at a 48 percent rate.

In order to provide tax relief to small businesses that are not particularly capital intensive and would not be able to benefit as much from the investment credit, the House bill increases the surtax exemption from $25,000 to $50,000. Your committee agrees with the House in providing tax relief to small businesses but believes that it is appropriate to provide rate reductions in addition to the increase in the surtax exemption in order to benefit small businesses with taxable incomes under $25,000. As a result, your committee's bill reduces the normal tax by 4 percentage points (from 22 percent to 18 percent) while at the same time increasing the surtax by 4 percentage points (from 26 percent to 30 percent). Thus, all corporations, including those with taxable incomes of $25,000 or less, are to receive a tax reduction.

Corporations with taxable incomes of $50,000 or less will save an amount equal to 4 percent of their taxable income. (This is because of the reduction of the normal tax from 22 percent to 18 percent.) Since the surtax exemption is increased from $25,000 to $50,000, the normal tax rate, as reduced by the committee to 18 percent, now applies up to the first $50,000 of a corporation's taxable income. As a result, a corporation having $50,000 or more of taxable income will have an annual tax savings of $8,500. (Under present law the tax on $50,000 of taxable income is $17,500—22 percent of the first $25,000, plus 48 percent of the remaining $25,000; under the committee bill, the tax is $9,000—18 percent of $50,000.) In effect, then, all corporations with taxable incomes of $50,000 or more will receive this amount of tax savings while being taxed at the rate of 48 percent on their taxable income above $50,000.

Corporations with taxable incomes between $25,000 and $50,000 will save $1,000 on the first $25,000 of taxable income (4 percent—the difference between the present 22 percent and the 18 percent rate provided in the committee bill—of $25,000) plus 30 percent of the corporations taxable income between $25,000 and $50,000 (that is, the difference between the present 48 percent tax rate and the provision in the committee's bill for the 18-percent rate up to $50,000).

The increase in the corporate surtax exemption and the reduction in the corporate rates are effective for taxable years ending after December 31, 1974. They are to apply, however, for only one year in this bill and are to cease to apply for taxable years ending after December 31, 1975.

In the case of a corporation which is not on a calendar year basis, the bill provides that the one year increase in the surtax exemption and the rate reductions are to be treated as an increase and decrease in rates (sec. 21 of the code). As a result, in the case of a fiscal year taxpayer, the increase in the surtax exemption and the rates for the year ending in 1975 will be prorated based on the number of days from January 1, 1975, to the end of that taxable year, and the decrease in the surtax exemption and the rates, for years ending after 1975, will be prorated based on the number of days from the beginning of that taxable year through December 31, 1975. Thus, the tax benefit resulting from the one year increase in the surtax exemption and the rate reductions will, in effect, be spread over two taxable years in the case of fiscal year taxpayers.

This increase in the corporate surtax exemption and the rate reductions are expected to result in a revenue loss of $1.9 billion, of which it is estimated about 60 percent, or $1.2 billion, will go to businesses with incomes under $100,000.

**5. Increase in minimum accumulated earnings credit (sec. 305 of the bill and sec. 535(c) of the code).**

In addition to the regular corporate income tax, present law imposes an accumulated earnings tax of 27½ percent to 38½ percent on improperly accumulated corporate earnings where the accumulation occurs in an attempt to avoid the individual income tax. In computing the base on which this tax is imposed, there is excluded an amount equal to the earnings and profits of the taxable year which are retained for the reasonable needs of the business. This is known as the accumulated earnings credit. Present law provides, however, that in any case, there is to be a minimum credit of $100,000 of earnings which may be accumulated before any income is subject to this tax. This is a cumulative credit, however, rather than an annual credit.

Since 1958, when the accumulated earnings credit was increased from $60,000 to its present level of $100,000, there have been substantial increases in costs which require additional capital to make an investment of the same type and scope. Increased borrowing costs cause small businesses to rely more heavily upon internal generation of capital for posible future needs. Quite often small businesses do not have the specific plans for expansion which are required, under the law, to justify accumulations of corporate earnings in excess of the minimum credit. An increase in the credit not only adjusts for the rise in costs, but also provides a wider margin for the retention of earnings for future contingencies, and thus reduces borrowing pressures on small businesses. As a result, your committee believes it is appropriate to increase the amount of the credit.

The committee's bill increases the amount of the accumulated earnings credit from $100,000 to $150,000. Thus, a corporation may accumulate as much as $150,000 of earnings before its retained earnings may be subject to the accumulated earnings tax. The House bill did not include any such provision.

The amendments related to the increase in the minimum accumulated earnings credit apply to taxable years beginning after December 31, 1974.

## C. Changes Affecting Individuals and Businesses

**1. Repeal of manufacturers excise tax on trucks, buses, tractors, etc. and related parts and accessories (sec. 402 of the bill and sections 4061–63 of the code)**

Under existing law, there is imposed a 10-percent manufacturers excise tax (5 percent on or after October 1, 1977) on the sale of trucks and buses, truck trailers and semi-trailers, and highway tractors used in combination with trailers and semitrailers (sec. 4061(a)). The Revenue Act of 1971 exempted light-duty trucks, etc. (those having a gross vehicle weight of 10,000 pounds or less) at the time when the tax on the sale of passenger automobiles was repealed. There are currently the following exemptions (under sec. 4063) from the



excise tax on trucks, etc.: (1) camper coaches and bodies for self-propelled mobile homes; (2) feed, seed, and fertilizer equipment; (3) house trailers; (4) ambulances and hearses; (5) concrete mixer units placed or mounted on a truck or trailer chassis; (6) local transit buses used predominantly in mass transit service in urban areas; and (7) units designed as trash containers.

Present law also imposes an 8-percent manufacturers excise tax (5 percent as of October 1, 1977) on the sale of truck and bus-related parts and accessories (sec. 4061(b)).

As indicated under the discussion with respect to reasons for the bill, the excise tax on trucks and buses, etc. (and related parts) is repealed both to provide a stimulus for the purchase of trucks and buses and because of the additional employment this is expected to create. In recent years, costs of trucks and buses have risen significantly due to general inflation and added safety requirements. Sales of trucks have declined significantly in recent months as the price has risen and as the economy has slackened, thus adding to the unemployment rate. Factory production of the truck-trailer units has shown an even greater drop. The committee believes that the cost increases will be reduced by the repeal of the excise tax. The committee also intends that the repeal of the 10-percent excise tax on trucks and buses, etc. and the 8-percent excise tax on related parts and accessories should be fully passed on to the purchasers, as it intended in the repeal of the excise tax on passenger automobiles and light-duty trucks in the Revenue Act of 1971.

Under the bill, the repeal is effective the day after the enactment of the bill, with floor stocks refunds and consumer purchase refunds (as described below) available with respect to trucks and buses, etc. (and related parts) sold after March 13, 1975.

*Floor stocks refunds.*—Under present law (sec. 6412(a)(2)), floor stocks refunds would be made available in the case of rate reductions on trucks and buses, etc. (and related parts), scheduled for October 1, 1977.

To avoid creating competitive disadvantages because of the relative sizes of dealers' inventories and in conformity with prior practice, the bill makes provision for floor stocks refunds with respect to trucks and buses, etc. (and related parts), in dealers' inventories on the tax repeal date (the day after the date of the enactment of the bill). This floor stocks refund (or credit) is available with respect to trucks and buses, etc. (and related parts), sold by the manufacturer or importer before the tax repeal date, which are still held by the dealer on that date, and which have not been used but are intended for sale by him. The credit or refund for these floor stocks must be claimed by the manufacturer or importer before the first day of the 10th calendar month beginning after the tax repeal date, based upon reports submitted to him from the dealer before the first day of the 7th calendar month beginning after the tax repeal date. Also, before the first day of the 10th calendar month, the manufacturer or importer must have reimbursed the dealer for the tax or obtained his written consent to the allowance of the refund or credit. In addition, the manufacturer or importer must have in his possession evidence of the inventories on which the credit or refund is claimed (to the extent required by regulations prescribed by the Secretary of the Treasury or his delegate).

A truck, bus, etc. (or a part or accessory the tax on which is repealed by this provision), is not to be treated as having been sold before the tax repeal date (and, generally, is to be treated as being in the dealer's inventory on that date) unless possession or right to possession of the vehicle (or part) passes to the purchaser before that date.

It is expected that these floor stocks refund claims will be processed promptly. It is anticipated that the Internal Revenue Service will make refunds within 45 days of the receipts of the claims. There is no intention to have the Government unreasonably retain these excess taxes or to have the manufacturers be out-of-pocket the amounts of these taxes for an extended period of time. Indeed, any such unnecessary delays would tend to detract from the stimulative purposes of these provisions.

*Refunds with respect to certain consumer purchases.*—In connection with the repeal of the excise tax on trucks and buses, etc. (and related parts), the committee's bill also makes provision for refunds of the excise tax to consumers with respect to their purchases after March 14, 1975, and before the day after the date of enactment of this bill, when the tax is actually eliminated. Provision for these refunds is necessary to forestall the postponement of purchases of trucks and buses, etc. (and related parts), until the date of the repeal of the tax. (This provision is consistent with Congress' actions in 1965 and 1971 with regard to passenger automobiles, light-duty trucks, and related parts, such as air conditioners, etc.—articles where it was thought delays in purchases might adversely affect total sales.)

The bill provides that the government is to refund (or credit) to the manufacturer (or importer) of the tax-repealed truck, bus, etc. (or related part), the tax he paid on his sale of the article. However, to obtain this refund (or credit) the manufacturer (or importer) must file his claim with the Internal Revenue Service before the beginning of the 10th calendar month beginning after the day the tax is repealed. This claim is to be based on information submitted to him by the dealer (or other person) who sold the article to the ultimate purchaser. This information must be submitted to the manufacturer before the first day of the 7th month after the date of repeal. Also, before the beginning of the 10th calendar month after the date of repeal, the "ultimate purchaser" must be reimbursed for the tax paid on the article he purchased. The "ultimate purchaser" is the consumer or user of the new article.

A truck, bus, etc. (or related part), is not to be treated as having been sold before the date of enactment unless possession or right to possession of the vehicle has passed to the purchaser before that date.

It is expected that a consumer who purchases a truck, bus, etc. (or related part) during the post-March 13 period will be informed that, if these excise taxes are repealed, he will be refunded the amount of the tax. In these cases, the dealer is to notify the manufacturer as to the persons to whom he sold specific trucks, buses, etc. (or related parts), during the refund period. This notification must reach the manufacturer before the beginning of the 7th calendar month after the repeal of the tax. This gives the manufacturer time to process the claims, make reimbursements, and file his overall claim (or claims) with the Internal Revenue Service before the beginning of the 10th calendar month after the date of repeal of the tax. The reimbursement may be made directly by the manufacturer to the consumer or may be made through the dealer who originally sold the article.



The committee intends and expects the Internal Revenue Service to allocate the necessary personnel to process consumer refund claims as soon as possible. The manufacturer is not to be permitted to claim a refund until he shows he has already reimbursed the ultimate purchaser. However, there is no intention that the Government delay refunding taxes or that the manufacturers be out-of-pocket for the taxes any longer than is necessary for administrative reasons. Indeed, any unnecessary delays would detract from the stimulative purposes of these repeal provisions.

*Certain uses by a manufacturer, etc.*—Under present law, if a manufacturer (or importer) of a truck, bus, etc. (or related part), uses the vehicle himself (other than in the manufacture of another taxable article), he is liable for tax in the same manner as if the article were sold by him (sec. 4218(a)). In this case, the tax is computed on the price at which he (or other manufacturers or importers) sells the same or similar articles in the ordinary course of trade.

The committee intends that where a manufacturer (or importer) pays a tax on account of his use of the article during the consumer refund period, he is as much entitled to reimbursement as would be any other consumer. Accordingly, the bill provides that where a truck, bus, etc. (or related part), is used by a manufacturer (or importer) and as a result of this use a tax was paid after March 13, 1975, the payment is to be treated as an overpayment.

*Leases, installment sales, etc.*—In the case of partial payments in connection with leases, certain types of installment sales, conditional sales, or certain types of chattel mortgage arrangements, present law (sec. 4216(c)) provides that the manufacturers excise tax is to be paid upon each partial payment and is to be based on the tax rate in effect on the date each partial payment is due. To avoid windfall benefits to a manufacturer where the lease, installment sale, etc., took into account the 10-percent tax (or 8-percent parts tax), the bill provides that no tax is due on partial payments after the tax repeal date if the lessor or vender establishes that the amount of the payments payable after that date has been reduced by the amount of tax that would otherwise have been due with each partial payment after that date. If the lessor or seller does not reduce the amount of the payments, however, the tax reduction provided by the bill will not apply to the article on which those partial payments are being made. In other words, for the tax reduction to be available in partial payment cases, the benefit of the repeal must be passed on to the lessee or purchaser.

*Effective date.*—The repeal of the manufacturers excise tax on trucks and buses, etc. (and related parts and accessories) applies to articles sold on or after the day after the date of the enactment of the bill. The bill also provides that an article is not to be considered as sold before the day after the date of enactment unless possession or right to possession passes to the purchaser before that day.

The bill also allows floor stock refunds for tax-paid articles held by a dealer on the day after the date of enactment, and consumer refunds for tax-paid articles sold to ultimate consumers after March 13, 1975, and on or before the date of enactment.

*Revenue effect.*—The revenue loss from the repeal of the excise tax on trucks and buses, etc. is estimated to be $224 million for the remainder of fiscal 1975 and $560 million for fiscal 1976. The repeal of the excise tax on truck and bus parts and accessories is expected to result in a revenue reduction of $86 million for fiscal 1975 and $160 million for fiscal 1976. Thus, the combined revenue loss for fiscal 1975 will be about $310 million and $720 million for fiscal 1976. The revenue loss will come out of the Highway Trust Fund.

**2. The Federal Welfare Recipient Employment Incentive Tax Credit (sec. 401) of the bill and secs. 50A and 50B of the code)**

The Committee adopted an amendment to the work incentive (WIN) tax credit to provide that an employer who hires a recipient of the aid to dependent children (AFDC) program under Title IVA of the Social Security Act would be eligible for a federal welfare recipient employment incentive tax credit equal to 20 percent of the gross wages paid to the recipient.

The WIN tax credit which was authorized under the 1971 Revenue Act applies only to AFDC recipients who are placed in employment through the Work Incentive program. The WIN tax credit amounts to 20 percent of the gross wages paid the employee for the first 12 months of employment during the period of 24 months from the first day of employment. The maximum amount of the WIN tax credit which may be claimed by an employer in any tax year is $25,000 plus 50 percent of any remaining tax liability in excess of $25,000. Excess credit may be carried forward for seven years or carried back for three previous years. There are restrictions on eligibility for the WIN tax credit which include (1) the individual must be retained by the employer for an additional 12 month period following completion of the first 12 month eligibility; and (2) an employer must certify that the position to be filled is not the result of (A) a layoff with other employees waiting to be recalled, (B) a strike or lock-out, and (C) a reduction in the wages, employment benefits, or regular hours of other workers currently in positions similar to the job vacancy being filled.

The federal welfare recipient employment incentive tax credit applies solely to the employment of an AFDC recipient who:

(A) has been certified by the State or local welfare department as being eligible for financial assistance for AFDC and as having continuously received such financial assistance during the 90 day period which immediately precedes the date on which such individual is hired by the taxpayer,

(B) has been employed by the taxpayer for a period in excess of 30 consecutive days on a substantially full-time basis,

(C) has not displaced any other individual for employment by the taxpayer, and

(D) is not a migrant worker (for purposes of this tax credit, a migrant worker means an individual who is employed for services for which the customary period of employment by one employer is less than 30 days if the nature of such services requires the employee to travel from place to place for a short period of time).

(E) bears any relationship to the taxpayer described in paragraphs (1) through (8) of Section 152(a) of the Internal Revenue code of 1954 as amended.



The tax credit amounts to 20% of the wages paid or incurred by the taxpayer for services rendered to the employer before July 1, 1976. Thus, after the eligible employee had worked the first 30 days, the taxpayer would receive the credit for the wages paid or incurred by the taxpayer for the first 30 days of employment plus the wages for all days the employee continued to work after the original 30 day period through June 30, 1976. The Federal welfare recipient incentive employment tax credit would be available to both business and non-business employers. The tax credit applies only to the wages paid or incurred by a taxpayer for an AFDC recipient whom such taxpayer hires after the date of enactment of this act.

The sum of the credits allowed under the WIN tax credit provisions for employment under a work incentive program established under Section 432(b)(1) of the Social Security Act and under the Federal welfare recipients employment incentive tax credit is subject to a limitation based on the tax liability of the taxpayer. The sum of such credit is 100 percent of the first $25,000 of tax liability for the taxable year plus 50 percent of so much of the tax liability for the taxable year as exceeds $25,000. A tax credit for wages paid to an individual may be allowable under either the WIN tax credit or under the Federal welfare recipients employment incentive tax credit, but is not allowable under both for the same wages paid to the same individual.

The Committee believes that any revenue loss under this program will be offset by the revenue saved under the AFDC Program.

# V. STATISTICAL APPENDIX

TABLE 1.—INDIVIDUAL INCOME TAX BURDEN [1] UNDER PRESENT LAW AND UNDER THE PROVISION IN THE BILL WHICH GRANTS A REFUND OF 1974 INCOME TAX LIABILITY [2]

[Single person and married couple with no, 1, 2, and 4 dependents (assuming deductible personal expenses of 17 percent of income)]

| Adjusted gross income | Tax liability | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Single person | | | Married couple with no dependents | | | Married couple with 1 dependant | | | Married couple with 2 dependents | | | Married couple with 4 dependents | | |
| | Under present law | Under the bill | Reduction | Under present law | Under the bill | Reduction | Under present law | Under the bill | Reduction | Under present law | Under the bill | Reduction | Under present law | Under the bill | Reduction |
| $3,000 | $138 | $38 | $100 | $28 | 0 | $28 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| $5,000 | 491 | 391 | 100 | 322 | $222 | 100 | $208 | $108 | $100 | $98 | 0 | $98 | 0 | 0 | 0 |
| $6,000 | 681 | 581 | 100 | 484 | 384 | 100 | 362 | 262 | 100 | 245 | $145 | 100 | $28 | 0 | $28 |
| $8,000 | 1,087 | 978 | 109 | 837 | 737 | 100 | 694 | 594 | 100 | 559 | 459 | 100 | 312 | $212 | 100 |
| $10,000 | 1,482 | 1,334 | 148 | 1,152 | 1,037 | 115 | 1,010 | 909 | 101 | 867 | 767 | 100 | 586 | 486 | 100 |
| $12,500 | 1,996 | 1,797 | 200 | 1,573 | 1,415 | 157 | 1,408 | 1,267 | 141 | 1,261 | 1,135 | 126 | 976 | 876 | 100 |
| $15,000 | 2,549 | 2,349 | 200 | 2,029 | 1,829 | 200 | 1,864 | 1,678 | 186 | 1,699 | 1,529 | 170 | 1,371 | 1,233 | 137 |
| $17,500 | 3,145 | 2,945 | 200 | 2,516 | 2,316 | 200 | 2,329 | 2,129 | 200 | 2,156 | 1,956 | 200 | 1,826 | 1,643 | 183 |
| $20,000 | 3,784 | 3,584 | 200 | 3,035 | 2,835 | 200 | 2,848 | 2,648 | 200 | 2,660 | 2,460 | 200 | 2,285 | 2,085 | 200 |
| $25,000 | 5,230 | 5,080 | 150 | 4,170 | 4,020 | 150 | 3,960 | 3,810 | 150 | 3,750 | 3,600 | 150 | 3,330 | 3,180 | 150 |
| $30,000 | 6,850 | 6,750 | 100 | 5,468 | 5,368 | 100 | 5,228 | 5,128 | 100 | 4,988 | 4,888 | 100 | 4,508 | 4,408 | 100 |
| $35,000 | 8,625 | 8,525 | 100 | 6,938 | 6,838 | 100 | 6,668 | 6,568 | 100 | 6,398 | 6,298 | 100 | 5,858 | 5,758 | 100 |
| $40,000 | 10,515 | 10,415 | 100 | 8,543 | 8,443 | 100 | 8,251 | 8,151 | 100 | 7,958 | 7,858 | 100 | 7,373 | 7,273 | 100 |

[1] Computed without reference to the tax tables for returns with adjusted gross income under $10,000.

[2] Granting a 100-percent refund of 1974 income tax liability up to $100 without a phaseout and a 10-percent refund of tax above $1,000 with a maximum refund of $200 with the refund phased out between $20,000 and $30,000 of adjusted gross income but not below $100.

Note: Details may not add to totals because of rounding.



TABLE 2.—INDIVIDUAL INCOME TAX BURDEN [1] UNDER PRESENT LAW AND UNDER THE PROVISION IN THE BILL WHICH DECREASES BY 1 PERCENTAGE POINT THE TAX RATES APPLICABLE TO THE FIRST $4,000 OF TAXABLE INCOME

[Single person and married couple with no, 1, 2, and 4 dependents (assuming deductible personal expenses of 17 percent of income)]

| Adjusted gross income | Tax liability | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Single person | | | Married couple with no dependents | | | Married couple with 1 dependent | | | Married couple with 2 dependents | | | Married couple with 4 dependents | | |
| | Under present law | Under the bill | Reduction | Under present law | Under the bill | Reduction | Under present law | Under the bill | Reduction | Under present law | Under the bill | Reduction | Under present law | Under the bill | Reduction |
| $3,000 | $138 | $128 | $9 | $28 | $26 | $2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| $5,000 | 491 | 461 | 29 | 322 | 300 | 22 | $208 | $193 | $14 | $98 | $91 | $7 | 0 | 0 | 0 |
| $6,000 | 681 | 641 | 39 | 484 | 452 | 32 | 362 | 338 | 24 | 245 | 228 | 17 | $28 | $26 | $2 |
| $8,000 | 1,087 | 1,047 | 40 | 837 | 797 | 40 | 694 | 654 | 40 | 559 | 522 | 36 | 312 | 291 | 21 |
| $10,000 | 1,482 | 1,442 | 40 | 1,152 | 1,112 | 40 | 1,010 | 970 | 40 | 867 | 827 | 40 | 586 | 548 | 38 |
| $12,500 | 1,996 | 1,956 | 40 | 1,573 | 1,533 | 40 | 1,408 | 1,368 | 40 | 1,261 | 1,221 | 40 | 976 | 936 | 40 |
| $15,000 | 2,549 | 2,509 | 40 | 2,029 | 1,989 | 40 | 1,864 | 1,824 | 40 | 1,699 | 1,659 | 40 | 1,371 | 1,331 | 40 |
| $17,500 | 3,145 | 3,105 | 40 | 2,516 | 2,476 | 40 | 2,329 | 2,289 | 40 | 2,156 | 2,116 | 40 | 1,826 | 1,786 | 40 |
| $20,000 | 3,784 | 3,744 | 40 | 3,035 | 2,995 | 40 | 2,848 | 2,808 | 40 | 2,660 | 2,620 | 40 | 2,285 | 2,245 | 40 |
| $25,000 | 5,230 | 5,190 | 40 | 4,170 | 4,130 | 40 | 3,960 | 3,920 | 40 | 3,750 | 3,710 | 40 | 3,330 | 3,290 | 40 |
| $30,000 | 6,850 | 6,610 | 40 | 5,468 | 5,428 | 40 | 5,228 | 5,188 | 40 | 4,988 | 4,948 | 40 | 4,508 | 4,468 | 40 |
| $35,000 | 8,625 | 8,585 | 40 | 6,938 | 6,898 | 40 | 6,668 | 6,628 | 40 | 6,398 | 6,358 | 40 | 5,858 | 5,818 | 40 |
| $40,000 | 10,515 | 10,475 | 40 | 8,543 | 8,503 | 40 | 8,251 | 8,211 | 40 | 7,958 | 7,918 | 40 | 7,373 | 7,333 | 40 |

[1] Computed without reference to the tax tables for returns with adjusted gross income under 10,000.

Note: Details may not add to totals because of rounding.

TABLE 3.—INDIVIDUAL INCOME TAX BURDEN[1] UNDER PRESENT LAW AND UNDER THE PROVISION IN THE BILL WHICH GRANTS A NONREFUNDABLE $200 TAX CREDIT IN LIEU OF THE $750 PERSONAL EXEMPTION DEDUCTION

[Single person and married couple with no, 1, 2, and 4 dependents (assuming deductible personal expenses of 17 percent of income)]

| | Tax liability | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Single person | | | Married couple with no dependents | | | Married couple with 1 dependent | | | Married couple with 2 dependents | | | Married couple with 4 dependents | | |
| Adjusted gross income | Under present law | Under the bill | Reduction | Under present law | Under the bill | Reduction | Under present law | Under the bill | Reduction | Under present law | Under the bill | Reduction | Under present law | Under the bill | Reduction |
| $3,000 | $138 | $59 | $79 | $28 | 0 | $28 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| $5,000 | 491 | 433 | 58 | 322 | $169 | 153 | $208 | 0 | $208 | $98 | 0 | $98 | 0 | 0 | 0 |
| $6,000 | 681 | 637 | 44 | 484 | 353 | 131 | 362 | $153 | 209 | 245 | 0 | 245 | $28 | 0 | $28 |
| $8,000 | 1,087 | 1,064 | 23 | 837 | 722 | 115 | 694 | 522 | 173 | 559 | $322 | 237 | 312 | 0 | 312 |
| $10,000 | 1,482 | 1,465 | 17 | 1,152 | 1,046 | 106 | 1,010 | 846 | 164 | 867 | 646 | 221 | 586 | $246 | 340 |
| $12,500 | 1,996 | 1,991 | 5 | 1,573 | 1,503 | 70 | 1,408 | 1,303 | 105 | 1,261 | 1,103 | 159 | 976 | 703 | 274 |
| $15,000 | 2,549 | 2,549 | 0 | 2,029 | 1,973 | 57 | 1,864 | 1,773 | 92 | 1,699 | 1,573 | 127 | 1,371 | 1,173 | 198 |
| $17,500 | 3,145 | 3,145 | 0 | 2,516 | 2,491 | 25 | 2,329 | 2,291 | 38 | 2,156 | 2,091 | 64 | 1,826 | 1,691 | 134 |
| $20,000 | 3,784 | 3,784 | 0 | 3,035 | 3,028 | 7 | 2,848 | 2,828 | 20 | 2,660 | 2,628 | 32 | 2,285 | 2,228 | 57 |
| $25,000 | 5,230 | 5,230 | 0 | 4,170 | 4,170 | 0 | 3,960 | 3,960 | 0 | 3,750 | 3,750 | 0 | 3,330 | 3,330 | 0 |
| $30,000 | 6,850 | 6,850 | 0 | 5,468 | 5,468 | 0 | 5,228 | 5,228 | 0 | 4,988 | 4,988 | 0 | 4,508 | 4,508 | 0 |
| $35,000 | 8,625 | 8,625 | 0 | 6,938 | 6,938 | 0 | 6,668 | 6,668 | 0 | 6,398 | 6,398 | 0 | 5,858 | 5,858 | 0 |
| $40,000 | 10,515 | 10,515 | 0 | 8,543 | 8,543 | 0 | 8,251 | 8,251 | 0 | 7,958 | 7,958 | 0 | 7,373 | 7,373 | 0 |

[1] Computed without reference to the tax tables for returns with adjusted gross income under $10,000.

Note: Details may not add to totals because of rounding.



TABLE 4.—INDIVIDUAL INCOME TAX BURDEN[1] UNDER PRESENT LAW AND UNDER THE PROVISION IN THE BILL WHICH GRANTS AN EARNED INCOME CREDIT[2]

[Single person and married couple with no, 1, 2, and 4 dependents (assuming deductible personal expenses of 17 percent of income)]

| | Tax liability | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Single person | | | Married couple with no dependents | | | Married couple with 1 dependent | | | Married couple with 2 dependents | | | Married couple with 4 dependents | | |
| Adjusted gross income | Under present law | Under the bill | Reduction | Under present law | Under the bill | Reduction | Under present law | Under the bill | Reduction | Under present law | Under the bill | Reduction | Under present law | Under the bill | Reduction |
| $3,000 | $138 | −$163 | $300 | $28 | −$272 | $300 | 0 | −$300 | $300 | 0 | −$300 | $300 | 0 | −$300 | $300 |
| $5,000 | 491 | 191 | 300 | 322 | 22 | 300 | $208 | −93 | 300 | $98 | −202 | 300 | 0 | −300 | 300 |
| $6,000 | 681 | 481 | 200 | 484 | 284 | 200 | 362 | 162 | 200 | 245 | 45 | 200 | $28 | −173 | 200 |
| $8,000 | 1,087 | 1,087 | 0 | 837 | 837 | 0 | 694 | 694 | 0 | 559 | 559 | 0 | 312 | 312 | 0 |
| $10,000 | 1,482 | 1,482 | 0 | 1,152 | 1,152 | 0 | 1,010 | 1,010 | 0 | 867 | 867 | 0 | 586 | 586 | 0 |
| $12,500 | 1,996 | 1,996 | 0 | 1,573 | 1,573 | 0 | 1,408 | 1,408 | 0 | 1,261 | 1,261 | 0 | 976 | 976 | 0 |
| $15,000 | 2,549 | 2,549 | 0 | 2,029 | 2,029 | 0 | 1,864 | 1,864 | 0 | 1,699 | 1,699 | 0 | 1,371 | 1,371 | 0 |
| $17,500 | 3,145 | 3,145 | 0 | 2,516 | 2,516 | 0 | 2,329 | 2,329 | 0 | 2,156 | 2,156 | 0 | 1,826 | 1,826 | 0 |
| $20,000 | 3,784 | 3,784 | 0 | 3,035 | 3,035 | 0 | 2,848 | 2,848 | 0 | 2,660 | 2,660 | 0 | 2,285 | 2,285 | 0 |
| $25,000 | 5,230 | 5,230 | 0 | 4,170 | 4,170 | 0 | 3,960 | 3,960 | 0 | 3,750 | 3,750 | 0 | 3,330 | 3,330 | 0 |
| $30,000 | 6,850 | 6,850 | 0 | 5,468 | 5,468 | 0 | 5,228 | 5,228 | 0 | 4,988 | 4,988 | 0 | 4,508 | 4,508 | 0 |
| $35,000 | 8,625 | 8,625 | 0 | 6,938 | 6,938 | 0 | 6,668 | 6,668 | 0 | 6,398 | 6,398 | 0 | 5,858 | 5,858 | 0 |
| $40,000 | 10,515 | 10,515 | 0 | 8,543 | 8,543 | 0 | 8,251 | 8,251 | 0 | 7,958 | 7,958 | 0 | 7,373 | 7,373 | 0 |

[1] Computed without reference to the tax tables for returns with adjusted gross income under $10,000.

[2] Granting to returns with dependent children a refundable tax credit of 10 percent of wage and salary and self-employment income with a $400 maximum credit with a phaseout of the credit between $4,000 and $8,000 of adjusted gross income.

Note: Details may not add to totals because of rounding.

TABLE 5.—INDIVIDUAL INCOME TAX BURDEN[1] UNDER PRESENT LAW AND UNDER THE PROVISIONS IN THE BILL WHICH DECREASE BY 1 PERCENTAGE POINT THE TAX RATES APPLICABLE TO THE FIRST $4,000 OF TAXABLE INCOME AND GRANT A NONREFUNDABLE $200 TAX CREDIT IN LIEU OF THE $750 PERSONAL EXEMPTION DEDUCTION

[Single person and married couple with no, 1, 2, and 4 dependents (assuming deductible personal expenses of 17 percent of income)]

| | Tax liability | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Single person | | | Married couple with no dependents | | | Married couple with 1 dependent | | | Married couple with 2 dependents | | | Married couple with 4 dependents | | |
| Adjusted gross income | Under present law | Under the bill | Reduction | Under present law | Under the bill | Reduction | Under present law | Under the bill | Reduction | Under present law | Under the bill | Reduction | Under present law | Under the bill | Reduction |
| $3,000 | $138 | $42 | $95 | $28 | 0 | $28 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| $5,000 | 491 | 396 | 94 | 322 | $132 | 190 | $208 | 0 | $207 | $98 | 0 | $98 | 0 | 0 | 0 |
| $6,000 | 681 | 597 | 83 | 484 | 313 | 171 | 362 | $113 | 249 | 245 | 0 | 245 | $28 | 0 | $28 |
| $8,000 | 1,087 | 1,024 | 63 | 837 | 682 | 155 | 694 | 482 | 212 | 559 | $282 | 277 | 312 | 0 | 312 |
| $10,000 | 1,482 | 1,425 | 57 | 1,152 | 1,006 | 146 | 1,010 | 806 | 203 | 867 | 606 | 261 | 586 | $206 | 380 |
| $12,500 | 1,996 | 1,951 | 45 | 1,573 | 1,463 | 110 | 1,408 | 1,263 | 145 | 1,261 | 1,063 | 199 | 976 | 663 | 314 |
| $15,000 | 2,549 | 2,509 | 40 | 2,029 | 1,933 | 96 | 1,864 | 1,733 | 131 | 1,699 | 1,533 | 166 | 1,371 | 1,133 | 238 |
| $17,500 | 3,145 | 3,105 | 40 | 2,516 | 2,451 | 65 | 2,329 | 2,251 | 77 | 2,156 | 2,051 | 104 | 1,826 | 1,651 | 174 |
| $20,000 | 3,784 | 3,744 | 40 | 3,035 | 2,988 | 47 | 2,848 | 2,788 | 59 | 2,660 | 2,588 | 72 | 2,285 | 2,188 | 97 |
| $25,000 | 5,230 | 5,190 | 40 | 4,170 | 4,130 | 40 | 3,960 | 3,920 | 40 | 3,750 | 3,710 | 40 | 3,330 | 3,290 | 40 |
| $30,000 | 6,850 | 6,810 | 40 | 5,468 | 5,428 | 40 | 5,228 | 5,188 | 40 | 4,988 | 4,948 | 40 | 4,508 | 4,468 | 40 |
| $35,000 | 8,625 | 8,585 | 40 | 6,938 | 6,898 | 40 | 6,668 | 6,628 | 40 | 6,398 | 6,358 | 40 | 5,858 | 5,818 | 40 |
| $40,000 | 10,515 | 10,475 | 40 | 8,543 | 8,503 | 40 | 8,251 | 8,211 | 40 | 7,958 | 7,918 | 40 | 7,373 | 7,333 | 40 |

[1] Computed without reference to the tax tables for returns with adjusted gross income under $10,000.

Note: Details may not add to totals because of rounding.

## VI. COSTS OF CARRYING OUT THE BILL AND VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the following statement is made relative to the costs incurred in carrying out this bill. Your committee estimates that the bill will reduce tax liability by $29.2 billion in calendar year 1975, $9.3 billion in 1976, and $4.5 billion in 1977. The Treasury Department agrees with this statement. Part III of this report contains a more detailed statement of the revenue effect of the bill.

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made relative to the record vote by the committee of the motion to report the bill.

The bill was ordered reported by a recorded vote of 16 ayes and 2 nays, as follows:

In favor—16 (Messrs. Long, Talmadge, Hartke, Ribicoff, Byrd of Virginia, Nelson, Mondale, Gravel, Bentsen, Hathaway, Haskell, Hansen, Dole, Packwood, Roth and Brock).

Opposed—2 (Messrs. Curtis and Fannin).

## VII. CHANGES IN EXISTING LAW

In the opinion of the committee, it is necessary in order to expedite the business of the Senate, to dispense with the requirements of subsection 4 of rule XXIX of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the bill, as reported).

## VIII. SUPPLEMENTAL VIEWS OF SENATOR HARRY F. BYRD, JR.

"I believe this legislation should be reported to the Senate, but I reserve judgment as to how I shall vote when the bill comes before the Senate.

"I am deeply concerned that the $29 billion revenue loss will greatly increase the deficit. In the absence of a reduction in spending, this legislation could accelerate inflation, which itself is a cruel tax."

HARRY F. BYRD, Jr.

## IX. SUPPLEMENTAL VIEWS OF SENATORS CURTIS AND FANNIN

We cannot support H.R. 2166. In its present form, it simply fails to meet the needs of our economy. Today, our economy is beset both by recession and by inflation. These two problems are interrelated. Inflation is a persistent and cancerous malady which can be overcome only by firm and courageous actions. Inflation cannot be ignored; it is a cause of recession. In his testimony before the Committee on Finance, Secretary of the Treasury Simon said:

> More than anything else it is inflation which has created our current recession. Inflation destroys consumer confidence, investor confidence, and public confidence in the ability of our government to perform its obligations.

We do not oppose the use of a reasonable tax cut to stimulate the economy, but if a tax cut is to be used to combat recession it must, in our view, meet several criteria. *First*, a tax cut must strike a balance in our economic policy. The recession is severe and we must seek to counteract it. Nevertheless, we cannot follow policies which will again overheat the economy and lead to additional period of double-digit inflation. *Second*, a tax cut should be temporary in nature, cast in the form of a rebate or refund, and coupled with modification of those provisions of the tax law (such as the investment tax credit) that are proven job-producers. Permanent reduction in taxes (whether accomplished by rate reductions or otherwise) have no place in a temporary anti-recession tax cut. Permanent changes tend to invite budgetary problems for future years. *Third*, special consideration should be given to those individuals with low incomes who, because of inflation, face severe hardship. Many of the problems of the poor cannot be met by reducing taxes, but where tax relief is effective, action should be taken. *Fourth*, we believe that to provide jobs the relief should go to business, but if it is to go to individuals, it should give particular consideration to middle income taxpayers who have been hit hardest by increased taxation due to the inflationary rise in incomes. Substantial rebates of tax reduction to middle income taxpayers could have the greatest impact on consumer purchase of durable goods which, in turn, would put more employees to work in the industrial sector.

Unfortunately, H.R. 2166 fails to meet these criteria. For calendar year 1975, the bill would reduce Federal revenues by $29.2 billion. This is $9.3 billion more than the House bill and $13 billion more than requested by the President. At this level, we risk both unacceptable budgetary deficits and a new round of inflation.

Moreover, although cast as a temporary tax cut, the bill contains provisions which are either expressly made permanent or likely to become permanent features of our tax structure. Of $29.2 billion in tax reductions provided for in the bill, $21.2 billion is for relief to individuals. Of this amount, $9.9 billion is attributable to provisions we consider to be permanent in nature. These "permanent" provisions include a $200 optional tax credit in lieu of the $750 personal exemption ($6.1 billion), a reduction of one percentage point in the four lowest income tax brackets ($2.0 billion), a refundable 10 per cent credit against earned income for workers with families who earn $8,000 or less annually ($1.7 billion), and a provision permitting individuals to carryback capital losses for three years ($0.1 billion). The bill also makes permanent changes in the pattern of business taxation. The investment tax credit rate is increased to 12 per cent on a temporary basis and to 10 per cent on a permanent basis. A special loss carryback provision for corporations has been added and made permanent. The manufacturer's excise tax on trucks has been repealed. Additionally, the bill increases the corporate surtax exemption to $50,000 and reduces the rate at which corporations with less than $50,000 in earnings will be taxed. These last two provisions are technically temporary, but they may well become permanent. These provisions may well be desirable as a matter of tax policy, but they do not belong in an ostensibly temporary anti-recession tax cut. They can be, and should be considered in the context of general tax reform later in this session of the Congress.

The bill does grant tax relief of low income families, but we are concerned that, given the very special and particular purpose of this legislation, the bill may be tilted too far in this direction. While low income taxpayers are likely to spend a tax reduction, the recession is particularly pronounced in the case of durable goods. During 1974, personal consumption expenditures (measured in constant 1958 dollars) dropped almost 9 per cent. A broadly-based stimulus for the purchase of all durable goods (the so-called "big ticket" items) is needed. This the bill does not do. For example, the maximum rebate of 1974 taxes is $200 and no taxpayer with adjusted gross income in excess of $20,000 can receive even this "maximum" amount. The bill should provide relief to low income taxpayers, but its purpose as a stimulative device requires that the tax reductions be balanced.

For these reasons, we have reluctantly concluded that we cannot support H.R. 2166 in its present form.

We need to remember certain economic facts of life. The total public debt outstanding as of March 12, 1975, was $501,559,000,000. The estimated deficit for the year ending July 1, 1975, (Fiscal Year 1975) is $45 billion, and for the year ending July 1, 1976, (Fiscal Year 1976) is $80 billion. The interest on the national debt in Fiscal Year 1975 was $32.9 billion, and it is estimated it will climb to $36 billion in Fiscal Year 1976.

The greatest spur that we could give to our economy would be to put the Federal government's house in order. This would restore confidence throughout all segments of our economy.

Carl T. Curtis,
*U.S. Senator.*
Paul J. Fannin,
*U.S. Senator.*

## X. SUPPLEMENTAL VIEWS OF SENATOR BROCK

Although I have reservations about the size of the tax cut and various tax "reform" sections of the Tax Reduction Act of 1975, I am particularly concerned about the earned income credit section of this bill. My remarks will be addressed to the latter issue.

There are many serious problems related to the present inequities in Aid to Families with Dependent Children (AFDC), employed vs. unemployed assistance, and other long-standing weaknesses within welfare assistance programs, that lead me to conclude that if we adopt an earned income credit at the present time there will be little economic impact and no welfare reform.

This bill is not a welfare reform bill. Our attention should be concentrated on those measures which give us an immediate economic stimulus. The earned income credit is little more than an income maintenance proposal and should be discussed as such. In approving this measure we would be adding just another program to the proliferation of the presently inadequate public assistance statutes. Specifically the proposal could complicate the present coverage of employed AFDC recipients. In addition, consideration should be given to the way the earned income credit would relate to other programs to assist low-income families, such as the food stamp, housing, and health care programs, as well as AFDC.

In conclusion, the earned income credit should not be a part of this bill. This section is a welfare reform measure that attempts to build upon a weak welfare system. We should focus our attention on the measures that promote economic activity and employment.

Bill Brock.

94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 94-19

# TAX REDUCTION ACT OF 1975

## REPORT

OF THE

## COMMITTEE ON WAYS AND MEANS
## U.S. HOUSE OF REPRESENTATIVES

TOGETHER WITH SUPPLEMENTAL AND
MINORITY VIEWS

ON

## H.R. 2166

FEBRUARY 25, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
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94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
*1st Session* } { No. 94–19

# TAX REDUCTION ACT OF 1975

FEBRUARY 25, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ULLMAN, from the Committee on Ways and Means, submitted the following

## REPORT

together with

## SUPPLEMENTAL AND MINORITY VIEWS

[To accompany H.R. 2166]

The Committee on Ways and Means, to whom was referred the bill (H.R. 2166) to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes, to increase the low-income allowance and the percentage standard deduction, to provide a credit for certain earned income, to increase the investment credit and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

The amendment to the text of the bill strikes out all after the enacting clause and inserts in lieu thereof a substitute text which appears in italic type in the reported bill.

The title of the bill is amended to reflect the amendment to the text of the bill.

# I. SUMMARY

The U.S. economy has experienced its sharpest decline since the 1930's. The unemployment rate in January 1975 was 8.2 percent, the highest since 1941, and actual output is over $200 billion below potential output. This bill deals with these problems by providing a $20 billion tax reduction in 1975.

The bill also will—

Remove from the income tax rolls families with incomes below the poverty level by substantially increasing the minimum standard deduction (also known as the low-income allowance).

Simplify the tax system by encouraging individuals to use the standard deduction instead of itemized deductions.

Provide relief to earners with little or no tax liability by providing a refundable tax credit based on earned income.

Increase investment in equipment by increasing the investment tax credit from 7 to 10 percent and for public utilities from 4 percent to 10 percent.

Aid hard-pressed public utilities by increasing the fraction of their income tax liability which can be offset by the investment credit from 50 to 100 percent for a temporary period.

Help small business by increasing the corporate surtax exemption from $25,000 to $50,000.

More specifically, the bill provides the following tax reductions:

*Refund on 1974 tax liability.*—The bill provides a refund on 1974 tax liability to be paid in one installment beginning in May 1975. It will generally equal 10 percent of tax liability up to a maximum of $200. However, each taxpayer is to receive a refund of at least $100 (or the full amount of his or her actual tax liability if less than $100). The refund is to be phased down from the maximum of $200 to $100 as the taxpayer's income rises from $20,000 to $30,000. The revenue loss from the 1974 refund is estimated to be $8.1 billion.

*Increase in the standard deduction.*—The bill raises the minimum standard deduction from $1,300 to $1,900 for single persons and $2,500 for joint returns. It also increases the percentage standard deduction from 15 percent of adjusted gross income with a maximum of $2,000 to 16 percent with a maximum of $2,500 for single persons and $3,000 for joint returns. These changes involve a revenue loss of $5.2 billion, and are expected to result in a shift of almost 10 million returns from itemized deductions to the standard deduction.

*Refundable credit on earned income.*—The bill provides for a refundable credit of 5 percent of earned income up to a maximum of $200—closely matching the social security tax on the first $4,000 of income (but not in any sense coming from the social security trust fund or reducing the receipts available for such purposes). The credit is to be phased out from the maximum $200 to zero as adjusted gross income rises from $4,000 to $6,000. This change involves a revenue loss of $2.9 billion.

*Increase in the investment tax credit.*—The investment tax credit rate is increased for all taxpayers (including public utilities) to 10 percent from 7 percent (from 4 percent in the case of certain public utilities). (The additional credit for public utilities is limited to $100 million for any one taxpayer.) In addition, in the case of public utilities the limitation on the amount of tax liability that may be offset by the investment tax credit in a year is increased from 50 percent to 100 percent for a 2-year period and then is gradually reduced back to the 50-percent level over a 5-year period. In the case of long lead-time property, that is, property that requires at least 2 years to construct, the bill further provides that the investment tax credit is to be available to the extent that progress payments are made during the construction period (rather than in the year when the property is ultimately placed in service), with an initial 5-year transitional rule to phase in the new system. Finally, the amount of used property eligible for the investment tax credit is increased from $50,000 to $75,000. The increased 10-percent credit is to be available for property placed in service after January 21, 1975, and before January 1, 1976. (In the case of property acquired pursuant to an order placed before January 1, 1976, the 10-percent credit is to be available if the property is placed in service by the end of 1976; and in the case of construction occurring after January 21, 1975, the 10-percent credit is to be available for the portion of the construction occurring before January 1, 1976 regardless of when the property is placed in service.) The revenue loss from these changes in the investment credit is estimated at $3.9 billion (of which $1.5 billion is expected to occur in 1976).

*Increase in the corporate surtax exemption.*—To aid small businesses, the surtax exemption (the amount to which the 22-percent corporate tax rate rather than the 48-percent rate applies) is increased from the present $25,000 to $50,000. This is expected to reduce revenue by $1.2 billion.

*Effective date.*—In general, the provisions included in the Tax Reduction Act of 1975 are to apply for a one-year period (for the calendar year 1975). This is because the bill is intended to provide an immediate stimulus for the economy at this time. In the case of individuals, the stimulus is a lump sum refund of part (or in some cases all) of a taxpayer's 1974 tax liability plus increased take-home pay as a result of lower withholding reflecting the changes in the standard deduction and the new earned income credit. In the case of corporations, the stimulus is the incentive to purchase machinery and equipment as a result of the increased investment credit and also reduced taxes, primarily for small corporations, as a result of the increase in the surtax exemption.

## II. REASONS FOR THE BILL

The Tax Reduction Act of 1975 takes prompt and effective action to check the drastic downward slide in our economy and to restore economic growth and move us closer to full employment. It does this by providing appropriate tax reductions designed to increase purchasing power and investment incentives. There is widespread agreement among economists that such action is urgently needed at this time to avoid great hardship for large numbers of people and huge waste in unused human and natural resources. Before adopting this bill, your committee held hearings in which it had the benefit of the views of administration witnesses, the Chairman of the Federal Reserve Board, and eminent economists, businessmen, and labor experts, representing a broad spectrum of our political and economic institutions. Virtually all recommended quick action to cut taxes.

This is not surprising in view of the sharp decline in economic activity which has taken place recently. Although characterized by marked inflation, 1974 was clearly a recession year.

In 1974, real gross national product (that is, GNP in constant prices) registered the largest decline since 1946. (See table 1.) For the year as a whole, money GNP rose to $1,397 billion—7.9 percent over 1973, but this increase merely reflected higher prices. After taking into consideration a 10.3-percent increase in prices (as measured by the GNP implicit price deflator, which is the broadest measure of inflation), real GNP fell 2.2 percent. The decline in output and the rise in prices was especially marked in the fourth quarter of 1974 when real GNP fell at an annual rate of 9.1 percent and prices rose at an annual rate of 14.4 percent.

TABLE 1.—GROSS NATIONAL PRODUCT 1929–74

[In billions of dollars]

| Year | Gross national product in current dollars | Gross nationa product in 1958 dollars | Year | Gross national product in current dollars | Gross national product in 1958 dollars |
|---|---|---|---|---|---|
| 1929 | 103.1 | 203.6 | 1956 | 419.2 | 446.1 |
| 1933 | 55.5 | 141.5 | 1957 | 441.1 | 452.5 |
| 1939 | 90.5 | 209.4 | 1958 | 447.3 | 447.3 |
| 1940 | 99.7 | 227.2 | 1959 | 483.7 | 475.9 |
| 1941 | 124.5 | 263.7 | 1960 | 503.7 | 487.7 |
| 1942 | 157.9 | 297.8 | 1961 | 520.1 | 497.2 |
| 1943 | 191.5 | 337.1 | 1962 | 560.3 | 529.8 |
| 1944 | 210.1 | 361.3 | 1963 | 590.5 | 551.0 |
| 1945 | 211.9 | 355.2 | 1964 | 632.4 | 581.1 |
| 1946 | 208.5 | 312.6 | 1965 | 684.9 | 617.8 |
| 1947 | 231.3 | 309.9 | 1966 | 749.9 | 658.1 |
| 1948 | 257.6 | 323.7 | 1967 | 793.9 | 675.2 |
| 1949 | 236.5 | 324.1 | 1968 | 864.2 | 706.6 |
| 1950 | 284.8 | 355.3 | 1969 | 930.3 | 725.6 |
| 1951 | 328.4 | 383.4 | 1970 | 977.1 | 722.5 |
| 1952 | 345.5 | 395.1 | 1971 | 1,054.9 | 746.3 |
| 1953 | 364.6 | 412.8 | 1972 | 1,158.0 | 785.4 |
| 1954 | 364.8 | 407.0 | 1973 | 1,294.9 | 828.4 |
| 1955 | 398.0 | 438.0 | 1974 [1] | 1,397.0 | 812.5 |

[1] Preliminary.

Source: Department of Commerce.

The falling GNP figures for 1974 reflect widespread declines in both consumption and investment. The decline was particularly sharp for durable goods expenditures, including new cars. The leading reasons for the weakness in consumer expenditures were falling disposable income, inflation, and lack of consumer confidence.

Real gross private investment fell 8.5 percent in 1974. The decline in housing starts was even more sharp. By November, 1974, housing starts were running at an annual rate of less than one million, compared with 2.4 million in 1972 and 2.1 million in 1973.

As the economic situation deteriorated, unemployment rates rose—from 5.2 percent in January 1974 to 7.2 percent in December 1974 and to 8.2 percent in January 1975. This compares with average unemployment rates of from 4.9 percent to 5.9 percent in the period from 1973 back to 1971, and rates averaging 3.8 percent or less from 1966 through 1969. The January unemployment rate is the highest since 1941.

In the absence of remedial action to cut taxes, the outlook is that the current recession will continue and deepen. Growth in business investment was one of the prime forces fueling the upward movement of our economy prior to the current downturn. However, after adjustment for price changes, capital expenditures for new plant and equipment are expected to fall significantly in 1975, according to the most recent survey of the Commerce Department.[1]

Economic forecasters are practically unanimous in predicting that in 1975 the economy will continue to operate far below its potential. While the precise figure varies with different forecasters, real GNP in 1975 is generally expected to be substantially lower than in 1974, although many forecasters anticipate a modest recovery beginning in mid-1975.

In view of these further expected sharp declines in economic activity, your committee concluded that it would be courting economic disaster to delay providing appropriate tax reductions to stimulate the economy. In arriving at this conclusion, your committee gave careful consideration to the large budgetary deficits that are expected in the fiscal years 1975 and 1976 and the prevalence of a rapid rate of inflation despite the economic downturn. Your committee does not believe that the budgetary deficits of $34.7 billion for fiscal year 1975 and $51.9 billion for fiscal year 1976 projected in the administration's budget represents a satisfactory long-run situation.

Similarly, your committee does not view with equanimity the fact that in 1974 the consumer price index rose 12.2 percent and the wholesale price index 23.5 percent. Although in December 1974 and January 1975 the rate of growth of the consumer price index moderated and the wholesale price index dropped slightly in December 1974, inflationary pressures are still very strong.

However, your committee believes that the present economic situation requires the adoption of an appropriate tax reduction measure now. Without such timely tax reduction, there is the grave risk that the present recession will be prolonged and intensified, resulting in huge waste of resources and human hardship.

The substantial budget deficits in prospect for fiscal years 1975 and 1976 are due in large measure to the economic downturn which has

[1] U.S. Department of Commerce News, January 8, 1975.



shrunk the tax base and cut tax receipts drastically. This is shown by the fact that if the economy were operating at its full potential, sufficient revenue would be collected with present law taxes to produce a budget surplus running at an annual rate of about $30 billion in the second quarter of 1975. Your committee believes that the best way to reduce the anticipated large budget deficits would be to take action to restore economic growth and thereby increase tax receipts.

Moreover, without in any way seeking to diminish the vital importance of reducing our budget deficits, your committee believes that it is important to note that the projected budget deficits for fiscal years 1975 and 1976, though large in dollar amounts, are not unusually large in relation to the gross national product for a recession year. They are expected to amount to 2.4 percent and 3.2 percent of the gross national product, respectively. In other recession years the budget deficit amounted to 3.7 percent of gross national product in fiscal 1948, 2.7 percent in fiscal 1959 and 2.3 percent in fiscal 1971.

Furthermore, under present conditions, the adoption of an appropriate tax reduction program would help to revive the economy and increase employment without adding significantly to inflationary pressures. This is because there are now large amounts of available unused resources which could be gainfully employed to add to our output. As the tax reductions stimulate the economy, these at present idle resources will be brought back into use, thus adding more goods and services to match the added purchasing power made available by the tax cut. The size of these unused resources is shown in table 2 which sets forth estimates indicating that in 1975 the actual GNP may be as much as 14 percent below the potential GNP, assuming the present budgetary picture with no tax cut. This gap would amount to $215 billion, or $1,000 per capita.

TABLE 2.—ACTUAL AND POTENTIAL GNP

[Billions of dollars, seasonally adjusted annual rates]

| Year and quarter | Actual GNP | Potential GNP[1] | GNP gap (potential less actual) |
|---|---|---|---|
| 1971—I | 1,027.2 | 1,081.4 | 54.2 |
| 1971—II | 1,046.9 | 1,105.2 | 58.3 |
| 1971—III | 1,063.5 | 1,126.0 | 62.5 |
| 1971—IV | 1,084.2 | 1,141.0 | 56.8 |
| 1972—I | 1,112.5 | 1,164.3 | 51.8 |
| 1972—II | 1,142.4 | 1,182.9 | 40.5 |
| 1972—III | 1,166.5 | 1,202.6 | 36.1 |
| 1972—IV | 1,199.2 | 1,223.8 | 24.6 |
| 1973—I | 1,248.9 | 1,258.3 | 9.4 |
| 1973—II | 1,277.9 | 1,293.0 | 15.1 |
| 1973—III | 1,308.9 | 1,332.1 | 23.2 |
| 1973—IV | 1,344.0 | 1,373.2 | 29.2 |
| 1974—I | 1,358.8 | 1,427.7 | 68.9 |
| 1974—II | 1,383.8 | 1,474.3 | 90.5 |
| 1974—III | 1,416.3 | 1,532.0 | 115.7 |
| 1974—IV | 1,430.2 | 1,597.0 | 166.8 |
| 1975—I | [2] 1,448.6 | [3] 1,648.5 | 199.9 |
| 1975—III | [2] 1,484.4 | [3] 1,698.9 | 214.5 |
| 1975—III | [2] 1,529.0 | [3] 1,744.7 | 215.7 |
| 1975—IV | [2] 1,579.7 | [3] 1,792.7 | 213.0 |

[1] The increase of potential GNP assumes a growth rate in real terms of 4 percent each year, composed of an increase in the labor force of 1.8 percent, a decline in hours worked of 0.3 percent and a rise of output per man-hour of 2.5 percent. These trends may not be an accurate reflection of conditions during the oil embargo of late 1973 and early 1974. Like all measures of capacity, these are subject to a wide margin of error.

[2] Forecasts of Chase Econometrics, Inc.

[3] Staff estimates using the methodology of the Council of Economic Advisers.

Source: Business Conditions Digest.

Appropriate tax reductions will also increase incomes, both directly and through the multiplier effect, and the increased saving from this additional income will provide the flow of funds to purchase the government securities issued to finance the increase in the deficit resulting from the tax cut.

In view of these considerations, your committee has provided for tax reductions amounting to a total of $19.8 billion in calendar 1975 plus an additional $1.5 billion reduction in calendar 1976, which represents the lagged revenue effect of taxpayers' actions taken in 1975. This tax reduction in your committee's view is large enough to stimulate the economy without creating new inflationary pressures. Of this amount, $16.2 billion, or 76 percent, of the total is to go to individuals, in view of the need to restore some of their purchasing power to stimulate the economy. The remaining $5.1 billion of tax reduction, or 24 percent of the total is provided for businesses in order to stimulate investment.

The overall tax cut provided by your committee's bill is larger than the $16 billion tax cut recommended by the administration. However, your committee believes that the larger tax cut is more appropriate in the present situation, because the economic situation has deteriorated and forecasts of future economic activity in absence of remedial action are more pessimistic than at the time the administration presented its recommendations. Also, individuals have incurred a tax increase of about 6 percent in 1974 because increases in money incomes resulting from inflation (which do not represent an advance in real incomes) have pushed them into higher tax brackets under the graduated rates of the individual income tax.

*Individual tax reductions*

The $16.9 billion of individual income tax reductions consists of an $8.1 billion refund on 1974 tax liability, an increase in the standard deduction that is estimated to result in a $5.2 billion reduction in 1975 tax liability, a $2.9 billion refundable credit on earned income for 1975, and a $700 million liberalization of the investment credit.

Your committee believes that the individual income tax reduction should be divided, approximately equally, between a lump-sum payment and tax cuts that are reflected in lower withholding. The lump-sum payment based on 1974 tax liability has the advantage of providing a quick increase in disposable income in a form that will encourage taxpayers to spend their refunds on consumer durable goods, which is the sector in the economy where much of the current decline in production has occurred. Many individuals, however, will save any lump-sum payment, or use it to repay debts, and to the extent this occurs, the tax cut will not increase income and employment. The tax reductions reflected in lower withholding will increase disposable income more slowly than a lump-sum payment, but individuals will be more likely to spend this additional income than the income they receive as a lump-sum payment. Your committee believes that the best way to make sure that the tax reduction provides the desired stimulus is to divide it equally between the two types of reduction.



The bill makes increases in the standard deduction and provides a refundable earned income credit only for the year 1975.

*Refund on 1974 tax liability.*—The refund on 1974 tax liability is to be 10 percent of tax liability (after credits) up to a maximum of $200. However, taxpayers with $1,000 of tax liability or less are to receive a refund of $100 or the amount of their actual tax if it is less than $100. (Married people who file separate returns are to receive $50 each unless a spouse's tax payment is less than $50, in which case that spouse is to receive a refund of the full amount of his or her tax liability.) For taxpayers whose adjusted gross income (AGI) exceeds $20,000, the refund is to be phased down from the maximum of $200 to $100 as AGI rises from $20,000 to $30,000. The $100 minimum refund is designed to provide some rebate for all taxpayers and especially to channel the greater portion of the total revenue to families in the income levels which are more likely to spend it. Your committee considered phasing out the refund entirely for upper-income families, but decided it was more appropriate to give this group the same $100 minimum refund provided to other taxpayers. The revenue loss from the refund is estimated to be $8.1 billion.

Taxpayers should begin receiving these payments approximately six weeks after the date of enactment of this bill. There is no need for them to make any adjustments on their 1974 tax returns; the Internal Revenue Service will make the appropriate calculations and mail the refund checks without any action by taxpayers other than filing their 1974 tax returns.

*Increase in standard deduction.*—The large increases in the standard deduction provided in the bill are made necessary by the sharp increases in the poverty income levels that have occurred in the past two years as a result of inflation, especially higher food and energy costs. In the past, your committee has tried to remove from the tax rolls all families whose incomes are below the so-called poverty income level by adjusting the personal exemption and the minimum standard deduction (also known as the low-income allowance). Table 3 shows the poverty level for 1975 and the tax threshold, the income level at which families start to pay income tax, both under existing law and with the increases in the low-income allowance provided in this bill. For a family of four, the tax threshold is currently $4,300, which was also approximately the poverty level in 1972, when the personal exemption and low-income allowance were last increased. Today, however, the poverty level of such a family has grown to an estimated $5,442. This bill raises the tax threshold to $5,500 for a family of four.

This is accomplished by increasing the minimum standard deduction from $1,300 to $1,900 for single persons and to $2,500 for joint returns (from $650 to $1,250 for married persons filing separate returns). Your committee decided to provide a larger low-income allowance for joint returns than for single returns to take account of their higher living costs and to reduce the tax increase that occurs when two single people with approximately equal incomes marry each other.

TABLE 3.—1975 POVERTY LEVELS AND TAX THRESHOLDS UNDER PRESENT LAW AND TAX REDUCTION ACT OF 1975

| | 1975 poverty level | Present law tax thresholds | Tax threshold under Tax Reduction Act of 1975 [1] |
|---|---|---|---|
| Family size: | | | |
| 1 | $2, 694 | $2, 050 | $2, 650 |
| 2 | 3, 470 | 2, 800 | 4, 000 |
| 3 | 4, 253 | 3, 550 | 4, 750 |
| 4 | 5, 442 | 4, 300 | 5, 500 |
| 5 | 6, 423 | 5, 050 | 6, 250 |
| 6 | 7, 226 | 5, 800 | 7, 000 |

[1] Minimum standard deduction of $1,900 for single persons and $2,500 for joint returns and $750 per personal exemption deduction.

The bill also increases the percentage standard deduction from 15 percent of adjusted gross income, with a maximum of $2,000, to 16 percent of adjusted gross income with a maximum of $2,500 for single persons and $3,000 for joint returns (from $1,000 to $1,500 for married persons filing separate returns). These changes are designed to give tax relief to people in the middle income brackets. The maximum standard deduction is raised more for joint returns than for single returns for the same reasons that this distinction was made for the minimum standard deduction.

The increases in the standard deduction involve a revenue loss of $5.1 billion. Ninety-two percent of the reduction goes to taxpayers with adjusted gross incomes below $20,000. Altogether, 44 million taxpayers are expected to experience a tax reduction as a result of these changes in the standard deduction.

The increases in the standard deduction also effect a major simplification of the income tax. Almost 10 million taxpayers are expected to shift from itemizing deductions to using the standard deduction. This would raise the number of tax returns that use the standard deduction to almost 60 million, or 72 percent of all returns.

*Earned income credit.*—The refundable credit is to be 5 percent of earned income up to a maximum credit of $200 (on $4,000 of earnings). The credit is to be phased out as adjusted gross income rises between $4,000 and $6,000. The revenue loss is estimated to be $2.9 billion, all of which would be received by taxpayers whose incomes are below $6,000.

Your committee believes that the refundable credit is needed to provide relief to families who currently pay little or no income tax. These people have been hurt the most by rising food and energy costs. Also, in almost all cases they are subject to the social security payroll tax on their earnings. The refundable credit is expected to be effective in stimulating the economy because the low-income people are expected to spend a large fraction of their increased disposable incomes.

For workers with income tax liability, the earned income credit can be reflected in lower withholding shortly after this bill is enacted. Those without tax liability, or whose tax is less than their credit, are to receive a refund in 1976 after they file tax returns.

*Total individual reductions.*—The individual tax reductions total $16.2 billion. Fifty-six percent of this reduction is expected to be re-



ceived by taxpayers with adjusted gross income below $10,000, and 90 percent by people with income below $20,000. Your committee believes that concentrating the tax reduction in the low- and middle-income brackets is equitable in that these are the taxpayers who have been affected the most by inflation. Also, a tax cut concentrated in these brackets will be more effective since these people will be more likely to spend the tax cut and in this way increase income and employment.

To an appreciable extent, this tax reduction also compensates individuals for the increase in their real tax burden that results from inflation. Inflation erodes the value of the personal exemption and minimum and maximum standard deductions, and it pushes taxpayers into higher rate brackets even when they have not experienced an increase in their real income. The tax increase, in real terms, caused by inflation was approximately $7 billion in 1974 alone.

The withholding changes made by the bill are to take effect on May 1. The incorporation of the minimum and percentage standard deduction changes into the withholding system is expected to reduce withholding by approximately 1.5 times the reduction in liability, that is, $7.8 billion rather than $5.2 billion on a full year basis (since it applies to all returns, not merely those taking the standard deduction). The additional reduction in withholding will result almost entirely in reduced refunds for itemizers. Also, the earned income credit is expected to be reflected in reduced withholding of $1.8 billion for a total of $9.6 billion. Because of the fact that these annual changes are to be reflected in withholding over an 8-month period (in order to achieve the maximum impact on consumer's disposable income and the economy during the second half of the year) the change in withholding during the second half of the year is expected to be approximately $7.7 billion, as shown in table 2 in the *Revenue Effects* section.

*Business tax reductions*

*Increase in the investment credit.*—In view of the low and decreasing level of economic activity and the poor expected level of investment, your committee concluded that a balanced program which encourages both consumption and investment will be a more effective method of stimulating the economy than attempting to focus all of the tax stimulus on consumption. In addition to providing short-run stimulus to the economy, an increase in the amount of investment is desirable for other reasons. The investment not only creates jobs both directly and through the multiplier effect in the short run, but it also increases productivity. This is anti-inflationary because it increases the amount of output available to meet future consumer demands and because it results in lower production costs which means that money wage increases will not exert the same degree of upward pressure on product prices that they would in the absence of growing productivity. Increased productivity also has favorable implications for our balance of payments and the exchange rate of the dollar. Finally, unless in the future the stock of capital is increased significantly, there will be serious problems in providing enough jobs for those entering the labor force. In view of these considerations, your committee concluded that it would be appropriate to increase the investment credit rate to 10 percent from the 7 percent rate currently available.

*Investment credit applicable for public utilities.*—Under existing law, a 4-percent investment credit is provided for most public utilities, as compared to the 7-percent investment credit which applies generally. This lower investment credit for public utilities discriminates against investment in utilities and impedes such investment at a time when the public utilities need large amounts of capital to build up their capacity to meet the growth in demand for their services.

Public utilities have experienced very considerable difficulty in recent years in securing capital for essential expansion in view of the depressed state of the stock market, tight money, and the reluctance of regulatory commissions to grant rate increases to cover increased costs. The results have been especially severe for the electric utilities which have incurred sharp rises in costs as a result of substantially higher prices for their sources of energy.

As a result, your committee concluded that the investment credit for eligible investment in public utilities should be increased from 4 percent to the 10-percent rate provided in the bill for all other taxpayers.

To prevent an excessive proportion of the revenue reduction from going to any one company, an upper limit of $100 million was placed on the amount of investment credit that any one utility company could receive from the 6 percentage point increase in the investment credit from 4 to 10 percent (or with respect to other property, the increase from 7 percent to 10 percent).

Your committee believes that it also is not only appropriate to increase the investment credit from 4 to 10 percent for utilities, but it also is necessary to focus the incentive effect of the investment credit on the less profitable utilities which are faced with increasing problems because of rising energy costs. This is done in the bill by increasing the limitation on the amount of income tax liability which can be offset by the investment credit in any one year from 50 percent of tax liability (above the first $25,000 of tax liability) to 100 percent. This 100 percent limit applies for 2 years and then the limitation is gradually phased back to 50 percent over a period of 5 years.

*Investment credit for progress payments.*—Under present law the investment tax credit is available only when property is placed in service. This has been considered an inequity in the case of property with a long construction period where payments are made during the course of construction but are not eligible for the credit until the property is completed and placed in service. Your committee believes it is appropriate to make the credit available to the extent progress payments are made in the case of property which requires a long period of construction. As a result, the bill provides that in the case of long lead-time property, that is, property that requires at least 2 years to construct, the investment tax credit is to be available to the extent that progress payments are made during the construction period (rather than in the year when the property is ultimately placed in service). This provision has an initial 5-year transitional period to phase in the new system. The availability of the investment tax credit during the construction period of long lead-time property will also



provide an additional financial incentive to encourage utilities and others to undertake longer term projects.

*Investment credit for used property.*—In order to encourage the acquisition of used property that will increase the productivity of small businesses, which are frequently unable to afford new equipment, the amount of used property eligible for the investment credit is increased from $50,000 to $75,000.

*Increase in corporate surtax exemption.*—Your committee was concerned that concentrating all the tax relief to business in the form of an increase in the rate of the investment tax credit would not provide sufficient financial relief to small corporations, particularly to those that are not particularly capital intensive and would not be able to benefit as much from the investment credit. Your committee considered reducing the corporate tax rate as one method of providing financial relief to hard-pressed small corporations but decided that a more effective way to do this would be to increase the surtax exemption (the amount to which the corporate tax rate of 22 percent rather than 48 percent applies) from $25,000 to $50,000. Of the estimated revenue cost of $1.2 billion of this provision, about 60 percent, or $730 million, is expected to go to businesses with incomes under $100,000.

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## III. REVENUE EFFECTS

The bill is estimated to result in a reduction in tax liability of $21.3 billion through calendar year 1976. Table 1 shows how the impact of this reduction is divided between individuals and business organizations. It shows that $16.2 billion of the reduction goes to individuals in their nonbusiness capacity and $5.1 billion to businesses. Thus, slightly over three-fourths of the tax reduction goes to individuals (in their nonbusiness capacity) and nearly a quarter to business.

The $16.2 billion of tax reduction for individuals (in their individual capacity) is made up of an $8.1 billion refund on 1974 income tax liability, a $5.2 billion liberalization of the standard deduction and a $2.9 billion earned income credit. Addition of a $685 million liberalization of the investment credit for individuals in their business capacity raises the total reduction for individuals to $16.9 billion. The $4.4 billion reduction in corporate tax liability is made up of $3.2 billion ascribable to liberalization of the investment credit and $1.2 billion derived from increasing the corporate surtax exemption from $25,000 to $50,000.

Table 2, which presents the data from Table 1 on a quarterly and a fiscal year basis, shows the impact of the tax reduction on the economy so far as timing is concerned. As this table shows, half of the total tax reduction ($10.6 billion) is estimated to become available during the next quarter of calendar year 1975. Most of this will be received or retained by individuals ($941 million will be retained by corporations). In the last two quarters of calendar year 1975 tax collections are estimated to decline, because of the reductions called for in your committee's bill, by $8.7 billion with $7.7 billion of the decreased collections affecting individuals. Part of this latter sum reflects underwithholding which will be recouped in the first two quarters of calendar year 1976. The whole of fiscal year 1976 shows individuals benefiting from $7.1 billion of decreased receipts and corporations by $2.6 billion.

Table 3 shows the distribution by adjusted gross income class of the $15.9 billion representing the estimated individual income tax reduction, at 1974 income levels, ascribable to them as individuals (as distinct from businesses).[1] Table 3 indicates that $8.7 billion, or 55.1 percent, of the total reduction accrues to tax returns with adjusted gross income under $10,000; $5.5 billion, or 34.4 percent, accrues to tax returns with adjusted gross income between $10,000 and $20,000; and $1.7 billion, or 10.5 percent, accrues to tax returns with adjusted gross income of $20,000 and over.

Table 3 also indicates that over 80 million tax returns (as measured against 1970 filing requirements) are beneficiaries of the tax refunds,

[1] This does not include $275 million which covers the earned income credit on wage and salary and self-employment income of earners who are nonfilers under 1970 filing requirements.

tax reductions and/or Treasury payments; 9.5 million presently taxable returns are rendered non-taxable; and almost 10 million returns will find it advantageous to shift from itemizing their deductions to using the standard deduction.

Table 4 shows, by adjusted gross income class, the distribution of the effects of the standard deduction and the earned income provisions which produce a tax reduction of $7.8 billion ($5.1 billion for the standard deduction changes and $2.7 billion for the earned income credit).[1] As Table 4 also shows, the bill, through the standard deduction provisions, makes it advantageous for almost 10 million tax returns to shift to the standard deduction. Other effects of the combined earned income credit and standard deduction provisions, as set forth in Table 4, are tax decreases for 58.4 million tax returns (which would be filing under the 1970 filing requirements) and nontaxability for 9.5 million presently taxable returns.

Tables 5 and 6 break down Table 4 into its two components: the contribution of the standard deduction provisions and the earned income credit provisions of your committee's bill, respectively. As indicated in Table 5, the standard deduction provisions provide tax reductions for 44 million tax returns, render 4.6 million returns nontaxable, shift almost 10 million returns to the standard deduction and save the benefiting tax returns $5.1 billion in tax liability. Table 6 shows that the earned income credit provisions are estimated to result in 28.6 million tax returns (which would be filing under the 1970 filing requirement) receiving a tax reduction and/or Federal payment; 5.5 million presently taxable returns being made nontaxable; and a tax reduction and/or payments total of $2.7 billion.[1] All of these benefits go to those with adjusted gross income under $6,000.

Table 7 presents the distribution, by adjusted gross income class, of the $8.1 billion refund of 1974 tax liability. Of the total refund $2.9 billion, or 35.7 percent, goes to tax returns with adjusted gross income under $10,000; almost $4 billion, or 48.9 percent, to tax returns with adjusted gross income between $10,000 and $20,000; and $1.2 billion, or 15.3 percent, to tax returns with over $20,000 of adjusted gross income. As indicated in the table, almost 67 million returns (or all taxable returns) receive a refund on 1974 income tax liability and almost 5 million tax returns become nontaxable.

Additional tables are provided in the Statistical Appendix of this report. These tables, numbered 1 through 5, give the tax burden under present law and (1) under the combined provisions of Titles I and II of your committee's bill; (2) under the provisions of Title II of the bill; (3) under the standard deduction provisions of the bill; (4) under the earned income credit provisions; and (5) under the tax refund provisions, respectively. The tax burdens are given for single persons and married couples with differing numbers of dependents with selected levels of adjusted gross income under the assumption that deductible personal expenses are equal to 17 percent of adjusted gross income.

[1] This does not include $275 million which covers the earned income credit on wage and salary and self-employment income of earners who are nonfilers under 1970 filing requirements.



TABLE 1.—ESTIMATED DECREASE IN INDIVIDUAL AND CORPORATE INCOME TAX LIABILITY UNDER THE BILL—CALENDAR YEARS 1974–76

[Dollar amounts in millions]

| Provision | Decrease in tax liability | | | | |
|---|---|---|---|---|---|
| | | | | 1974–76 | |
| | 1974 | 1975 [1] | 1976 [2] | Amount | Percent of total |
| Title I: Granting a 100-percent refund of 1974 individual income tax liability up to $100 with no phaseout and a 10-percent refund of tax above $1,000 with a maximum refund of $200 with the refund phased out between $20,000 and $30,000 of adjusted gross income but not below $100 [3] | $8,125 | | | $8,125 | 38.2 |
| Title II: | | | | | |
| Secs. 201–202: Converting the minimum standard deduction from $1,300 to $1,900 for single person returns and $2,500 for joint returns; the percentage standard deduction from 15 percent to 16 percent; and the maximum standard deduction from $2,000 to $2,500 for single person returns and $3,000 for joint returns | | $5,192 | | 5,192 | 24.4 |
| Sec. 203: Granting a refundable tax credit of 5 percent wage and self-employment income with a $200 maximum credit with a phaseout of the credit between $4,000 and $6,000 of adjusted gross income [4] | | 2,894 | | 2,894 | 13.6 |
| Total for title II | | 8,086 | | | |
| Total for titles I and II (Individuals, nonbusiness) | 8,125 | 8,086 | | 16,211 | 76.2 |
| Title III: | | | | | |
| Secs. 301–302: Increasing the rate of the investment credit to 10 percent; increasing the amount of used property eligible for the investment credit to $75,000; allowing the investment credit on progress payments [5]; and limiting the increase in the credit to $100,000,000 | | | | | |
| Individuals, business | | 435 | $250 | 685 | 3.2 |
| Corporations | | 1,937 | 1,250 | 3,187 | 15.0 |
| Total investment credit | | 2,372 | 1,500 | 3,872 | 18.2 |
| Sec. 303: Increasing the corporate surtax exemption from $25,000 to $50,000 | | 1,200 | | 1,200 | 5.6 |
| Total for title III | | 3,572 | 1,500 | 5,072 | 23.8 |
| Titles I, II and III | 8,125 | 11,658 | 1,500 | 21,283 | 100.0 |
| Individuals | 8,125 | 8,521 | 250 | 16,896 | 79.4 |
| Corporations | | 3,137 | 1,250 | 4,387 | 20.6 |
| Individuals, nonbusiness | 8,125 | 8,086 | | 16,211 | 76.2 |
| Business (individuals and corporations) | | 3,572 | 1,500 | 5,072 | 23.8 |

[1] Items in this column are at estimated 1975 income levels.
[2] Items in this column are at estimated 1976 income levels.
[3] Under the language of title I this item is viewed as a refund of a payment deemed to have been made on 1974 individual income tax rather than a decrease in tax liability.
[4] Includes tax credits and/or payments, the latter going to tax returns where the tax liability before the credit is not big enough to absorb the credit and to specially designed returns where there is no tax liability and no tax return.
[5] The permanent provision for an investment credit on progress payments will continue to have effect on tax liabilities after 1976 at present law investment credit percentages.

Note: Details may not add to totals because of rounding.

TABLE 2.—ESTIMATED CHANGE IN INDIVIDUAL AND CORPORATE INCOME TAX LIABILITY AND COLLECTIONS UNDER THE BILL—CALENDAR YEARS 1974-76; FISCAL YEARS 1975 AND 1976

[In millions]

| Provision | Calendar year liability | Collections: Calendar year 1975, 2d quarter | 3d quarter | 4th quarter | Calendar year 1976, 1st quarter | 2d quarter |
|---|---|---|---|---|---|---|
| Title I: 1974: Granting a 100-percent refund on 1974 individual income tax liability up to $100 with no phaseout and a 10-percent refund of tax above $1,000 with a maximum refund of $200 with the refund phased out between $20,000 and $30,000 of adjusted gross income but not below $100 [1] | −$8,125 [2] | −$8,125 [2] | | | | |
| Title II: 1975: [3] | | | | | | |
| Sections 201–202: | | | | | | |
| Converting the minimum standard deduction from $1,300 to $1,900 for single person returns and $2,500 for joint returns; the percentage standard deduction from 15 to 16 percent; and the maximum standard deduction from $2,000 to $2,500 for single person returns and $3,000 for joint returns | | −1,168 | −$3,115 | −$3,115 | −$390 | |
| Change in refunds | | | | | +1,298 | +$1,298 |
| Net | −5,192 | | | | | |
| Section 203: | | | | | | |
| Granting a refundable tax credit of 5 percent of wage and self-employment income with a $200 maximum credit with a phaseout of the credit between $4,000 and $6,000 of adjusted gross income [4] | | −275 | −735 | −735 | −92 | −1,481 |
| Change in refunds | | | | | +212 | +212 |
| Net | −2,894 | | | | | |
| Net total for titles I and II | −16,211 | −9,568 | −3,850 | −3,850 | +1,028 | +29 |
| Title III: | | | | | | |
| 1975: [3] | | | | | | |
| Increasing the rate of the investment credit to 10 percent; increasing the amount of used property eligible for the investment credit to $75,000; allowing the investment credit on progress payments; and limiting the increase in the credit to $100,000,000: | | | | | | |
| Individuals, business | −435 | −44 | −22 | | −109 | −260 |
| Corporations | −1,937 | −581 | −291 | −291 | −387 | −387 |
| Total | −2,372 | −625 | −313 | −291 | −496 | −647 |
| Increasing the corporate surtax exemption from $25,000 to $50,000 | −1,200 | −360 | −180 | −180 | −240 | −240 |
| 1976: [5] | | | | | | |
| Increasing the rate of the investment credit to 10 percent; increasing the amount of used property eligible for the investment credit to $75,000; allowing the investment credit on progress payments [6]; and limiting the increase in the credit to $100,000,000: | | | | | | |
| Individuals, business | [7] −250 | | | | | −25 |
| Corporations | [8] −1,250 | | | | −187 | −188 |
| Total | [9] −1,500 | | | | −187 | −213 |
| 1975–1976: | | | | | | |
| Investment credit: | | | | | | |
| Individuals, business | [7] (−685) | (−44) | (−22) | (......) | (−109) | (−285) |
| Corporations | [8] (−3,187) | (−581) | (−291) | (−291) | (−574) | (−575) |
| Total | [9] (−3,872) | (−625) | (−313) | (−291) | (−683) | (−860) |
| Total for title III | [9] −5,072 | −985 | −493 | −471 | −923 | −1,100 |
| Titles I, II, and III | [9] −21,283 | −10,553 | −4,343 | −4,321 | +105 | −1,071 |
| Individuals | [7] −16,896 | −9,612 | −3,872 | −3,850 | +919 | −256 |
| Corporations | [8] −4,387 | −941 | −471 | −471 | −814 | −815 |
| Individuals, nonbusiness | −16,211 | −9,568 | −3,850 | −3,850 | +1,028 | +29 |
| Business (individuals and corporations) | [9] −5,072 | −985 | −493 | −471 | −923 | −1,100 |

(continued)



TABLE 2.—ESTIMATED CHANGE IN INDIVIDUAL AND CORPORATE INCOME TAX LIABILITY AND COLLECTIONS UNDER THE BILL—CALENDAR YEARS 1974-76; FISCAL YEARS 1975 AND 1976 (continued)

[In millions]

FISCAL YEAR SUMMARIES

| | | |
|---|---|---|
| Fiscal year 1975: | | |
| Individuals | −$9,612 | |
| Corporations | −941 | |
| Individuals and corporations | −10,553 | |
| Individuals, nonbusiness | −9,568 | |
| Business (individuals and corporations) | −985 | |
| Fiscal year 1976: | | |
| Individuals | [4] −7,059 | |
| Corporations | −2,571 | |
| Individuals and corporations | −9,630 | |
| Individuals, nonbusiness | [4] −6,643 | |
| Business (individuals and corporations) | −2,987 | |

[1] Under the language of title I this item is viewed as a refund of a payment deemed to have been made on 1974 individual income tax rather than a decrease in tax liability.

[2] According to the Internal Revenue Service this refund will take place in fiscal year 1975 except for refunds to certain fiscal year taxpayers and late filers.

[3] These items are at estimated 1975 income levels.

[4] Includes tax credits and/or payments, the latter going to tax returns where the tax liability before the credit is not big enough to absorb the credit and to specially designed returns where there is no tax liability and no tax return.

[5] These items are at estimated 1976 income levels.

[6] The permanent provision for an investment credit on progress payments will continue to have effect on tax liabilities after 1976 at present law investment credit percentages.

[7] Includes $225,000,000 which will decrease collections in fiscal year 1977.

[8] Includes $875,000,000 which will decrease collections in fiscal year 1977.

[9] Includes $1,100,000,000 which will decrease collections in fiscal year 1977.

Note: Details may not add to totals because of rounding.

TABLE 3.—ESTIMATED DECREASE IN INDIVIDUAL INCOME TAX LIABILITY RESULTING FROM THE PROVISIONS IN THE BILL [1]

[By adjusted gross income class—1974 income levels]

| Adjusted gross income class (thousands) | Number of returns affected (thousands): Total number with tax decrease [2] | Number made nontaxable | Number shifting to the standard deduction | Decrease in tax liability: Amount [3] (millions) | Percentage distribution of total decrease: By income class | Cumulative | By segment |
|---|---|---|---|---|---|---|---|
| 0 to $3 | 16,543 | 4,000 | 99 | $1,665 | 10.5 | 10.5 | 55.1 |
| $3 to $5 | 8,697 | 4,710 | 546 | 2,654 | 16.7 | 27.2 | |
| $5 to $7 | 8,484 | 697 | 1,287 | 1,934 | 12.2 | 39.4 | |
| $7 to $10 | 11,428 | 88 | 2,674 | 2,494 | 15.7 | 55.1 | |
| $10 to $15 | 15,952 | (4) | 2,663 | 3,136 | 19.7 | 74.8 | 34.4 |
| $15 to $20 | 9,856 | (4) | 1,546 | 2,337 | 14.7 | 89.5 | |
| $20 to $50 | 9,006 | (4) | 1,016 | 1,566 | 9.9 | 99.4 | 10.5 |
| $50 to $100 | 655 | (4) | 18 | 78 | 0.5 | 99.9 | |
| $100 and over | 160 | (4) | 2 | 18 | 0.1 | 100.0 | |
| Total | 80,781 | 9,497 [5] | 9,851 | 15,882 | 100.0 | 100.0 | 100.0 |

[1] Granting a refund of 1974 income tax liability, increasing the standard deduction, and granting a tax credit on wage and salary and self-employment income. For a more detailed description of these provisions see Table 1.

[2] Does not include returns representing beneficiaries of the earned income credit who are nonfilers under the 1970 filing requirements.

[3] Does not include an additional $275,000,000 to cover the earned income credit on wage and salary and self-employment income of earners who are nonfilers under 1970 filing requirements.

[4] Less than 500 returns.

[5] The number made nontaxable is shown to be the same in this table and in Table 4 because the additional returns made nontaxable by the refund of 1974 taxes are not available in the magnitudes required to represent additional but not interacting nontaxable returns. For the number of returns made nontaxable by the refund of 1974 taxes when considered independently see Table 7.

Note: Details may not add to totals because of rounding.

TABLE 4.—ESTIMATED DECREASE IN INDIVIDUAL INCOME TAX LIABILITY RESULTING FROM THE PROVISIONS IN THE BILL WHICH INCREASE THE STANDARD DEDUCTION, AND GRANT A TAX CREDIT ON EARNED INCOME [1]

[By adjusted gross income class—1974 income levels]

| Adjusted gross income class (thousands) | Number of returns affected (thousands) | | | Decrease in tax liability | | | |
|---|---|---|---|---|---|---|---|
| | Total number with tax decrease [2] | Number made nontaxable | Number shifting to the standard deduction | Amount [3] (millions) | Percentage distribution of total decrease: By income class | Cumulative | By segment |
| 0 to $3 | 16,543 | 4,000 | 99 | $1,435 | 18.5 | 18.5 | |
| $3 to $5 | 8,638 | 4,710 | 546 | 1,969 | 25.4 | 43.9 | 75.3 |
| $5 to $7 | 8,158 | 697 | 1,287 | 1,139 | 14.7 | 58.6 | |
| $7 to $10 | 9,194 | 88 | 2,674 | 1,297 | 16.7 | 75.3 | |
| $10 to $15 | 9,821 | (4) | 2,663 | 958 | 12.4 | 87.7 | 19.4 |
| $15 to $20 | 4,053 | (4) | 1,546 | 541 | 7.0 | 94.7 | |
| $20 to $50 | 1,998 | (4) | 1,016 | 404 | 5.2 | 99.9 | |
| $50 to $100 | 38 | (4) | 18 | 13 | 0.2 | 100.0 | 5.4 |
| $100 and over | 4 | (4) | 2 | 2 | (4) | 100.0 | |
| Total | 58,447 | 9,497 | 9,351 | 7,757 | 100.0 | 100.0 | 100.0 |

[1] Increasing the minimum standard deduction to $1,900 for single person returns and $2,500 for joint returns, the percentage standard deduction to 16 percent, and the maximum standard deduction to $2,500 for single person returns and $3,000 for joint returns and granting a refundable tax credit of 5 percent of wage and salary and self-employment income with a maximum credit of $200 and a phaseout of the credit between $4,000 and $6,000 of adjusted gross income.
[2] Does not include returns representing beneficiaries of the earned income credit who are nonfilers under the 1970 filing requirements.
[3] Does not include an additional $275,000,000 to cover the credit on wage and salary and self-employment income of earners who are nonfilers under 1970 filing requirements.
[4] Less than 500 returns or 0.05 percent.

Note: Details may not add to totals because of rounding.

TABLE 5.—ESTIMATED DECREASE IN INDIVIDUAL INCOME TAX LIABILITY RESULTING FROM THE PROVISION IN THE BILL WHICH INCREASES THE STANDARD DEDUCTION [1]

[By adjusted gross income class—1974 income levels]

| Adjusted gross income class (thousands) | Number of returns affected (thousands) | | | Decrease in tax liability | | | |
|---|---|---|---|---|---|---|---|
| | Total number with tax decrease | Number made nontaxable | Number shifting to the standard deduction | Amount (millions) | Percentage distribution of total decrease: By income class | Cumulative | By segment |
| 0 to $3 | 4,039 | 2,837 | 99 | $221 | 4.4 | 4.4 | |
| $3 to $5 | 7,347 | 1,278 | 546 | 707 | 13.9 | 18.3 | 62.2 |
| $5 to $7 | 7,671 | 445 | 1,287 | 931 | 18.3 | 36.6 | |
| $7 to $10 | 9,194 | 88 | 2,674 | 1,297 | 25.6 | 62.2 | |
| $10 to $15 | 9,821 | (2) | 2,663 | 958 | 18.9 | 81.1 | 29.6 |
| $15 to $20 | 4,053 | (2) | 1,546 | 541 | 10.7 | 91.8 | |
| $20 to $50 | 1,998 | (2) | 1,016 | 404 | 8.0 | 99.8 | |
| $50 to $100 | 38 | (2) | 18 | 13 | 0.3 | 100.0 | 8.3 |
| $100 and over | 4 | (2) | 2 | 2 | (2) | 100.0 | |
| Total | 44,164 | 4,649 | 9,851 | 5,074 | 100.0 | 100.0 | 100.0 |

[1] Increasing the minimum standard deduction to $1,900 for single person returns and $2,500 for joint returns; the percentage standard deduction to 16 percent; and the maximum standard deduction to $2,500 for single person returns and $3,000 for joint returns.
[2] Less than 500 returns or 0.05 percent.

Note: Details may not add to totals because of rounding.



TABLE 6.—ESTIMATED DECREASE IN INDIVIDUAL INCOME TAX LIABILITY RESULTING FROM THE PROVISION IN THE BILL WHICH GRANTS AN EARNED INCOME CREDIT [1]

[By adjusted gross income class—1974 income levels]

| Adjusted gross income class (thousands) | Number of returns affected (thousands) | | Decrease in tax liability | | | |
|---|---|---|---|---|---|---|
| | Total number with tax decrease [2] | Number made nontaxable | Amount [3] (millions) | Percentage distribution of total decrease: By income class | Cumulative | By segment |
| 0 to $3 | 16,355 | 3,719 | $1,213 | 45.2 | 45.2 | |
| $3 to $5 | 8,162 | 1,695 | 1,261 | 47.0 | 92.2 | 100.0 |
| $5 to $6 | 4,132 | 111 | 208 | 7.8 | 100.0 | |
| $6 to $10 | | | | | | |
| $10 to $15 | | | | | | |
| $15 to $20 | | | | | | |
| $20 to $50 | | | | | | |
| $50 to $100 | | | | | | |
| $100 and over | | | | | | |
| Total | 28,649 | 5,525 | 2,683 | 100.0 | 100.0 | 100.0 |

[1] Granting a refundable tax credit of 5 percent of wage and salary and self-employment income with a maximum credit of $200 and a phaseout of the credit between $4,000 and $6,000 of adjusted gross income.
[2] Does not include returns representing beneficiaries who are nonfilers under the 1970 filing requirements.
[3] Does not include an additional $275,000,000 to cover the credit on wage and salary and self-employment income of earners who are nonfilers under the 1970 filing requirements.

Note: Details may not add to totals because of rounding.

TABLE 7.—ESTIMATED DECREASE IN INDIVIDUAL INCOME TAX LIABILITY RESULTING FROM THE PROVISION IN THE BILL WHICH GRANTS A REFUND OF 1974 INCOME TAX LIABILITY [1]

[By adjusted gross income class—1974 income levels]

| Adjusted gross income class (thousands) | Number of returns affected (thousands) | | Decrease in tax liability | | | |
|---|---|---|---|---|---|---|
| | Total number with tax decrease | Number made nontaxable | Amount (millions) | Percentage distribution of total decrease: By income class | Cumulative | By segment |
| 0 to $3 | 4,057 | 3,097 | $230 | 2.8 | 2.8 | |
| $3 to $5 | 7,579 | 1,280 | 685 | 8.4 | 11.2 | |
| $5 to $7 | 8,273 | 339 | 795 | 9.8 | 21.0 | 35.7 |
| $7 to $10 | 11,428 | 186 | 1,197 | 14.7 | 35.7 | |
| $10 to $15 | 15,952 | 59 | 2,178 | 26.8 | 62.5 | |
| $15 to $20 | 9,856 | 16 | 1,796 | 22.1 | 84.6 | 48.9 |
| $20 to $50 | 9,006 | 3 | 1,162 | 14.3 | 98.9 | |
| $50 to $100 | 655 | (1)(2) | 65 | 0.8 | 99.7 | 15.3 |
| $100 and over | 160 | (1)(2) | 16 | 0.2 | 99.9 | |
| Total | 66,966 | 4,980 | 8,125 | 100.0 | 100.0 | 100.0 |

[1] Granting a 100-percent refund of 1974 income tax liability up to $100 without a phaseout and a 10-percent refund of tax above $1,000 with a maximum refund of $200 with the refund phased out between $20,000 and $30,000 of adjusted gross income but not below $100.
[2] Less than 500 returns.

Note: Details may not add to totals because of rounding.

## IV. GENERAL EXPLANATION

### A. Refund of 1974 Individual Income Taxes

(Sec. 101 of the bill and secs. 6428 and 6611(e) of the code)

Under present law, individual taxpayers generally are required to file their 1974 tax returns by April 15, 1975. (This is true in the case of calendar year taxpayers who account for the great bulk of all individual taxpayers.)

In order to achieve your committee's objective of infusing additional purchasing power into the economy as speedily as possible, and on a broad basis, the bill provides for refunds to be made to individual taxpayers of a portion of their Federal income tax liabilities for the year 1974. To achieve this objective, it is expected that the Internal Revenue Service will make every effort to pay out all refunds on returns filed by April 15 within 60 days of that date.

Under the provision adopted by the committee, the general rule is that individuals are to receive a refund of 10 percent of their tax liability for 1974, but this refund is not to be less than $100 (except that the refund is not to exceed an individual's tax liability) or more than $200. In addition, for taxpayers with adjusted gross incomes of $20,000 or more, the size of this refund is to be phased down to $100 for those with adjusted gross incomes of $30,000 or more. These computations will not have to be made by the taxpayer but instead will be made by computers in the Internal Revenue Service.

The refund is to be $100 where the taxpayer's tax liability is at least $100 and not more than $1,000. For tax liabilities of less than $100 the refund is to be the full amount of the 1974 tax. Where the tax liability is over $1,000 but not over $2,000, the amount of the refund is to be 10 percent of the tax liability (subject to the adjusted gross income limitation described below). As a result, in this tax liability range the refund will vary from a low of $100 to a high of $200. Where tax liability exceeds $2,000, the refund remains at the maximum of $200 (also subject to the income limitation described below).

In cases where a taxpayer is entitled to a refund of more than $100 by reason of his tax liability for 1974 but has an adjusted gross income of over $20,000, the amount of refund over the $100 minimum is reduced. The amount of the reduction is computed by applying to the refund in excess of the $100 minimum the ratio of his adjusted gross income over $20,000 to $10,000 (the total difference of the phaseout between adjusted gross income of $20,000 and $30,000). For example, if a taxpayer whose adjusted gross income is $25,000 would otherwise be entitled to the maximum refund of $200 by reason of his tax liability, $100 of this maximum amount— that is, the amount over and above the minimum refund—must be reduced by 50 percent, reflecting the ratio between $5,000 (the amount of adjusted gross income over $20,000) and $10,000 (the total difference between $20,000 and $30,000). As a result, this taxpayer's 1974 refund would be $150 ($100 minimum refund, plus $100 additional refund by reason of tax liability, less $50 reduction in the latter amount by reason of adjusted gross income).[1]

This phaseout on account of adjusted gross income in excess of $20,000 is to reduce the refund to $100 if the adjusted gross income is $30,000 or more—the phaseout is not to reduce the refund below $100 no matter how high the adjusted gross income. This minimum is $100 unless the taxpayer's 1974 tax liability apart from the refund is less than $100, in which case he is entitled to no more than a refund of the full amount of that tax liability.

In the case of married taxpayers who file separate returns for 1974, the minimum and maximum refunds and the income limitation referred to above are cut in half with respect to each spouse. Each spouse is entitled to a refund of all of his or her tax liability for 1974 if that liability is less than $50. If the spouse's tax liability is $50 or more, he or she will be entitled to a minimum refund of $50 and a maximum refund of $100, subject, however, to reduction by reason of his or her adjusted gross income. Where a spouse filing a separate return has adjusted gross income of more than $10,000 but not more than $15,000, the amount of refund to which the spouse would be entitled based on his or her tax liability for 1974 is reduced in proportion to the amount by which his or her adjusted gross income exceeds $10,000.[2]

Table 5 in the Statistical Appendix provides specific examples of the amount of refund which a single person or a married couple filing a joint return, assuming different family size and income levels, is to obtain under your committee's bill.

*Eligibility for refunds.*—The refund of all or part of 1974 taxes applies only to taxpayers who are individuals. This includes single persons, heads of households, surviving spouses (within the meaning of sec. 2(a)), and married persons, whether they file joint returns or separate returns. Where married taxpayers file a joint return for 1974, the amount of the refund is determined by reference to the joint income tax liability and adjusted gross income figures as if the spouses were one individual.

Refunds are not to be available under the bill in the case of nonresident aliens and trusts and estates.[3]

The refund is available, of course, in a situation where a decedent's executor or other representative files a final return of the decedent for 1974. In such a case, the refund is available for the decedent's final return, but not for the estate's return for the remainder of that

[1] If the same taxpayer's tax liability apart from the refund were $1,500, so that he would be entitled to a $150 refund by reason of tax liability, the income limitation would reduce the refund by $25 (i.e., 50 percent of the excess of $150 over $100). As a result, this taxpayer's refund would be $125.

If the same taxpayer's tax liability apart from the refund were only $80, his refund would be $80. No reduction in that amount would occur under the income limitation since the taxpayer is not otherwise entitled to more than the $100 minimum refund.

[2] To illustrate the effect of the income limitation, a spouse filing a separate return who would be entitled to a maximum $100 refund based on tax liability, and whose adjusted gross income on his or her separate return is $13,000, is entitled to a refund of $70 by reason of the income limitation. The $100 refund amount is reduced by $30, i.e., $3,000/$5,000 of the $50 excess of the $100 refund based on tax liability over the minimum $50 refund.

[3] Where income in respect of a decedent is includible in the income of an estate under present law (sec. 691), no refund is available with respect to such income since the liability for tax on such income is that of the estate.



year. The refund is also available in the case of a so-called grantor trust (secs. 671–678) where the person to whom the trust's income is taxable is an individual, and to the extent that the trust's income is taxable to such person. There, too, the refund is available to the individual and not to the trust. In addition, the refund is available in fiduciary situations such as a guardianship where the tax liability reflected on the return is that of the individual beneficiary.

*Taxable year affected.*—The refund provisions of the bill generally apply to the year of a taxpayer which began during the 1974 calendar year. Thus, individuals who use the calendar year 1974 for tax reporting purposes, as well as those who report on a fiscal year which began in 1974 and ends during 1975, generally are entitled to refunds to the extent provided in the bill. However, if an individual has two taxable years which began during 1974 (where one taxable year was a short year), the refund provisions of the bill apply only to the first of the two taxable years.

*Procedures for making refunds.*—Under the bill a taxpayer computes his tax liability for 1974 as he has done in the past when no special refund was made. Therefore, in preparing his return for 1974, a taxpayer should not reduce his tax liability by the amount which he anticipates will be refunded to him under this bill. Instead, after the taxpayer's return has been filed, the Internal Revenue Service will initiate the refund based on the taxpayer's tax liability and adjusted gross income for the year.

In order to carry out this procedure, the bill provides that the taxpayer is to be treated as if he made an additional payment to the Treasury against his 1974 income tax liability. This constructive payment is to be treated as if made on the due date of the taxpayer's 1974 return (without taking into account any extension of time to file the return) or, if later, on the date on which he actually files his 1974 return.

This constructive payment is to be in most cases processed by the Service as an overpayment of tax by the taxpayer and, as such, is to be paid to him in the form of a refund of tax. In accord with the general rule that Federal income tax refunds do not constitute income, refunds received under the bill will likewise not constitute income (for Federal income tax purposes) to the taxpayers who receive them.[4]

*Other aspects of the refunds.*—The tax liability which determines the amount of the refund under the bill is the taxpayer's tax liability for 1974, reduced by the so-called "nonrefundable" credits against this liability to which he may be entitled. These credits are the foreign tax credit (sec. 33), the retirement income credit (sec. 37), the investment credit (sec. 38), the work incentive credit (sec. 40), and the credit for contributions to candidates for public office (sec. 41). The tax liability will also be computed with certain other adjustments necessary in order to assure speedy and efficient processing of the refunds through the Service's computer facilities.

[4] By deeming the amount of 1974 tax which is to be refunded under the bill as a payment of 1974 Federal income tax by the taxpayer on the due date of his return, the committee expects that for State income tax purposes, States will treat the Federal refund of this deemed payment as a refund of an overpayment of Federal income tax. Such treatment would also reflect the committee's view that the refunds under the bill do not involve any reduction in the taxpayer's Federal income tax liability as such for 1974.

Although under present law (sec. 6601(f)(1)), interest which a taxpayer owes on an underpayment of his tax liability is treated as part of his liability for "tax," your committee intends that interest not be treated as part of the tax liability for purposes of determining the refunds to be made under this bill.

In determining marital status for purposes of the refund provisions of the bill, the provisions of section 143 of present law are to be utilized. As a result a married person living apart from his or her spouse will, under certain conditions, be treated the same as a single person, and have his or her 1974 refund determined accordingly.

The amount of the refund which a taxpayer may receive and retain is to be determined by reference to his tax liability as finally determined for Federal income tax purposes. Consequently, the refund is not finally determined by the amount of tax liability shown on the return as filed by the taxpayer, but (like refunds generally) may be subsequently increased or decreased depending on adjustments which may be made in the taxpayer's final tax liability for 1974.

Since a refund under the bill does not result from a reduction in tax liability for 1974 (but instead results from a constructive payment against a taxpayer's liability for tax), the bill does not affect the definition of a "deficiency" in tax under present law (sec. 6211), or the computation of the negligence or civil fraud penalties (imposed by sec. 6653 of present law), which are based on the amount of the deficiency.

*Interest on refunds.*—Under present law, the Internal Revenue Service is not required to pay interest on an overpayment of income tax if it makes a refund within 45 days after the last date prescribed for filing the return (without regard to extensions) or, if the return is filed late, within 45 days after the date on which the return is actually filed (sec. 6611(e)). In order, however, to facilitate the speedy processing of the special 1974 refund by the Internal Revenue Service, the bill includes a provision designed to give the Service up to 60 days to make 1974 refunds to individuals without incurring an obligation to pay interest on the refund. In the interest of administrative feasibility, the bill extends the 45-day interest-free period both for the special one-time refund under your committee's bill and for refunds of 1974 tax generally under present law. This special extension of the 45-day period under present law applies to refunds of any tax under Subtitle A of the Code (secs. 1–1564) which are made to an individual for a taxable year which began during the calendar year 1974. As under present law, the 60-day period will run from the later of the due date of the return (disregarding extensions) or the date on which the return is actually filed.

If the Service takes more than 60 days to make the refund, it must pay interest on the refund (as occurs under present law with refunds generally).

This 60-day provision does not extend to refunds made to an estate or trust, to a nonresident alien individual or to a corporation. As to these taxpayers, the 45-day period of present law continues to apply. The 45-day period is also the governing rule for all other taxable years, i.e., those beginning before and after 1974.

*Revenue effect.*—The refunds for 1974 individual income tax liability are estimated to result in a revenue loss of $8.1 billion.



## B. Disregard of Refunds with Respect to Federally Assisted Benefit Programs

(Sec. 102 of the bill)

In some instances individuals who receive refunds of 1974 income tax payments under the bill will also be receiving benefits or assistance under one or more Federal or Federally assisted State social programs based on individually determined needs. Such programs include those which provide supplemental security income benefits, aid to families with dependent children, medicaid, food stamps, educational and housing benefits, and veterans' pensions. Many individuals who receive State or Federal/State assistance under programs of these kinds do not incur any liability for Federal income taxes. However, in those instances where the recipient does incur Federal income tax liability for 1974 and receives a refund under the bill, serious consequences could result if the refund is treated as income which, in turn, reduces the amount of benefits or assistance which the individual is entitled to receive under the assistance program.

For example, an individual who is a member of a family receiving a payment under the program for aid to families with dependent children might receive, during some month in 1975, a tax refund for 1974 under the bill which, if considered to be income to the recipient during that month, might make him ineligible to continue receiving aid for that month. In some States the refund might also disqualify persons for medicaid or from eligibility to purchase food stamps, or, if treated as income, the refund might make the individual ineligible for a loan, or for a reduced rental, etc. under other aid programs.

Your committee does not believe that these refunds of 1974 tax should change an individual's eligibility for these assistance programs. In addition, the cost of identifying and making the adjustments might well exceed any savings in assistance funds were the refunds to be taken into account for these purposes.

Accordingly, your committee has included a provision in the bill which provides that 1974 income tax refunds under the bill are not to be considered income or resources for purposes of determining who is eligible to receive benefits or assistance, or the amount or extent of benefits or assistance, under any Federal or Federally assisted program. For this purpose the concept of benefits or assistance is intended to include all assistance benefits in which the Federal government participates, including those made in a form other than cash, such as a reduced rental and eligibility for a loan. Your committee also intends that a refund which an individual receives pursuant to the bill should not be considered part of his resources or assets for that month for purposes of any resources test under the applicable social program.

The treatment of refunds of 1974 tax, were it not for this provision, would be a problem since these, in effect, are additional payments made by the Federal Government on behalf of the individuals involved. The reductions in 1975 liabilities under title II of this bill, however, do not give rise to this problem since they are not payments in effect on behalf of the individual. Instead, they merely represent reductions in tax applicable in that year and do not in any year affect the income of the individual for 1975.

## C. 1975 Income Tax Reductions for Individuals

### 1. Increase in low income allowance and standard deduction (secs. 201 and 202 of the bill and secs. 141(b) and (c), 3402(m) (1) and 6012(a)(1) of the code)

The low income allowance (also known as the minimum standard deduction) determines the minimum amount of income an individual must have in order to pay Federal income taxes. Under present law, the low income allowance is $1,300 for both single individuals and for married couples filing joint returns ($650 for a married individual filing a separate return). This means that under present law a single individual does not pay tax unless income exceeds $2,050 (the $1,300 allowance plus $750 for one personal exemption), a married couple does not pay tax unless their income exceeds $2,800 (plus $750 for each dependent), and a married individual filing a separate return does not pay tax unless his income exceeds $1,400 (plus $750 for each dependent). Under present law, the percentage standard deduction is 15 percent of adjusted gross income, with a maximum deduction of $2,000.

As indicated above in the reasons for the bill, your committee believes that the low income allowance needs to be increased so that persons whose income falls below poverty levels will not pay income tax. Accordingly, your committee's bill increases the low income allowance to $2,500 in the case of surviving spouses and married individuals filing joint returns (the increase is to $1,250 for married individuals filing separate returns) and to $1,900 for single individuals who are not surviving spouses. The increase in the allowance for married couples is twice that provided for single individuals in order to bring the low income allowance levels as nearly as possible into line with the expected difference in poverty level of those with a different marital status and to reduce the tax increase that results when two single people with relatively equal earnings marry each other.

In connection with increasing the low income allowance, your committee also concluded that some amount of additional tax relief should be provided to middle-income taxpayers by increasing the percentage and maximum standard deduction. As a result your committee's bill increases the percentage standard deduction from 15 to 16 percent of adjusted gross income and raises the ceiling on the standard deduction from $2,000 to $3,000 for surviving spouses and married individuals filing joint returns ($1,500 in the case of a separate return by a married individual) and to $2,500 for single individuals who are not surviving spouses. The lower maximum deduction for single individuals corresponds with the lower increases in the minimum standard deduction for those taxpayers.

Because of the increase in the minimum standard deduction the bill increases the amount of income required before a return must be filed by $600 in the case of single persons and by $1,200 in the case of married couples entitled to file joint returns. This increases the filing requirements for single persons under age 65 from $2,050 to $2,650 and from $2,800 to $3,400 for single individuals age 65 and over. It also increases the filing requirements for married couples under age 65 from $2,800 to $4,000. For married couples with one spouse age 65 or over, the filing requirements are increased from $3,550 to $4,750, and where both are over age 65 the increase is from $4,300 to $5,500.



Conforming changes are also made in the provision dealing with the withholding allowances for itemized deductions (sec. 3402(m) (1) (B)) by increasing the 15 percent to 16 percent and by substituting for $2,000, the present maximum standard deduction, the amounts provided under the bill; that is, $3,000 in the case of a joint return and $2,500 in the case of an individual who is not married (within the meaning of sec. 143) and who is not a surviving spouse (as defined in sec. 2(a)).

The increase in the low income allowance and the changes in the standard deduction apply to tax years ending in 1975.

Increasing the low income allowance, the percentage standard deduction and the maximum standard deduction together are expected to result in tax reductions of $5.2 billion for 1975 liabilities and cause 9.9 million taxpayers to switch to the standard deduction. The savings under this tax reduction is shown in table 3 of the Statistical Appendix.

### 2. Income tax credit against earned income (sec. 203 of the bill and secs. 42 and 6401(b) of the code)

Under present law an individual is not required to pay income tax unless his income exceeds the amount of the minimum standard deduction plus the sum of available personal exemptions. Social security taxes, however, are paid on all covered earnings by workers and employers, regardless of how small the amount. For 1975, the social security tax rate on employees is 5.85 pecent of employee wages up to $14,100. Self-employed individuals pay a tax at a 7.9 percent rate on net earnings from self employment income up to $14,100 if that income exceeds $400.

As indicated in the section above on reasons for the bill, your committee believes it is appropriate to use the income tax system to offset the impact of the social security taxes on low-income persons in 1975 by adopting for this one year only a refundable income tax credit against earned income. Although the earned income credit may be viewed as a method to help compensate wage earners of low income families for much of the social security taxes they pay, your committee wishes to have it clearly understood that this provision of the bill is not intended to provide a way of reducing social security taxes paid by low income wage earners. The financing of the social security program is a matter which the committee will be required to review in depth in subsequent legislation. The earned income credit provision in your committee's bill does not amend the Social Security Act or the provisions of the Internal Revenue Code relating to social security taxes nor does this provision apply to any year except 1975.

The bill provides a refundable income tax credit of 5 percent of an individual's "adjusted earned income" for the taxable year. "Adjusted earned income" is defined as an individual's earned income up to $4,000, reduced by twice the amount by which the taxpayer's adjusted gross income (or, if larger, the taxpayer's earned income) exceeds $4,000. The effect of this reduction is to phase down the amount of the credit at income levels between $4,000 and $6,000 and to phase out the credit altogether at the $6,000 income level.

Earned income eligible for the credit (up to the phaseout amount) includes all wages, salaries, tips, and other employee compensation, plus the amount of the taxpayer's net earnings from self-employment as that term is presently defined in the code (sec. 1402(a)). This broad definition of earned income can include some types of wages and other income not subject to social security tax (such as government employees' wages) but simplifies the process of determining what income is eligible for the credit. It is anticipated that a taxpayer will be able to calculate the amount of earned income eligible for the credit merely by adding together the amounts reported on form 1040 (the individual income tax return) as wages, salaries, tips and other employee compensation (line 9 of form 1040) with any amounts reported as net earnings from self-employment (line 13 of Schedule SE of form 1040).[1] Except as indicated below with regard to people under 18, net earnings from self-employment are to be taken into account even though they are less than $400 (and so, even though they are not subject to the self-employment tax).

Earned income generally is to be eligible for the credit only if it is includible in the gross income of the taxpayer during the taxable year in which the credit is claimed. Earned income of an individual is to be computed without regard to community property laws (so that a taxpayer is to take into account his or her own earnings for purposes of the earned income credit even though, under the community property laws part of those earnings would be includible in the gross income of the spouse and not that of the earner). Amounts received as pension or annuity benefits are not to be taken into account for purposes of the credit.

Special rules are provided with respect to individuals employed by members of their family and those under age 18. First, an individual employed by his spouse, father, mother, son, or daughter is eligible for the credit on income earned through such employment only if his earnings are subject to social security tax and are evidenced as being subject to that tax by a W-2 form attached to the income tax return claiming the earned income credit. Second, in the case of other income of individuals who have not attained the age of 18 by the close of the year, wages, salaries, tips, and other employee compensation are to be eligible for the credit only if that compensation is evidenced by the W-2 form attached to the income tax return regardless of whether the income is subject to social security taxes. Third, net earnings from self-employment are to be eligible for the credit only if individuals under 18 have self-employment income for the taxable year (i.e., have filed a Schedule SE indicating net earnings from self-employment which exceed $400). The purpose of these special rules for individuals under 18 and for individuals employed by close relatives is to avoid any incentive to establish artificial employment arrangements in order to obtain eligibility for the credit.

Finally, the earned income credit is not to be available for income of nonresident alien individuals which is not connected with a U.S. trade or business (i.e., income not currently reported on a 1040NR form).

Since the credit is 5 percent of earned income up to $4,000, with a phaseout between $4,000 and $6,000, the maximum amount of the credit is $200. The credit is to be calculated on a return-by-return basis. Individuals who are married and filing a joint return are eligible for only one credit on the combined income of both individuals.

[1] However, amounts included as net earnings from self-employment are not also to be included as wages, salaries, tips, and other employee compensation.



Married individuals filing separate returns are not eligible for the credit. A married individual who is treated as not being married (under sec. 143(b)) for return-filing purposes (i.e., a head of a household whose spouse has not been a member of the household for the entire year) is eligible for the credit in the same manner as a single individual (and any of the absent spouse's income attributed to him under State community property laws is to be disregarded).

The credit is generally available only for taxable years representing a full 12 months. However, in the case of a short year closed by reason of the death of the taxpayer, the credit is to be allowed.

Since the credit is refundable, individuals with low incomes on which little or no income tax is due will receive a cash payment equal to the amount of the credit reduced by any tax due. It is anticipated that low income individuals not required to file returns will be provided with a simple method of obtaining any payment due by filling out a brief form (such as the 1040A form) and attaching to it a copy of any W-2 statements. It is hoped that through the simplicity of this form, plus efforts by the Internal Revenue Service to build public awareness of the availability of the credit, all eligible taxpayers will file for the credit available to them.

The earned income credit is to apply to taxable years beginning after December 31, 1974, and before January 1, 1976. Calendar year taxpayers are to receive the credit on 1975 income, and fiscal year taxpayers are to receive the credit for their first taxable year beginning in 1975.

It is estimated that this provision will decrease 1975 income tax liabilities by $2.9 billion. The savings under this tax reduction by income levels is shown in Table 4 of the Statistical Appendix.

### 3. Change in withholding tables to reflect increases in standard deduction and low income allowance and the earned income credit (sec. 204 of the bill and sec. 3402(a) of the code)

Under present law, the amount of the personal exemption, the low income allowance, and the percentage standard deduction are reflected in statutory withholding tables. The bill provides a new annual percentage-method withholding table which reflects the increases in the low income allowance, the percentage standard deduction, and the provision for an earned income credit (from which the tables for other periods are to be calculated by the Internal Revenue Service). The Internal Revenue Service also is to calculate wage bracket withholding tables which are consistent with the percentage-method withholding table referred to above.

It is anticipated that the new withholding tables will be effective from May 1, 1975. Since income tax withholdings for the first one-third of the year will have been at current rates, which on an annual basis would result in considerable over-withholding for lower income employees and employees who claim the standard deduction, the withholding rates for the last two-thirds of the year are to be additionally reduced so that amounts withheld by the end of the year would approximately equal 1975 tax liabilities after the reductions made by this bill.

The withholding tables assume that employees subject to withholding will claim the standard deduction on their annual income tax return. As a result of the standard deduction increases and the provision for the earned income credit, lesser amounts are to be withheld from wage or salary income consistent with the decrease in tax liability.

In the past the Internal Revenue Service has provided on the back of the Employee's Withholding Certificate, Form W-4, a table which provides the maximum number of withholding exemptions for estimated itemized deductions that can be claimed by employees who plan to itemize their deductions and for whom the withholding tables (which assume the claiming of the standard deduction) would withhold an excessive amount. The permissible number of allowances provided in the table on Form W-4 is consistent with the employee's marital status and the estimated amounts of his annual salary and itemized deductions. Since the income tax reductions in your committee's bill are effective only for 1975, all employees, particularly those claiming additional allowances for estimated itemized deductions, should review their withholding position and if necessary file new Forms W-4 with their employers showing the correct number of withholding allowances they are entitled to claim, prior to the time the new withholding tables go into effect. If the Internal Revenue Service is not able to issue new Forms W-4 that have the table for determining withholding allowances for estimated itemized deductions prior to the institution of the new withholding rates in sufficient quantity for general distribution, it is expected that the Internal Revenue Service, through its public information resources will publicize the changes and the desirability of employees reviewing their withholding situation, and where necessary their filing new Forms W-4 with their employers.

Although the initial tax withholding rate for single persons is 33 percent, this does not mean that the individuals subject to this withholding tax rate will not receive a tax reduction. The rate applies only to the first $1,500 of wages above $3,000 on an annual basis, and is a function of the phaseout of the earned income credit. The adjustment, moreover, is to be achieved over two-thirds of the taxable year, which requires the withholding rate in this income range to be greater than it would be were the withholding changes applicable over the entire calendar year. However, due to the larger zero bracket in the withholding tables, there is a net decrease in the amount of income tax withholding under the bill.

The withholding changes made by the bill are to take effect on May 1. It is assumed that this will provide the Service with 45 days to prepare and distribute the new tables. The change in the amount of withholding is discussed above in *Reasons For The Bill.*

## D. Investment Credit

(Secs. 301, 302, and 304 of the bill and secs. 46, 47, and 48 of the code)

Present law provides a 7-percent investment credit (4 percent with respect to certain public utility property). The investment credit is available with respect to: (1) tangible personal property; (2) other tangible property (not including a building and structural components) which is an integral part of manufacturing, production, etc., or which constitutes a research or storage facility; and (3) elevators and escalators. Generally, the credit is not available with respect to property used outside the United States.



To be eligible for the credit, the property must be depreciable property with a useful life of at least 3 years. Property with a useful life of 3 or 4 years qualifies for the credit to the extent of one-third of its cost; property with a useful life of 5 or 6 years qualifies with respect to two-thirds of its cost; and property with a useful life of 7 years or more qualifies for the credit to the full extent of the property's cost. (However, in the case of used property, not more than $50,000 of cost may be taken into account by a taxpayer as qualified investment for purposes of the credit for a taxable year.)

Property becomes eligible for the credit when it is placed in service. Property is considered to be placed in service in the earlier of (1) the taxable year in which depreciation on the property begins, or (2) the taxable year in which the property is placed in a condition or state of readiness and availability for a specifically assigned function.

The amount of the credit that a taxpayer may take in any one year cannot exceed the first $25,000 of tax liability (as otherwise computed) plus 50 percent of the tax liability in excess of $25,000. Investment credits which because of this limitation cannot be used in the current year may be carried back 3 taxable years and then carried forward 7 taxable years and used in those years to the extent permissible within the limitations applicable in those years.

Present law provides for a recapture of the investment credit to the extent property is disposed of before the end of the period (that is, 3–5, 5–7, or 7 or more years) which was used in determining the amount of the credit originally allowed. Thus, if property is disposed of, or otherwise ceases to be qualified, the tax for the current year is increased (or unused credit carryovers are reduced) by the reductions in investment credits which would have resulted if the credit were computed on the basis of the actual useful life of the property rather than its estimated useful life.

Public utility property to which the 4-percent investment tax credit applies is property used predominantly in the trade or business of furnishing or selling (1) electrical energy, water, or sewage disposal services, (2) gas through a local distribution system, or (3) telephone service, telegraph service through domestic telegraph operations, or other communications services (other than international telegraph services). In general, the reduced credit applies only if the rates for these services or items are established or approved by certain types of governmental regulatory bodies.

With respect to the treatment of the investment credit of regulated companies for ratemaking purposes, special limitations are imposed on the allowance of the credit to prevent the tax benefits of the credit from immediately being passed on to the consumers. These limitations are applicable to property used predominantly in the trade or business of furnishing or selling (1) the products or services described in the preceding paragraph and (2) steam through a local distribution system or the transportation of gas or steam by pipeline if the rates for those businesses are subject to government regulation.

The special limitations generally provide that the investment credit is not to be available to a company with respect to any of its public utility property if any part of the credit to which it would otherwise be entitled is flowed through to income (i.e., increases the utility's income for ratemaking purposes); however, in this case the tax benefits derived from the credits may (if the regulatory commission so requires) be used to reduce the rate base, if this reduction is restored over the useful life of the property.

If, within 90 days after enactment of the Revenue Act of 1971 the taxpayer has so elected, then the investment credit is to be available to the taxpayer with respect to any of its public utility property if the credit to which it would otherwise be entitled is flowed through to income ratably over the useful life of the property; however, in this case there must not be any adjustment to reduce the rate base. An additional elective rule was provided to permit certain types of utilities (primarily electric utilities) to flow through benefits more rapidly to consumers. A special election is provided with respect to local steam distribution systems and gas or steam pipelines where the regulatory body involved determined that the natural domestic supply of gas or steam was insufficient to meet the present and future requirements of the domestic economy. In this case, if the taxpayer elected (within 90 days after enactment of the Revenue Act of 1971) the investment credit is not to be available unless (1) no part of the credit is flowed through to income and also (2) no part of the credit is used to reduce the rate base.

*Increase in rate to 10 percent.*—Your committee's bill increases from 7 to 10 percent the general rate of the investment tax credit. However, the 10-percent investment credit is to apply to public utility property which at present is subject to the 4-percent investment credit as well as to property eligible for the 7-percent investment credit under present law.

The 10-percent credit is to be available with respect to property which is acquired and placed in service after January 21, 1975, and before January 1, 1976; it is also to be available with respect to property placed in service in 1976, if the taxpayer can clearly establish that the property was acquired pursuant to an order placed before January 1, 1976.

In the case of property constructed, reconstructed, or erected by the taxpayer, the 10-percent credit is also to be available with respect to property completed by the taxpayer after January 21, 1975. However, in this case, the 10-percent credit is to be available only with respect to that part of the basis of the property which is properly attributable to construction, etc., by the taxpayer after January 21, 1975, and before January 1, 1976. Similarly, the 10-percent rate is to be available to qualified progress expenditures (described below under *Progress payments*) for the period after January 21, 1975, and before January 1, 1976.

*Limitation on rate increase.*—Since the purpose of the increase in the investment credit is to provide stimulus to a large range of businesses, and not to provide an unreasonable benefit to any single company, your committee has placed an upper limit of $100 million on the extent to which a single company can benefit from the increased investment



credit rate. Because the largest rate increase is that available to public utility property (the rate for which is increased from 4 percent to 10 percent) this limit is to apply only to public utilities.

For this purpose, a public utility is defined as a taxpayer whose investment in qualified public utility property is 50 percent or more of its aggregate investment in qualified property for the taxable year. "Public utility property" here is defined as property which under present law is eligible for only a 4-percent investment credit and is used in rate-regulated activities. The calculation as to the application of this 50-percent test is to be made with regard to controlled groups of corporations (as defined in sec. 1563(a)), whether or not they file consolidated returns. Any such controlled group is to be treated as one taxpayer for this purpose.

The $100 million limitation represents the amount of the increased credit, and not the amount of the qualified investment. So, $100 million would be the amount of the increase in credit from public utility property investments of $1⅔ billion; applied to nonutility property, it would represent qualified investments of $3⅓ billion.

The $100 million limit is to be computed by taking into account any increase in the allowable investment credit by reason of the rate change, that is, the increase on public utility property from 4 to 10 percent and on other property from 7 to 10 percent.[1] The amount of the credit allowable to a public utility by reason of this change in rates may not exceed $100 million. Thus, for example, if a public utility makes qualified investments of $9 billion, $8 billion of which is in public utility property, its tentative investment credit under present rates would be $390 million (4 percent of $8 billion, plus 7 percent of $1 billion). The rate increase in the bill would (but for the $100 million limit) increase the credit to $900 million. However, because of the $100 million limit, the maximum credit is $490 million.[2]

Any amount of investment credit which is disallowed because of the $100 million limit is to be available as a carryback or carryover under the regular rules, but only to taxable years to which the $100 million limit applies. Since the 10-percent investment credit is to apply only to 1975 and (in the case of property ordered by December 31, 1975, and placed in service by December 31, 1976) 1976, this would allow a carryover from 1975 to 1976 and a carryback from 1976 to 1975, but not to or from any other year. In the year to which the credit is carried, the $100 million cap is to be applied in determining whether any of the credit carried to that year may be used in that year, by adding this carryover to the additional investment credit allowable for that year by reason of the rate change.[3]

*Increase in 50-percent limit for utility property.*—Your committee's bill modifies the 50-percent-of-tax-limitation in the case of most public utility property which under present law is entitled to only a 4-percent investment credit.

[1] The percentage-of-tax-liability limit, which is to be changed by this bill as to public utilities (described below) is not to be taken into account for purposes of computing the $100 million limit.

[2] The disallowed credit is to be allocated among the qualified investments and qualified progress expenditures (see *Progress payments,* below) for the year for purposes of the flow-through limitations of section 46(e).

[3] For example, if by reason of the $100 million limit $60 million of investment credit were carried from 1975 to 1976 and if in 1976 there is an additional $70 million of investment credit by reason of the rate increase to 10 percent, $30 million of the carryover could be used.

The percentage limitation for public utility property is increased in 1975 and 1976 under the bill to 100 percent of the income tax liability (computed without regard to the investment credit, and in the manner provided under existing law). In each of the next succeeding taxable years the percentage limitation is reduced by 10 percentage points until, in taxable years beginning in 1981 and thereafter, the 50-percent limitation goes back into effect. Thus, the percentage limitation is 90 percent in 1977, 80 percent in 1978, 70 percent in 1979, and 60 percent in 1980.

Public utility property for this purpose means property used predominantly in the trade or business of the furnishing or sale of (1) electrical energy, water, or sewage disposal services, (2) gas through a local distribution system, or (3) telephone service, most domestic telegraph service, or other communications services—but only where the rates for the furnishing or sale are regulated by a utilities commission or similar agency. (This modification of the 50-percent limit does not apply to communication property even though used predominantly for communication purposes if the rates for furnishing of the services are not regulated.)

The computation of the percentage limitation for public utility property is to be made on a taxpayer-by-taxpayer basis. Thus, a group of corporations which file a consolidated return together are to be treated as one taxpayer.

Your committee intends that the benefit of the relaxation of the 50-percent limit go primarily to public utilities. However, it recognizes that many public utilities have varying amounts of nonpublic utility property. In addition, many public utilities are members of controlled groups that file consolidated returns. To achieve this objective in the most practical way administratively, the committee decided to prorate the increase in the credit limit in accordance with the extent to which the company (or the group filing the consolidated return) has qualified investment in public utility property, as compared to its qualified investment in other property.

Thus, if in 1975, 50 percent of the company's qualified investment is in public utility property, then the applicable limit is to be 75 percent of tax liability (the basic 50-percent limit plus one-half of the maximum additional limit allowable in 1975). If 70 percent of the company's qualified investment is in public utility property, then the applicable limit is to be 85 percent of the tax liability. In order to simplify such computations for most companies, if 75 percent or more of the qualified investment for a given year is in public utility property, then the full increase is to apply to that company for that year. Thus, the typical public utility, which has relatively little qualified investment in other property, is to get the full benefit of the increase in the percentage limitation.

If less than 25 percent of the qualified investment consists of public utility property, then no part of the additional limitation is to apply. In such a case, the company (or the group filing the consolidated return) is to be treated in its entirety as not being a public utility under this provision.

The percentage applicable to a taxpayer for a year is to apply to the aggregate of the credits arising from that taxpayer's public utility property and that taxpayer's other property—it is not to apply separately to each category of property.



If a taxpayer has credit that remains unusable despite the higher limits, any such excess is to be allowed as a carryback (3 years) and carryover (7 years), as under present law. If there is a carryover or carryback to a year to which these higher limits apply, then the exact amount of the applicable limit is to be determined by the relative investments in the year to which the excess credit is carried. For example, assume that in 1975, 50 percent of company X's qualified investment is in public utility property. The maximum percentage limit in this case, as indicated above, is 75 percent of tax liability. Assume, further, that in 1976, 75 percent of company X's qualified investment consists of public utility property. The maximum credit for 1976 would then be (as indicated above) 100 percent of tax liability. If any of the excess credit from 1975 would be carried over to 1976 (after having been first carried back to 1972, 1973, and 1974, as under present law), the 1976 limit would not be affected by whether the amount carried over to that year could be traced originally to public utility property or to other property.

*Increase in limitation for used property.*—Your committee's bill, as an aid to small business, increases the amount of used property which can qualify for the investment credit for any one year. The dollar limitation is raised from $50,000 to $75,000 ($37,500 in the case of a husband and wife who file separate returns).

The increased limitation on used property is to apply to taxable years beginning after December 31, 1974, and before January 1, 1976.

*Progress payments.*—Under present law, a tax credit may be taken for investment in qualified property at the time the property is placed in service and therefore is ready for use. As indicated previously, the committee concluded that in cases where taxpayers pay for long lead time property as it is being constructed and substantially before the property can be placed in service, to wait for the allowance of the investment credit until the property is placed in service represented too long a delay in the claiming of the credit. The bill overcomes this problem in present law by allowing an investment credit for what are called "progress payments."

Under the bill, a taxpayer, at his election, is to be permitted to treat "qualified progress expenditures" made for new property as a part of the base for which he can claim an investment credit. In general, these qualified progress expenditures are amounts actually paid (or incurred in the case of self-construction property) for construction (or acquisition or reconstruction) of property which has a normal construction period of at least two years and which will have an estimated useful life in the hands of the taxpayer of at least seven years.

The normal construction period generally begins when physical work on the property commences (i.e., not design, blueprints, planning, etc.) and ends when the property is available to be "placed in service" by the taxpayer. However, no normal construction period is to include a period of construction before January 22, 1975 (the general effective date of these provisions), and, where progress payment treatment is elected by the taxpayer for years beginning after that date, no normal construction period will begin before the first day of the taxable year for which the election is in effect.

Where possible, the normal construction period is to be estimated by reference to normal industry practice in producing similar items. The estimate is to be based on the information available at the close of the taxable year in which physical work on the property is started (or, if later, the close of the first taxable year for which the taxpayer has elected to change to this "progress payments" method). Once the normal construction period has been reasonably estimated, the actual time that it takes to complete work on the property would generally be irrelevant for purposes of determining the proper tax treatment of the taxpayer's progress payments.[4]

For purposes of the 2-year test, property which will be placed in service by the taxpayer separately, is to be considered separately (for example, if two ships were contracted for at the same time, each ship would be considered separately). On the other hand, property which must be placed in service by the taxpayer as part of an integrated unit (for example, equipment which will all be placed in service at the same time as part of the same plant) is to be treated as a unit for purposes of the test.[5] Thus, if the taxpayer is constructing a pipeline which will not be operational for five years after construction begins, the fact that some equipment used in connection with the pipeline (such as pumps for the pumping stations) take less than five years to manufacture, is not to affect the status of the pipeline for progress payment purposes. Also, the taxpayer may treat all amounts expended in connection with the pipeline as progress payments (including amounts expended for the pumps). On the other hand, if some segment of the pipeline can be placed in service in less than two years, progress payment treatment is not to be available with respect to that segment.

In the case of self-constructed property (i.e., property where it is reasonable to believe that the taxpayer will bear more than half of the construction costs directly) "qualified progress expenditures" will generally equal the costs incurred by the taxpayer which are properly chargeable to capital account in connection with that property (for purposes of the investment credit). Thus, qualified progress expenditures would not include any depreciation sustained with respect to other property (machinery, equipment, etc.) used in the construction of new section 38 property (because such depreciation is not part of the basis for purposes of section 38), nor generally would it include the adjusted basis of reconstructed property at the time the reconstruction is commenced.

Also, in the case of self-constructed property, qualified progress expenditures can include amounts expended for materials by the taxpayer to the extent that the taxpayer can establish, to the satisfaction of the Internal Revenue Service, that these materials have been irrevocably allocated to the construction of the property. For purposes of these rules, an item which is suitable only for use in connection with the property is to be regarded as irrevocably allocated, even though the

[4] Of course, if there were a significant error in estimating the normal construction period, this could be evidence that the estimate had not been reasonable in the first place, particularly where the error could not be explained by a later change in circumstances.

[5] Of course, the construction period for property not qualifying for the investment credit, such as real estate, will not affect the "normal construction period" of any qualifying property which may be used on the premises. Thus, if a plant is being constructed, and qualifying equipment has a normal construction period of less than two years, the progress payments for the equipment are not to be treated as qualified investment, even if the building in which the equipment is to be housed will take more than two years to construct.



item has not yet become a part of the property, and even though it has not yet been delivered to the site of the property. Other items may be treated as allocated when they have been delivered to the site under circumstances where it would be impractical to then remove the items to some other project (i.e., pumps delivered to locations on a tundra pipeline could be treated as allocated to that pipeline even though they (but for their location on the tundra) would be usable on other projects). In many cases, the items would not be treated as allocated until they were actually attached or consumed in the construction of the property. Mere bookkeeping notations are not to be sufficient to establish to the satisfaction of the Secretary or his delegate that the necessary allocation has occurred.

In the case of acquired property, qualified progress expenditures are to be the amounts paid by the taxpayer to the manufacturer, but only to the extent that there is actual progress made in the construction of the property. (This is further limited by the "pro rata" rule, discussed below.)

For this purpose, "progress" will generally be the percentage of completion, measured in terms of the manufacturer's incurred cost, as a fraction of his anticipated cost (as adjusted from year to year) based upon cost accounting records or in some cases on engineer or architect certificates.[6]

Where several manufacturers or contractors are used in connection with the same property, "progress" is to be measured on a manufacturer by manufacturer basis, so that the taxpayer may utilize payments made to a manufacturer who has made "progress" within the meaning of these rules, even if payments have also been made to another manufacturer who has made no progress. By the same token, payments to one manufacturer in excess of that manufacturer's progress are not to give rise to credits merely because another manufacturer's progress exceeds the payments made to that other manufacturer.

In the case of self-constructed property, "progress" will generally equal "progress expenditures," so no separate percentage-of-completion test is needed.

"Progress expenditures", as well as "progress" are not to be taken into account to the extent that they occur before the start of the "normal construction period" of the property nor to the extent allocable to nonqualified property. Thus, progress expenditures and progress which occur before January 22, 1975, cannot be utilized by the taxpayer to increase his qualified investment prior to the year in which

[6] For example, assume that in 1980 a taxpayer makes a payment of $11,000 under a contract which provides for delivery of the property in 1985, with a fixed purchase price of $110,000 and an estimated cost to the manufacturer of $100,000. During 1980, the manufacturer incurs $10,000 of cost in connection with the property.

Under these circumstances the manufacturer will be considered to have made 10 percent progress in connection with the property ($10,000 of costs incurred divided by $100,000 of total estimated cost). The taxpayer will be permitted to treat his full $11,000 payment as qualified investment for 1980, since this payment does not exceed 10 percent of the total cost, to the taxpayer, of the section 38 property.

If, on the other hand, the manufacturer had incurred only $5,000 of costs in connection with the property in 1980, the taxpayer would be allowed to treat only 50 percent of his $11,000 payment as qualified investment in 1980 ($5,500) because there had been only 5 percent "progress" in that year. However, in that case, if the manufacturer incurred an additional $5,000 of cost in connection with the property in 1981, the taxpayer could treat the $5,500 of unused 1980 payment as qualified investments for 1981 (receiving, in effect, a carryover of his unused 1980 payment) even if no further payments were made to the manufacturer in 1981 the property is placed in service. Likewise, progress expenditures and progress which occur before the year for which the taxpayer first elects to come under the progress payment rules cannot be so utilized. Similarly, progress expenditures and progress allocable to a building (or its structural components) would not be taken into account.

To prevent a possible abuse situation, where a manufacturer might certify unrealistic amounts of progress in connection with a project, the committee bill contains a "pro rata" rule. Under this rule, it will be presumed that generally progress will not occur with respect to a project more rapidly than ratably over the expected construction period for the property.[7] However, this presumption could be rebutted if the taxpayer shows by clear and convincing evidence that progress had, in fact, been more rapid.

Progress expenditures may be made in cash, or in the form of property furnished by the taxpayer to the manufacturer for use in the construction of the property. However, if the taxpayer furnishes property, that property is to be taken into account only to the extent that that property could be included in the basis of the completed section 38 property at the time that it is placed in service.

Progress payments may be made out of the taxpayer's capital, or from borrowed funds. However, to prevent an obvious abuse situation, the committee bill provides that progress expenditures made with funds borrowed, directly or indirectly, from the manufacturer of the property may not be treated as qualified investment

Under the committee bill, the taxpayer is to be allowed to claim the full credit to which he is entitled with respect to property in the year in which it is placed in service. Of course, amounts which were treated as qualified investments with respect to the property in preceding years, due to the operation of the progress payment rules, are to be subtracted from the amount for which the taxpayer may obtain a credit.[8]

The provisions discussed above are to apply only if the taxpayer makes an election (in a time and manner to be prescribed in regulations) to come under these rules. Once made, the election would apply to all subsequent taxable years, and can only be revoked with the permission of the Commissioner. It is anticipated that taxpayers generally will exercise the election because this will accelerate their opportunity to use the investment credit. However, taxpayers who are currently in a loss situation may not wish to make the election, so that progress payments are not treated as qualified investments until the year in which the property is placed in service, in order to obtain a more favorable carryover period with respect to those payments.

[7] For example, if physical work pursuant to a contract is begun by July 1, 1980, for the manufacture of a machine to be delivered on July 1, 1985, (5 years later) it will be presumed that there would not be more than 10 percent progress during calendar 1980, and not more than 20 percent progress during the fiscal year from July 1, 1980, through June 30, 1981. (The determination as to the normal construction period of the property will be made only once, at the close of the taxable year in which work on the property commences.)

[8] Otherwise, the taxpayer might obtain two credits with respect to the same property. For example, assume that section 38 property placed in service in 1985 has a basis of $100,000, and that of that amount $10,000 has been treated as qualified investment in each of the years 1982, 1983, and 1984 under the progress payment rules. The taxpayer's basis in the property, for purposes of determining his qualified investment in 1985 is to be $70,000. (Of course, the taxpayer's basis for purposes of determining depreciation, or his gain or loss from the sale of the property, would not be affected by this adjustment, which is made for investment credit purposes.)



If property is sold or otherwise disposed of by the taxpayer before he places it in service, or if (under Treasury regulations) it becomes apparent that the property will not be section 38 property when placed in service, any amounts which were treated as qualified investments in prior years are, of course, to be subject to full recapture in a manner generally similar to present law.[9]

As discussed above, progress expenditure treatment is to be allowed only in the case of property which has an estimated useful life (measured from the time the property is placed in service by the taxpayer) of seven years or more. If the estimated useful life of the property is less than seven years at the time it is placed in service (even if previous estimates were for a longer useful life and were reasonable when made) any excess credits previously allowed under the progress payment rules are to be subject to recapture.[10]

Where the rate of the investment credit for the year in which qualified progress expenditure treatment was allowed with respect to the property is different from the rate in effect for the year of recapture, then recapture is to occur with respect to the rate in effect when qualified progress expenditure treatment was allowed. For example, recapture of 1975 progress expenditures would be 10 percent of those expenditures, since, under the committee bill, the investment credit for 1975 is to be 10 percent.

Where the actual useful life of the property is less than the estimated life (estimated as of the time when the property is placed in service), any excess credits previously allowed under the progress payment rules will be subject to recapture on the same basis as other excess credits.

In the case where property is subject to a sale-leaseback transaction before the property is placed in service, the following rules are applicable. Where the seller-lessee makes progress payments, but the property is sold to a lessor before the property is placed in service, generally this will be treated as a recapture situation. For example, if a seller-lessee makes progress payments of $10,000 each in 1980, 1981, and 1982, but the section 38 property is sold to a lessor for $100,000 in 1984, before the property is placed in service, the lessor would be entitled to the investment credit on his $100,000 basis, but credits previously allowed to the seller-lessee based on his $30,000 of progress expenditures would be subject to recapture.

However, where the lessor and lessee enter into an agreement providing that the seller-lessee will be entitled to some or all of the credit, it is contemplated that there would be no recapture of the credits previ-

[9] For example, sale of the property, or of the contract rights to the property before the property is placed in service, is to be treated as a disposition. A similar result is to follow if the contract for the property is cancelled, or if the project is abandoned by the taxpayer. Conveyance of the property by gift is also to be treated as a disposition. However, there would be no recapture in the event of a transfer by death, or pursuant to a sec. 381 transaction, but the decedent, or corporation (as the case may be) would be treated as a "predecessor" of the person receiving the sec. 38 property, and progress payments of the predecessor would have to be taken into account in reducing the qualified invesment of the successor.

[10] For example, if a taxpayer made $10,000 of progress expenditures in 1980 with respect to a piece of section 38 property, reasonably believing at that time that the property would have a seven-year useful life in his hands (so that a full credit was allowable with respect to those payments) but reduces the estimated useful life to 5 years in 1983, when the property is placed in service, so that only a two-thirds credit is allowable, the one-third excess credit previously allowed in connection with the 1980 payment is subject to recapture at the time the property is placed in service.

ously allowed with respect to the seller-lessee's progress expenditures since recapture would, in effect, permit the seller-lessee to revive otherwise unusable investment credits.[11] Accordingly, recapture is provided except to the extent that the lease agreement provides for the pass-through of the credit to the seller-lessee.

To minimize the possible doubling up effect of these provisions, where taxpayers would be taking investment credits for all property placed in service this year (even though progress payments had been made with respect to that property in prior years) as well as progress payments made in the year, the committee bill provides that the progress payment provisions are to be phased in over a 5-year period.

Under these transition rules, 20 percent of a taxpayer's 1975 progress expenditures may be treated as part of his qualified investment for 1975. The remaining 80 percent of those payments may be taken into account ratably over the next 4 years (20 percent a year); 40 percent of the progress expenditures made in 1976 may be taken into account in 1976, with the remaining 60 percent of the payments to be taken into account in the remaining 3 years of the phase in period; 60 percent of the progress expenditures made in 1977 can be treated as qualified investments in 1977, with 40 percent of the payments to be phased in ratably in the succeeding two years; 80 percent of the taxpayer's progress expenditures in 1978 could be taken into account as qualified investments in 1978, while the remaining 20 percent of the payments would be taken into account in 1979. By 1979, the phase in period would be complete, and all progress expenditures made in that year and later years could be treated as qualified investments. Also, in 1979 the taxpayer would take into account the final 20-percent phase-in portions of the expenditures in fact made in the four preceding years.

For example, assume that a progress expenditure of $10,000 were made in 1975. Two thousand dollars of this amount would be treated as a qualified investment in that year, and $2,000 would be available to be treated as qualified investment in each of the next 4 years. On the other hand, if a $10,000 progress expenditure were to be made in 1977 then $6,000 of that payment would be treated as a qualified investment in that year, and the remaining $4,000 would be taken into account ratably in 1978 and 1979.

When a taxpayer places in service the property with respect to which the taxpayer has been making progress payments, the taxpayer is to be entitled to the full investment credit, reduced by the progress payments credits already taken. In the case of property placed in service by such a taxpayer during the 5-year transition period, this would also include the remaining portions of the credit that otherwise would have been phased in at the rate of 20 percent each year.

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[11] For example, assume that the taxpayer (who has elected to use the progress payment rules) has been constructing a long-lead-time piece of property for a number of years and has had excess investment credits for those years (i.e., his investment credits have exceeded the amount that could be used because his taxable income was low for those years). Assume further that it becomes evident that some of these excess investment credits will not be able to be used in any of the years to which they could be carried under the carryover rules. The taxpayer is not to be permitted to "revive" those unused credits by entering into a sale-leaseback operation which would result in a recapture of the prior (unusable) credits and could result in the taxpayer and the new lessor agreeing to pass the new investment credit on to the taxpayer when the property is placed in service (when the taxpayer expects good profit years and therefore expects that the full credit could be utilized in those years).



The progress payment rules will apply to progress expenditures made after January 21, 1975, in taxable years ending after December 31, 1974.

*Revenue effect.*—These changes in the investment credit are expected to reduce liabilities by $2.4 billion in 1975 and $1.5 billion in 1976.

## E. Increase in Corporate Surtax Exemption

(Sec. 303 of the bill and sec. 11(d), 12(7), 962(c), and 1561(a) of the code)

Under the present law, corporate income is subject to a normal tax at a rate of 22 percent and a surtax at a rate of 26 percent (for a total tax rate of 48 percent). However, the first $25,000 of corporate income is exempt from the surtax. In effect, then, the first $25,000 of corporate income is taxed at the rate of 22 percent and the income in excess of $25,000 is taxed at a 48 percent rate.

In order to provide tax relief to small businesses that are not particularly capital intensive and would not be able to benefit as much from the investment credit, your committee's bill increases the surtax exemption from $25,000 to $50,000. This means that the first $50,000 of corporate taxable income will be taxed at the 22 percent rate, while any additional corporate income will be taxed at the 48 percent rate. This will result in an annual tax savings of $6,500 for a corporation having $50,000 or more of taxable income. (Under present law the tax on $50,000 of taxable income is $17,500—22 percent of the first $25,000 of income, plus 48 percent of the remaining $25,000; under the bill the tax is $11,000—22 percent of $50,000.)

The increase in the corporate surtax exemption is effective for taxable years ending after December 31, 1974. It is to apply, however, for only one year in this bill and is to cease to apply for taxable years ending after December 31, 1975.

In the case of a corporation which is not on a calendar year basis, the bill provides that the one year increase in the surtax exemption is to be treated as an increase and decrease in rates (sec. 21 of the code). As a result, in the case of a fiscal year taxpayer, the increase in the surtax exemption for the year ending in 1975 will be prorated based on the number of days from January 1, 1975, to the end of that taxable year, and the decrease in the surtax exemption, for years ending after 1975, will be prorated based on the number of days from the beginning of that taxable year through December 31, 1975. Thus, the tax benefit resulting from the one year increase in the surtax exemption will, in effect, be spread over two taxable years in the case of fiscal year taxpayers.

This increase in the corporate surtax exemption is expected to result in a revenue loss of $1.2 billion, of which it is estimated about 60 percent, or $730 million, will go to businesses with incomes under $100,000.

# V- STATISTICAL APPENDIX



TABLE 1.—INDIVIDUAL INCOME TAX BURDEN [1] UNDER PRESENT LAW AND UNDER THE PROVISIONS IN THE BILL WHICH GRANT A REFUND OF 1974 INCOME TAX LIABILITY, INCREASE THE STANDARD DEDUCTION, AND GRANT AN EARNED INCOME CREDIT [2]

[Single person and married couple with no, 1, 2, and 4 dependents (assuming deductible personal expenses of 17 percent of income)]

| | Tax liability | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Single person | | | Married couple with no dependents | | | Married couple with 1 dependent | | | Married couple with 2 dependents | | | Married couple with 4 dependents | | |
| Adjusted gross income | Under present law | Under H.R. 2166 | Reduction | Under present law | Under H.R. 2166 | Reduction | Under present law | Under H.R. 2166 | Reduction | Under present law | Under H.R. 2166 | Reduction | Under present law | Under H.R. 2166 | Reduction |
| $3,000 | $138 | −$201 | $339 | $28 | −$178 | $206 | 0 | −$150 | $150 | 0 | −$150 | $150 | 0 | −$150 | $150 |
| $5,000 | 491 | 177 | 314 | 322 | −60 | 382 | $208 | −165 | 373 | $98 | −198 | 296 | 0 | −100 | 100 |
| $6,000 | 681 | 467 | 214 | 484 | 190 | 294 | 362 | 77 | 285 | 245 | −30 | 275 | $28 | −28 | 56 |
| $8,000 | 1,087 | 865 | 222 | 837 | 520 | 317 | 694 | 392 | 302 | 559 | 270 | 289 | 312 | 40 | 272 |
| $10,000 | 1,482 | 1,286 | 196 | 1,152 | 885 | 267 | 1,010 | 757 | 253 | 867 | 615 | 252 | 586 | 350 | 236 |
| $12,500 | 1,996 | 1,796 | 200 | 1,573 | 1,333 | 240 | 1,408 | 1,192 | 216 | 1,261 | 1,064 | 197 | 976 | 805 | 171 |
| $15,000 | 2,549 | 2,349 | 200 | 2,029 | 1,829 | 200 | 1,864 | 1,678 | 186 | 1,699 | 1,529 | 170 | 1,371 | 1,234 | 137 |
| $17,500 | 3,145 | 2,945 | 200 | 2,516 | 2,316 | 200 | 2,329 | 2,129 | 200 | 2,156 | 1,956 | 200 | 1,826 | 1,643 | 183 |
| $20,000 | 3,784 | 3,584 | 200 | 3,035 | 2,835 | 200 | 2,848 | 2,648 | 200 | 2,660 | 2,460 | 200 | 2,285 | 2,085 | 200 |
| $25,000 | 5,230 | 5,080 | 150 | 4,170 | 4,020 | 150 | 3,960 | 3,810 | 150 | 3,750 | 3,600 | 150 | 3,330 | 3,180 | 150 |
| $30,000 | 6,850 | 6,750 | 100 | 5,468 | 5,368 | 100 | 5,228 | 5,128 | 100 | 4,988 | 4,888 | 100 | 4,508 | 4,408 | 100 |
| $35,000 | 8,625 | 8,525 | 100 | 6,938 | 6,838 | 100 | 6,668 | 6,568 | 100 | 6,398 | 6,298 | 100 | 5,858 | 5,758 | 100 |
| $40,000 | 10,515 | 10,415 | 100 | 8,543 | 8,443 | 100 | 8,251 | 8,151 | 100 | 7,958 | 7,858 | 100 | 7,373 | 7,273 | 100 |

[1] Computed without reference to the tax tables for returns with adjusted gross income under $10,000.
[2] For a more detailed description of these provisions see table 1 in the Revenue Effects section of this report.

Note: Details may not add to totals because of rounding.

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TABLE 2.—INDIVIDUAL INCOME TAX BURDEN [1] UNDER PRESENT LAW AND UNDER THE PROVISIONS IN THE BILL WHICH INCREASE THE STANDARD DEDUCTION AND GRANT AN EARNED INCOME CREDIT [2]

[Single person and married couple with no, 1, 2, and 4 dependents (assuming deductible personel expenses of 17 percent of income)]

| | Tax liability | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Single person | | | Married couple with no dependents | | | Married couple with 1 dependent | | | Married couple with 2 dependents | | | Married couple with 4 dependents | | |
| Adjusted gross income | Under present law | Under H.R. 2166 | Reduction | Under present law | Under H.R. 2166 | Reduction | Under present law | Under H.R. 2166 | Reduction | Under present law | Under H.R. 2166 | Reduction | Under present law | Under H.R. 2166 | Reduction |
| $3,000 | $138 | −$101 | $239 | $28 | −$150 | $178 | 0 | −$150 | $150 | 0 | −$150 | $150 | 0 | −$150 | $150 |
| $5,000 | 491 | 277 | 214 | 322 | 40 | 282 | $208 | −65 | 273 | $98 | −100 | 198 | 0 | −100 | 100 |
| $6,000 | 681 | 567 | 114 | 484 | 290 | 194 | 362 | 178 | 185 | 245 | 70 | 175 | $28 | 0 | 28 |
| $8,000 | 1,087 | 974 | 113 | 837 | 620 | 217 | 694 | 493 | 202 | 559 | 370 | 189 | 312 | 140 | 172 |
| $10,000 | 1,482 | 1,434 | 48 | 1,152 | 1,000 | 152 | 1,010 | 858 | 152 | 867 | 715 | 152 | 586 | 450 | 136 |
| $12,500 | 1,996 | 1,996 | 0 | 1,573 | 1,490 | 83 | 1,408 | 1,333 | 75 | 1,261 | 1,190 | 71 | 976 | 905 | 71 |
| $15,000 | 2,549 | 2,549 | 0 | 2,029 | 2,029 | 0 | 1,864 | 1,864 | 0 | 1,699 | 1,699 | 0 | 1,371 | 1,371 | 0 |
| $17,500 | 3,145 | 3,145 | 0 | 2,516 | 2,516 | 0 | 2,329 | 2,329 | 0 | 2,156 | 2,156 | 0 | 1,826 | 1,826 | 0 |
| $20,000 | 3,784 | 3,784 | 0 | 3,035 | 3,035 | 0 | 2,848 | 2,848 | 0 | 2,660 | 2,660 | 0 | 2,285 | 2,285 | 0 |
| $25,000 | 5,230 | 5,230 | 0 | 4,170 | 4,170 | 0 | 3,960 | 3,960 | 0 | 3,750 | 3,750 | 0 | 3,330 | 3,330 | 0 |
| $30,000 | 6,850 | 6,850 | 0 | 5,468 | 5,468 | 0 | 5,228 | 5,228 | 0 | 4,988 | 4,988 | 0 | 4,508 | 4,508 | 0 |
| $35,000 | 8,625 | 8,625 | 0 | 6,938 | 6,938 | 0 | 6,668 | 6,668 | 0 | 6,398 | 6,398 | 0 | 5,858 | 5,858 | 0 |
| $40,000 | 10,515 | 10,515 | 0 | 8,543 | 8,543 | 0 | 8,251 | 8,251 | 0 | 7,958 | 7,958 | 0 | 7,373 | 7,373 | 0 |

[1] Computed without reference to the tax tables for returns with adjusted gross income under $10,000.
[2] For a more detailed description of these provisions see Table 1 in the Revenue Effects section of this report.

Note: Details may not add to totals because of rounding.

TABLE 3.—INDIVIDUAL INCOME TAX BURDEN [1] UNDER PRESENT LAW AND UNDER THE PROVISION IN THE BILL WHICH INCREASES THE STANDARD DEDUCTION [2]

[Single person and married couple with no, 1, 2, and 4 dependents (assuming deductible personal expenses of 17 percent of income)]

| Adjusted gross income | Tax liability | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Single person | | | Married couple with no dependents | | | Married couple with 1 dependent | | | Married couple with 2 dependents | | | Married couple with 4 dependents | | |
| | Under present law | Under H.R. 2166 | Reduction | Under present law | Under H.R. 2166 | Reduction | Under present law | Under H.R. 2166 | Reduction | Under present law | Under H.R. 2166 | Reduction | Under present law | Under H.R. 2166 | Reduction |
| $3,000 | $138 | $49 | $89 | $28 | 0 | $28 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| $5,000 | 491 | 377 | 114 | 322 | $140 | 182 | $208 | $35 | $173 | $98 | 0 | $98 | 0 | 0 | 0 |
| $6,000 | 681 | 567 | 114 | 484 | 290 | 194 | 362 | 178 | 185 | 245 | $70 | 175 | $28 | 0 | $28 |
| $8,000 | 1,087 | 974 | 113 | 837 | 620 | 217 | 694 | 493 | 202 | 559 | 370 | 189 | 312 | $140 | 172 |
| $10,000 | 1,482 | 1,434 | 48 | 1,152 | 1,000 | 152 | 1,010 | 858 | 152 | 867 | 715 | 152 | 586 | 450 | 136 |
| $12,500 | 1,996 | 1,996 | 0 | 1,573 | 1,490 | 83 | 1,408 | 1,333 | 75 | 1,261 | 1,190 | 71 | 976 | 905 | 71 |
| $15,000 | 2,549 | 2,549 | 0 | 2,029 | 2,029 | 0 | 1,864 | 1,864 | 0 | 1,699 | 1,699 | 0 | 1,371 | 1,371 | 0 |
| $17,500 | 3,145 | 3,145 | 0 | 2,516 | 2,516 | 0 | 2,329 | 2,329 | 0 | 2,156 | 2,156 | 0 | 1,826 | 1,826 | 0 |
| $20,000 | 3,784 | 3,784 | 0 | 3,035 | 3,035 | 0 | 2,848 | 2,848 | 0 | 2,660 | 2,660 | 0 | 2,285 | 2,285 | 0 |
| $25,000 | 5,230 | 5,230 | 0 | 4,170 | 4,170 | 0 | 3,960 | 3,960 | 0 | 3,750 | 3,750 | 0 | 3,330 | 3,330 | 0 |
| $30,000 | 6,850 | 6,850 | 0 | 5,458 | 5,468 | 0 | 5,228 | 5,228 | 0 | 4,988 | 4,988 | 0 | 4,508 | 4,508 | 0 |
| $35,000 | 8,625 | 8,625 | 0 | 6,938 | 6,938 | 0 | 6,668 | 6,668 | 0 | 6,398 | 6,398 | 0 | 5,858 | 5,858 | 0 |
| $40,000 | 10,515 | 10,515 | 0 | 8,543 | 8,543 | 0 | 8,251 | 8,251 | 0 | 7,958 | 7,958 | 0 | 7,373 | 7,373 | 0 |

[1] Computed without reference to the tax tables for returns with adjusted gross income under $10,000.

[2] Increasing the minimum standard deduction to $1,900 for single person returns and $2,500 for joint returns; the percentage standard deduction to 16 percent; and the maximum standard deduction to $2,500 for single person returns and $3,000 for joint returns.

Note: Details may not add to totals because of rounding.



TABLE 4.—INDIVIDUAL INCOME TAX BURDEN [1] UNDER PRESENT LAW AND UNDER THE PROVISION IN THE BILL WHICH GRANTS AN EARNED INCOME CREDIT [2]

[Single person and married couple with no, 1, 2, and 4 dependents (assuming deductible personal expenses of 17 percent of income)]

| Adjusted gross income | Tax liability | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Single person | | | Married couple with no dependents | | | Married couple with 1 dependent | | | Married couple with 2 dependents | | | Married couple with 4 dependents | | |
| | Under present law | Under H.R. 2166 | Reduction | Under present law | Under H.R. 2166 | Reduction | Under present law | Under H.R. 2166 | Reduction | Under present law | Under H.R. 2166 | Reduction | Under present law | Under H.R. 2166 | Reduction |
| $3,000 | $138 | −$13 | $150 | $28 | −$122 | $150 | 0 | −$150 | $150 | 0 | −$150 | $150 | 0 | −$150 | $150 |
| $5,000 | 491 | 391 | 100 | 322 | 222 | 100 | $208 | 108 | 100 | $98 | −2 | 100 | 0 | −100 | 100 |
| $6,000 | 681 | 681 | 0 | 484 | 484 | 0 | 362 | 362 | 0 | 245 | 245 | 0 | $28 | 28 | 0 |
| $8,000 | 1,087 | 1,087 | 0 | 837 | 837 | 0 | 694 | 694 | 0 | 559 | 559 | 0 | 312 | 312 | 0 |
| $10,000 | 1,482 | 1,482 | 0 | 1,152 | 1,152 | 0 | 1,010 | 1,010 | 0 | 867 | 867 | 0 | 586 | 586 | 0 |
| $12,500 | 1,996 | 1,996 | 0 | 1,573 | 1,573 | 0 | 1,408 | 1,408 | 0 | 1,261 | 1,261 | 0 | 976 | 976 | 0 |
| $15,000 | 2,549 | 2,549 | 0 | 2,029 | 2,029 | 0 | 1,864 | 1,864 | 0 | 1,699 | 1,699 | 0 | 1,371 | 1,371 | 0 |
| $17,500 | 3,145 | 3,145 | 0 | 2,516 | 2,516 | 0 | 2,329 | 2,329 | 0 | 2,156 | 2,156 | 0 | 1,826 | 1,826 | 0 |
| $20,000 | 3,784 | 3,784 | 0 | 3,035 | 3,035 | 0 | 2,848 | 2,848 | 0 | 2,660 | 2,660 | 0 | 2,285 | 2,285 | 0 |
| $25,000 | 5,230 | 5,230 | 0 | 4,178 | 4,170 | 0 | 3,960 | 3,960 | 0 | 3,750 | 3,750 | 0 | 3,330 | 3,330 | 0 |
| $30,000 | 6,850 | 6,850 | 0 | 5,468 | 5,468 | 0 | 5,228 | 5,228 | 0 | 4,988 | 4,988 | 0 | 4,508 | 4,508 | 0 |
| $35,000 | 8,625 | 8,625 | 0 | 6,938 | 6,938 | 0 | 6,668 | 6,668 | 0 | 6,398 | 6,398 | 0 | 5,858 | 5,858 | 0 |
| $40,000 | 10,515 | 10,515 | 0 | 8,543 | 8,543 | 0 | 8,251 | 8,251 | 0 | 7,958 | 7,958 | 0 | 7,373 | 7,373 | 0 |

[1] Computed without reference to the tax tables for returns with adjusted gross income under $10,000.

[2] Granting a refundable tax credit of 5 percent of wage and salary and self-employment income with a maximum credit of $200 and a phaseout of the credit between $4,000 and $6,000 of adjusted gross income.

Note: Details may not add to totals because of rounding.

TABLE 5.—INDIVIDUAL INCOME TAX BURDEN [1] UNDER PRESENT LAW AND UNDER THE PROVISION IN THE BILL WHICH GRANTS A REFUND OF 1974 INCOME TAX LIABILITY [2]

[Single person and married couple with no, 1, 2, and 4 dependents (assuming deductible personal expenses of 17 percent of income)]

| | Tax liability | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Single person | | | Married couple with no dependents | | | Married couple with 1 dependent | | | Married couple with 2 dependents | | | Married couple with 4 dependents | | |
| Adjusted gross income | Under present law | Under H.R. 2166 | Reduction | Under present law | Under H.R. 2166 | Reduction | Under present law | Under H.R. 2166 | Reduction | Under present law | Under H.R. 2166 | Reduction | Under present law | Under H.R. 2166 | Reduction |
| $3,000 | $138 | $38 | $100 | $28 | 0 | $28 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| $5,000 | 491 | 391 | 100 | 322 | $222 | 100 | $208 | $108 | $100 | $98 | 0 | $98 | 0 | 0 | 0 |
| $6,000 | 681 | 581 | 100 | 484 | 384 | 100 | 362 | 262 | 100 | 245 | $145 | 100 | $28 | 0 | $28 |
| $8,000 | 1,087 | 978 | 109 | 837 | 737 | 100 | 694 | 594 | 100 | 559 | 459 | 100 | 312 | $212 | 100 |
| $10,000 | 1,482 | 1,334 | 148 | 1,152 | 1,037 | 115 | 1,010 | 909 | 101 | 867 | 767 | 100 | 586 | 486 | 100 |
| $12,500 | 1,996 | 1,797 | 200 | 1,573 | 1,415 | 157 | 1,408 | 1,267 | 141 | 1,261 | 1,135 | 126 | 976 | 876 | 100 |
| $15,000 | 2,543 | 2,343 | 200 | 2,023 | 1,829 | 200 | 1,854 | 1,678 | 186 | 1,699 | 1,529 | 170 | 1,371 | 1,233 | 137 |
| $17,500 | 3,145 | 2,945 | 200 | 2,516 | 2,316 | 200 | 2,329 | 2,129 | 200 | 2,156 | 1,956 | 200 | 1,826 | 1,643 | 183 |
| $20,000 | 3,784 | 3,584 | 200 | 3,035 | 2,835 | 200 | 2,848 | 2,648 | 200 | 2,660 | 2,460 | 200 | 2,285 | 2,085 | 200 |
| $25,000 | 5,230 | 5,030 | 150 | 4,170 | 4,020 | 150 | 3,960 | 3,810 | 150 | 3,750 | 3,600 | 150 | 3,330 | 3,180 | 150 |
| $30,000 | 6,850 | 6,750 | 100 | 5,438 | 5,368 | 100 | 5,228 | 5,128 | 100 | 4,988 | 4,888 | 100 | 4,508 | 4,408 | 100 |
| $35,000 | 8,625 | 8,525 | 100 | 6,938 | 6,838 | 100 | 6,668 | 6,568 | 100 | 6,398 | 6,298 | 100 | 5,858 | 5,758 | 100 |
| $40,000 | 10,515 | 10,415 | 100 | 8,543 | 8,443 | 100 | 8,251 | 8,151 | 100 | 7,958 | 7,858 | 100 | 7,373 | 7,273 | 100 |

[1] Computed without reference to the tax tables for returns with adjusted gross income under $10,000.

[2] Granting a 100-percent refund of 1974 income tax liability up to $100 without a phaseout and a 10-percent refund of tax above $1,000 with a maximum refund of $200 with the refund phased out between $20,000 and $30,000 of adjusted gross income but not below $100.

Note: Details may not add to totals because of rounding.

## VI. EFFECT ON THE REVENUES OF THE BILL AND VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with clause 7 of rule XIII of the Rules of the House of Representatives, the following statement is made relative to the effect on the revenues of this bill. Your committee estimates that the bill will reduce tax liability by $19.8 billion in calendar year 1975, $1.5 billion in 1976, and $130 million in 1977. The Treasury Department agrees with this statement. Part III of this report contains a more detailed statement of the revenue effect of the bill.

In compliance with clause 2(l)(2)(B) of Rule XI of the Rules of the House of Representatives, the following statement is made relative to the record vote by the committee on the motion to report the bill. The bill was ordered reported by a roll call vote of 29 in favor and 6 opposed.

## VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1954

* * * * * * *

# CHAPTER 1—NORMAL TAXES AND SURTAXES

* * * * * * *

## Subchapter A—Determination of Tax Liability

* * * * * * *

### PART II—TAX ON CORPORATIONS

Sec. 11. Tax imposed.
Sec. 12. Cross references relating to tax on corporations.

**SEC. 11. TAX IMPOSED.**

(a) * * *

* * * * * * *

(d) SURTAX EXEMPTION.—For purposes of this subtitle, the surtax exemption for any taxable year is [$25,000] *$50,000*, except that with respect to a corporation to which section 1561 or 1564 (relating to surtax exemptions in case of certain controlled corporations) applies for the taxable year, the surtax exemption for the taxable year is the amount determined under such section.

* * * * * * *

**SEC. 12. CROSS REFERENCES RELATING TO TAX ON CORPORATIONS.**

**(1) For tax on the unrelated business income of certain charitable and other corporations exempt from tax under this chapter, see section 511.**

**(2) For accumulated earnings tax and personal holding company tax, see parts I and II of subchapter G (sec. 531 and following).**

**(3) For doubling of tax on corporations of certain foreign countries, see section 891.**

**(4) For alternative tax in case of capital gains, see section 1201 (a).**

**(5) For rate of withholding in case of foreign corporations, see section 1442.**

**(6) For withholding of tax on tax-free covenant bonds, see section 1451.**

**(7) For limitation on the [$25,000] *$50,000* exemption from surtax provided in section 11 (c), see section 1551.**

**(8) For minimum tax for tax preferences, see section 56.**

## PART III—CHANGES IN RATES DURING A TAXABLE YEAR

Sec. 21. Effect of changes.

**SEC. 21. EFFECT OF CHANGES.**

(a) GENERAL RULE.—If any rate of tax imposed by this chapter changes, and if the taxable year includes the effective date of the change (unless that date is the first day of the taxable year), then—

(1) tentative taxes shall be computed by applying the rate for the period before the effective date of the change, and the rate for the period on and after such date, to the taxable income for the entire taxable year; and

(2) the tax for such taxable year shall be the sum of that proportion of each tentative tax which the number of days in each period bears to the number of days in the entire taxable year.

(b) REPEAL OF TAX.—For purposes of subsection (a)—

(1) if a tax is repealed, the repeal shall be considered a change of rate; and

(2) the rate for the period after the repeal shall be zero.

(c) EFFECTIVE DATE OF CHANGE.—For purposes of subsections (a) and (b)—

(1) if the rate changes for taxable years "beginning after" or "ending after" a certain date, the following day shall be considered the effective date of the change; and

(2) if a rate changes for taxable years "beginning on or after" a certain date, that date shall be considered the effective date of the change.

(d) CHANGES MADE BY TAX REFORM ACT OF 1969 IN CASE OF INDIVIDUALS.—In applying subsection (a) to a taxable year of an individual which is not a calendar year, each change made by the Tax Reform Act of 1969 in part I or in the application of part IV or V of subchapter B for purposes of the determination of taxable income shall be treated as a change in a rate of tax.

(e) CHANGES MADE BY REVENUE ACT OF 1971.—In applying subsection (a) to a taxable year of an individual which is not a calendar year, each change made by the Revenue Act of 1971 in section 141 (relating to the standard deduction) and section 151 (relating to personal exemptions) shall be treated as a change in a rate of tax.



*(f) INCREASE IN SURTAX EXEMPTION, ETC.—In applying subsection (a) to a taxable year of a taxpayer which is not a calendar year, the change made by section 303, and the change made by the second sentence of section 304(c)(1), of the Tax Reduction Act of 1975 in section 11(d) (relating to corporate surtax exemption) and in section 962(c) (relating to individuals electing to be taxed at corporate rates) shall each be treated as a change in a rate of tax.*

* * * * * * *

## PART IV—CREDITS AGAINST TAX

Subpart A. Credits allowable.
Subpart B. Rules for computing credit for investment in certain depreciable property.

### Subpart A—Credits Allowable

Sec. 31. Tax withheld on wages.
Sec. 32. Tax withheld at source on nonresident aliens and foreign corporations and on tax-free covenant bonds.
Sec. 33. Taxes of foreign countries and possessions of the United States.
Sec. 35. Partially tax-exempt interest received by individuals.
Sec. 36. Credits not allowed to individuals paying optional tax or taking standard deduction.
Sec. 37. Retirement income.
Sec. 38. Investment in certain depreciable property.
Sec. 39. Certain uses of gasoline, special fuels, and lubricating oil.
Sec. 40. Expenses of work incentive programs.
Sec. 41. Contributions to candidates for public office.
*Sec. 42. Earned income credit.*
Sec. [42] *43*. Overpayments of tax.

* * * * * * *

***SEC. 42. EARNED INCOME CREDIT.***

*(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 5 percent of the taxpayer's adjusted earned income for the taxable year.*

*(b) ADJUSTED EARNED INCOME.—For purposes of this section, the term "adjusted earned income" means—*

*(1) so much of the individual's earned income for the taxable year as does not exceed $4,000, reduced by*

*(2) two times the excess over $4,000 of the greater of—*

*(A) the taxpayer's adjusted gross income for the taxable year, or*

*(B) the taxpayer's earned income for the taxable year.*

*(c) EARNED INCOME DEFINED.—*

*(1) IN GENERAL.—For purposes of this section, the term "earned income" means—*

*(A) wages, salaries, tips, and other employee compensation, plus*

*(B) the amount of taxpayer's net earnings from self-employment for the taxable year (within the meaning of section 1402(a)).*

(*2*) *Special rules.—For purposes of paragraph (1)—*

(*A*) *except as provided in subparagraph (B), any amount shall be taken into account only if such amount is includible in the gross income of the taxpayer for the taxable year,*

(*B*) *the earned income of an individual shall be computed without regard to any community property laws,*

(*C*) *no amount received as a pension or annuity shall be taken into account,*

(*D*) *compensation described in paragraph (1)(A) for services performed by an individual in the employ of his spouse, father, mother, son, or daughter (within the meaning of section 3121(b)(3)) shall be taken into account only if such compensation constitutes wages (as defined in section 3121(a)) and only if such wages are evidenced by a receipt required to be furnished under section 6051(a) (relating to receipts for employees),*

(*E*) *in the case of an individual who has not attained the age of 18 years by the close of his taxable year—*

(*i*) *compensation described in paragraph (1)(A) shall be taken into account only if such compensation is evidenced by a receipt required to be furnished under section 6051(a), and*

(*ii*) *earnings described in paragraph (1)(B) shall be taken into account only if such individual has self-employment income for the taxable year (within the meaning of section 1402(b)), and*

(*F*) *no amount to which section 871(a) applies (relating to income of nonresident alien individuals not connected with United States business) shall be taken into account.*

(*d*) *Requirement of Joint Return.—In the case of an individual who is married (within the meaning of section 143), this section shall apply only if a joint return is filed for the taxable year under section 6013.*

(*e*) *Taxable Year Must Be Full Taxable Year.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.*

**SEC. [42] *43*. OVERPAYMENTS OF TAX.**

For credit against the tax imposed by this subtitle for overpayments of tax, see section 6401.

## Subpart B—Rules for Computing Credit for Investment in Certain Depreciable Property

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**SEC. 46. AMOUNT OF CREDIT.**

(a) Determination of Amount.—

[(1) General rule.—The amount of the credit allowed by section 38 for the taxable year shall be equal to 7 percent of the qualified investment (as defined in subsection (c)).]

(*1*)[1] *General rule.—*

[1] As amended by section 301(a) of the bill.



(*A*) *10-percent credit.—Except as provided in subparagraph (B), the amount of the credit allowed by section 38 for the taxable year shall be equal to 10 percent of the qualified investment (as determined under subsections (c) and (d)).*

(*B*) *7-percent credit.—In the case of property—*

(*i*) *the construction, reconstruction, or erection of which is completed by the taxpayer before January 22, 1975, or*

(*ii*) *which is acquired by the taxpayer before January 22, 1975,*

*the amount of the credit allowed by section 38 for the taxable year shall be equal to 7 percent of the qualified investment (as defined in subsection (c)).*

(*C*) *Transitional rule.—In the case of property—*

(*i*) *the construction, reconstruction, or erection of which is begun by the taxpayer before January 22, 1975, and*

(*ii*) *the construction, reconstruction, or erection of which is completed by the taxpayer after January 21, 1975,*

*subparagraph (B) shall apply to the property to the extent of that portion of the basis which is properly attributable to construction, reconstruction, or erection before January 22, 1975, and subparagraph (A) shall apply to such property to the extent of that portion of the basis which is properly attributable to construction, reconstruction, or erection after January 21, 1975.*

(1)[2] General rule.—The amount of the credit allowed by section 38 for the taxable year shall be equal to 7 percent of the qualified investment [(as defined in subsection (c))] *(as determined under subsections (c) and (d)).*

(2) Limitation based on amount of tax.—Notwithstanding paragraph (1), the credit allowed by section 38 for the taxable year shall not exceed—

(A) so much of the liability for tax for the taxable year as does not exceed $25,000, plus

(B) for taxable years ending on or before the last day of the suspension period (as defined in section 48(j)), 25 percent of so much of the liability for tax for the taxable year as exceeds $25,000, or

(C) for taxable years ending after the last day of such suspension period, 50 percent of so much of the liability for tax for the taxable year as exceeds $25,000.

*　　*　　*　　*　　*　　*　　*

(*6*) *Alternative limitation in the case of certain utilities.—*

(*A*) *In general.—If, for a taxable year beginning after 1974 and before 1981, the amount of the qualified investment of the taxpayer which is attributable to public utility property is 25 percent or more of his aggregate qualified invest-*

[2] Section 302(b)(2) of the bill amends this paragraph as in effect without the amendment made by section 301(a).

*ment, then subparagraph (C) of paragraph (2) of this subsection shall be applied by substituting for 50 percent his applicable percentage for such year.*

*(B)* APPLICABLE PERCENTAGE.*—The applicable percentage of any taxpayer for any taxable year is—*

*(i) 50 percent, plus*

*(ii) that proportion of the tentative percentage for the taxable year which the taxpayer's amount of qualified investment which is public utility property bears to his aggregate qualified investment.*

*If the proportion referred to in clause (ii) is 75 percent or more, the applicable percentage of the taxpayer for the year shall be 50 percent plus the tentative percentage for such year.*

*(C)* TENTATIVE PERCENTAGE.*—For purposes of subparagraph (B), the tentative percentage shall be determined under the following table:*

| *If the taxable year begins in:* | *The tentative percentage is:* |
|---|---|
| *1975 or 1976* | *50* |
| *1977* | *40* |
| *1978* | *30* |
| *1979* | *20* |
| *1980* | *10.* |

*(D)* PUBLIC UTILITY PROPERTY DEFINED.*—For purposes of this paragraph, the term "public utility property" has the meaning given to such term by the first sentence of subsection (c)(3)(B).*

* * * * * * *

(c) QUALIFIED INVESTMENT—

(1) IN GENERAL.—For purposes of this subpart, the term "qualified investment" means, with respect to any taxable year, the aggregate of—

(A) the applicable percentage of the basis of each new section 38 property (as defined in section 48(b)) placed in service by the taxpayer during such taxable year, plus

(B) the applicable percentage of the cost of each used section 38 property (as defined in section 48(c)(1)) placed in service by the taxpayer during such taxable year.

(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage for any property shall be determined under the following table:

| *If the useful life is—* | *The applicable percentage is—* |
|---|---|
| 3 years or more but less than 5 years | 33⅓ |
| 5 years or more but less than 7 years | 66⅔ |
| 7 years or more | 100 |

For purposes of this subpart, the useful life of any property shall be the useful life used in computing the allowance for depreciation under section 167 for the taxable year in which the property is placed in service.

(3) PUBLIC UTILITY PROPERTY.—



(A) [In the case of section 38] *To the extent that subsection (a)(1)(B) applies to* property which is public utility property, the amount of the qualified investment shall be 4/7 of the amount determined under paragraph (1).

(B) For purposes of subparagraph (A), the term "public utility property" means property used predominantly in the trade or business of the furnishing or sale of—

(i) electrical energy, water, or sewage disposal services,

(ii) gas through a local distribution system, or

(iii) telephone service, telegraph service by means of domestic telegraph operations (as defined in section 222 (a)(5) of the Communications Act of 1934, as amended; 47 U.S.C., sec. 222(a)(5)), or other communication services (other than international telegraph service),

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, by an agency or instrumentality of the United States, or by a public service or public utility commission or other similar body of any State or political subdivision thereof. Such term also means communications property of the type used by persons engaged in providing telephone or microwave communication services to which clause (iii) applies, if such property is used predominantly for communication purposes.

(C) In the case of any interest in a submarine cable circuit used to furnish telegraph service between the United States and a point outside the United States of a taxpayer engaged in furnishing international telegraph service (if the rates for such furnishing have been established or approved by a governmental unit, agency, instrumentality, commission, or similar body described in subparagraph (B)), the qualified investment shall not exceed the qualified investment attributable to so much of the interest of the taxpayer in the circuit as does not exceed 50 percent of all interests in the circuit.

*(4)* COORDINATION WITH SUBSECTION *(d).—The amount which would (but for this paragraph) be treated as qualified investment under this subsection with respect to any property shall be reduced (but not below zero) by any amount treated by the taxpayer or a predecessor of the taxpayer (or, in the case of a sale and leaseback described in section 47(a)(3)(C), by the lessee) as qualified investment with respect to such property under subsection (d), to the extent the amount so treated has not been required to be recaptured by reason of section 47(a)(3).*

*(d)* QUALIFIED PROGRESS EXPENDITURES.*—*

*(1)* IN GENERAL.*—In the case of any taxpayer who has made an election under paragraph (6), the amount of his qualified investment for the taxable year (determined under subsection (c) without regard to this subsection) shall be increased by an amount equal to his aggregate qualified progress expenditures for the taxable year with respect to progress expenditure property.*

*(2)* PROGRESS EXPENDITURE PROPERTY DEFINED.*—*

(A) *In general.*—For purposes of this subsection, the term "progress expenditure property" means any property which is being constructed by or for the taxpayer and which—

(i) has a normal construction period of 2 years or more, and

(ii) it is reasonable to believe will be new section 38 property having a useful life of 7 years or more in the hands of the taxpayer when it is placed in service.

Clauses (i) and (ii) of the preceding sentence shall be applied on the basis of facts known at the close of the taxable year of the taxpayer in which construction begins (or, if later, at the close of the first taxable year to which an election under this subsection applies).

(B) *Normal construction period.*—For purposes of subparagraph (A), the term "normal construction period" means the period reasonably expected to be required for the construction of the property—

(i) beginning with the date on which physical work on the construction begins (or, if later, the first day of the first taxable year to which an election under this subsection applies), and

(ii) ending on the date on which it is expected that the property will be available for placing in service.

(3) *Qualified progress expenditures defined.*—For purposes of this subsection—

(A) *Self-constructed property.*—In the case of any self-constructed property, the term "qualified progress expenditures" means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

(B) *Non-self-constructed property.*—In the case of non-self-constructed property, the term "qualified progress expenditures" means the lesser of—

(i) the amount paid during the taxable year to another person for the construction of such property, or

(ii) the amount which represents that proportion of the overall cost to the taxpayer of the construction by such other person which is properly attributable to that portion of such construction which is completed during such taxable year.

(4) *Special rules for applying paragraph (3).*—For purposes of paragraph (3)—

(A) *Component parts, etc.*—Property which is to be a component part of, or is otherwise to be included in, any progress expenditure property shall be taken into account—

(i) at a time not earlier than the time at which it becomes irrevocably devoted to use in the progress expenditure property, and

(ii) as if (at the time referred to in clause (i)) the taxpayer had expended an amount equal to that portion of the cost to the taxpayer of such component or other property which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.



(B) *Certain borrowings disregarded.*—Any amount borrowed directly or indirectly by the taxpayer from the person constructing the property for him shall not be treated as an amount expended for such construction.

(C) *Certain unused expenditures carried over.*—In the case of non-self-constructed property, if for the taxable year—

(i) the amount under clause (i) of paragraph (3)(B) exceeds the amount under clause (ii) of paragraph (3)(B), then the amount of such excess shall be taken into account under such clause (i) for the succeeding taxable year, or

(ii) the amount under clause (ii) of paragraph (3)(B) exceeds the amount under clause (i) of paragraph (3)(B), then the amount of such excess shall be taken into account under such clause (ii) for the succeeding taxable year.

(D) *Determination of percentage of completion.*—In the case of non-self-constructed property, the determination under paragraph (3)(B)(ii) of the proportion of the overall cost to the taxpayer of the construction of any property which is properly attributable to construction completed during any taxable year shall be made, under regulations prescribed by the Secretary or his delegate, on the basis of engineering or architectural estimates or on the basis of cost accounting records. Unless the taxpayer establishes otherwise by clear and convincing evidence, the construction shall be deemed to be completed not more rapidly than ratably over the normal construction period.

(E) *No qualified progress expenditures for certain prior periods.*—In the case of any property, no qualified progress expenditures shall be taken into account under this subsection for any period before January 22, 1975 (or, if later, before the first day of the first taxable year to which an election under this subsection applies).

(F) *No qualified progress expenditures for property for year it is placed in service, etc.*—In the case of any property, no qualified progress expenditures shall be taken into account under this subsection for the earlier of—

(i) the taxable year in which the property is placed in service, or

(ii) the first taxable year for which recapture is required under section 47(a)(3) with respect to such property,

or for any taxable year thereafter.

(5) *Other definitions.*—For purposes of this subsection—

(A) *Self-constructed property.*—The term "self-constructed property" means property more than half of the construction expenditures for which it is reasonable to believe will be made directly by the taxpayer.

*(B) Non-self-constructed property.—The term "non-self-constructed property" means property which is not self-constructed property.*

*(C) Construction, etc.—The term "construction" includes reconstruction and erection, and the term "constructed" includes reconstructed and erected.*

*(D) Only construction of section 38 property to be taken into account.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.*

*(6) Election.—An election under this subsection may be made at such time and in such manner as the Secretary or his delegate may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary or his delegate.*

*(7) Transitional rules.—The qualified investment taken into account under this subsection for any taxable year beginning before January 1, 1980, with respect to any property shall be (in lieu of the full amount) an amount equal to the sum of—*

*(A) the applicable percentage of the full amount determined under the following table:*

| *For a taxable year beginning in:* | *The applicable percentage is:* |
|---|---|
| *1974 or 1975* | *20* |
| *1976* | *40* |
| *1977* | *60* |
| *1978* | *80* |
| *1979* | *100;* |

*plus*

*(B) in the case of any property to which this subsection applied for one or more preceding taxable years, 20 percent of the full amount for each such preceding taxable year.*

*For purposes of this paragraph, the term "full amount", when used with respect to any property for any taxable year, means the amount of the qualified investment for such property for such year determined under this subsection without regard to this paragraph.*

[d] *(e)* Limitations with Respect to Certain Persons.—

(1) In general.—In the case of—

(A) an organization to which section 593 applies,

(B) a regulated investment company or a real estate investment trust subject to taxation under subchapter M (sec. 851 and following), and

(C) a cooperative organization described in section 1381(a),

the qualified investment and the $25,000 amount specified under subparagraphs (A) and (B) of subsection (a)(2) shall equal such person's ratable share of such items.



(2) Ratable share.—For purposes of paragraph (1), the ratable share of any person for any taxable year of the items described therein shall be—

(A) in the case of an organization referred to in paragraph (1)(A), 50 percent thereof,

(B) in the case of a regulated investment company or a real estate investment trust, the ratio (i) the numerator of which is its taxable income and (ii) the denominator of which is its taxable income computed without regard to the deduction for dividends paid provided by section 852(b)(2)(D) or 857(b)(2)(C), as the case may be, and

(C) in the case of a cooperative organization, the ratio (i) the numerator of which is its taxable income and (ii) the denominator of which is its taxable income increased by amounts to which section 1382(b) or (c) applies and similar amounts the tax treatment of which is determined without regard to subchapter T (sec. 1381 and following).

For the purposes of subparagraph (B) of the preceding sentence, the term "taxable income" means in the case of a regulated investment company its investment company taxable income (within the meaning of section 852(b)(2)), and in the case of a real estate investment trust its real estate investment trust taxable income (within the meaning of section 857(b)(2)).

(3) Noncorporate lessors.—A credit shall be allowed by section 38 to a person which is not a corporation with respect to property of which such person is the lessor only if—

(A) the property subject to the lease has been manufactured or produced by the lessor, or

(B) the term of the lease (taking into account options to renew) is less than 50 percent of the useful life of the property, and for the period consisting of the first 12 months after the date on which the property is transferred to the lessee the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) exceeds 15 percent of the rental income produced by such property.

In the case of property of which a partnership is the lessor, the credit otherwise allowable under section 38 with respect to such property to any partner which is a corporation shall be allowed notwithstanding the first sentence of this paragraph. For purposes of this paragraph, an electing small business corporation (as defined in section 1371) shall be treated as a person which is not a corporation.

[(e)] *(f)* Limitation in Case of Certain Regulated Companies.—

(1) General rule.—Except as otherwise provided in this subsection, no credit shall be allowed by section 38 with respect to any property described in section 50 which is public utility property (as defined in paragraph (5)) of the taxpayer—

(A) Cost of service reduction.—If the taxpayer's cost of service for ratemaking purposes is reduced by reason of any portion of the credit allowable by section 38 (determined without regard to this subsection); or

(B) Rate base reduction.—If the base to which the taxpayer's rate of return for ratemaking purposes is applied is reduced by reason of any portion of the credit allowable by section 38 (determined without regard to this subsection).

Subparagraph (B) shall not apply if the reduction in the rate base is restored not less rapidly than ratably. If the taxpayer makes an election under this sentence within 90 days after the date of the enactment of this paragraph in the manner prescribed by the Secretary or his delegate, the immediately preceding sentence shall not apply to property described in paragraph (5)(B) if any agency or instrumentality of the United States having jurisdiction for ratemaking purposes with respect to such taxpayer's trade or business referred to in paragraph (5)(B) determines that the natural domestic supply of the product furnished by the taxpayer in the course of such trade or business is insufficient to meet the present and future requirements of the domestic economy.

(2) Special rule for ratable flow-through.—If the taxpayer makes an election under this paragraph within 90 days after the date of the enactment of this paragraph in the manner prescribed by the Secretary or his delegate, paragraph (1) shall not apply, but no credit shall be allowed by section 38 with respect to any property described in section 50 which is public utility property (as defined in paragraph (5)) of the taxpayer—

(A) Cost of service reduction.—If the taxpayer's cost of service for ratemaking purposes or in its regulated books of account is reduced by more than a ratable portion of the credit allowable by section 38 (determined without regard to this subsection), or

(B) Rate base reduction.—If the base to which the taxpayer's rate of return for ratemaking purposes is applied is reduced by reason of any portion of the credit allowable by section 38 (determined without regard to this subsection).

(3) Special rule for immediate flow-through in certain cases.—In the case of property to which section 167(l)(2)(C) applies, if the taxpayer makes an election under this paragraph within 90 days after the date of the enactment of this paragraph in the manner prescribed by the Secretary or his delegate, paragraphs (1) and (2) shall not apply to such property.

(4) Limitation.—

(A) In general.—The requirements of paragraphs (1) and (2) regarding cost of service and rate base adjustment shall not be applied to public utility property of the taxpayer to disallow the credit with respect to such property before the first final determination which is inconsistent with paragraph (1) or (2) (as the case may be) is put into effect with respect to public utility property (to which this subsection applies) of the taxpayer. Thereupon, paragraph (1) or (2) shall apply to disallow the credit with respect to public utility property (to which this subsection applies) placed in service by the taxpayer—



(i) before the date that the first final determination, or a subsequent determination, which is inconsistent with paragraph (1) or (2) (as the case may be) is put into effect, and

(ii) on or after the date that a determination referred to in clause (i) is put into effect and before the date that a subsequent determination thereafter which is consistent with paragraph (1) or (2) (as the case may be) is put into effect.

(B) Determinations.—For purposes of this paragraph, a determination is a determination made with respect to public utility property (to which this subsection applies) by a governmental unit, agency, instrumentality, or commission or similar body described in subsection (c)(3)(B) which determines the effect of the credit allowed by section 38 (determined without regard to this subsection)—

(i) on the taxpayer's cost of service or rate base for rate-making purposes, or

(ii) in the case of a taxpayer which made an election under paragraph (2), on the taxpayer's cost of service for ratemaking purposes or in its regulated books of account or rate base for ratemaking purposes.

(C) Special rules.—For purposes of this paragraph—

(i) a determination is final if all rights to appeal or to request a review, a rehearing, or a redetermination, have been exhausted or have lapsed,

(ii) the first final determination is the first final determination made after the date of the enactment of this subsection, and

(iii) a subsequent determination is a determination subsequent to a final determination.

(5) Public utility property.—For purposes of this subsection, the term "public utility property" means—

(A) property which is public utility property within the meaning of subsection (c)(3)(B), and

(B) property used predominantly in the trade or business of the furnishing or sale of (i) steam through a local distribution system or (ii) the transportation of gas or steam by pipeline, if the rates for such furnishing or sale are established or approved by a governmental unit, agency, instrumentality, or commission described in subsection (c)(3)(B).

(6) Ratable portion.—For purposes of determining ratable restorations to base under paragraph (1) and for purposes of determining ratable portions under paragraph (2)(A), the period of time used in computing depreciation expense for purposes of reflecting operating results in the taxpayer's regulated books of account shall be used.

(7) Reorganizations, assets acquisitions, etc.—If by reason of a corporate reorganization, by reason of any other acquisition of the assets of one taxpayer by another taxpayer, by reason of the fact that any trade or business of the taxpayer is subject to ratemaking by more than one body, or by reason of other circum-

stances, the application of any provisions of this subsection to any public utility property does not carry out the purposes of this subsection, the Secretary or his delegate shall provide by regulations for the application of such provisions in a manner consistent with the purposes of this subsection.

**SEC. 47. CERTAIN DISPOSITIONS, ETC., OF SECTION 38 PROPERTY.**

(a) GENERAL RULE—Under regulations prescribed by the Secretary or his delegate—

(1) EARLY DISPOSITION, ETC.—If during any taxable year any property is disposed of, or otherwise ceases to be section 38 property with respect to the taxpayer, before the close of the useful life which was taken into account in computing the credit under section 38, then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from substituting, in determining qualified investment, for such useful life the period beginning with the time such property was placed in service by the taxpayer and ending with the time such property ceased to be section 38 property.

(2) PROPERTY BECOMES PUBLIC UTILITY PROPERTY.—If during any taxable year any property taken into account in determining qualified investment becomes public utility property (within the meaning of section 46(c)(3)(B)), then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from treating the property, for purposes of determining qualified investment, as public utility property (after giving due regard to the period before such change in use). If the application of this paragraph to any property is followed by the application of paragraph (1) to such property, proper adjustment shall be made in applying paragraph (1).

*(3) PROPERTY CEASES TO BE PROGRESS EXPENDITURE PROPERTY.—*

*(A) IN GENERAL.—If during any taxable year any property taken into account in determining qualified investment under section 46(d) ceases (by reason of sale or other disposition, cancellation or abandonment of contract, or otherwise) to be, with respect to the taxpayer, property which, when placed in service, will be new section 38 property, then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero the qualified investment taken into account with respect to such property.*

*(B) CERTAIN EXCESS CREDITS RECAPTURED.—Any amount which would have been applied as a reduction of the qualified investment in property by reason of paragraph (4) of section 46(c) but for the fact that a reduction under such paragraph cannot reduce qualified investment below zero shall be treated as an amount required to be recaptured under subparagraph*



*(A) for the taxable year in which the property is placed in service.*

*(C) CERTAIN SALES AND LEASEBACKS.—Under regulations prescribed by the Secretary or his delegate, a sale by, and leaseback to, a taxpayer who, when the property is placed in service, will be a lessee to whom section 48(d) applies shall not be treated as a cessation described in subparagraph (A) to the extent that the qualified investment which will be passed through to the lessee under section 48(d) with respect to such property does not exceed the qualified progress expenditures properly taken into account by the lessee with respect to such property.*

*(D) COORDINATION WITH PARAGRAPH (1).—If, after property is placed in service, there is a disposition or other cessation described in paragraph (1), paragraph (1) shall be applied as if any credit which was allowable by reason of section 46(d) and which has not been required to be recaptured before such cessation were allowable for the taxable year the property was placed in service.*

⟦(3)⟧*(4)* CARRYBACKS AND CARRYOVERS ADJUSTED.—In the case of any cessation described in paragraph (1) *or (3)* or any change in use described in paragraph (2), the carrybacks and carryovers under section 46(b) shall be adjusted by reason of such cessation (or change in use).

(5) CERTAIN PROPERTY REPLACED AFTER APRIL 18, 1969.—In any case in which—

(A) section 38 property is disposed of, and

(B) property which would be section 38 property but for section 49 is placed in service by the taxpayer to replace the property disposed of,

the increase under paragraph (1) and the adjustment under paragraph ⟦(3)⟧*(4)* shall not be greater than the increase or adjustment which would result if the qualified investment of the property described in subparagraph (B) (determined as if such property were section 38 property) were substituted for the qualified investment of the property disposed of (as determined under paragraph (1)). Except in the case of a disposition by reason of a casualty or theft occurring before April 19, 1969, the preceding sentence shall apply only if the section 38 property disposed of is replaced within 6 months after the date of such disposition.

(6) AIRCRAFT USED OUTSIDE THE UNITED STATES AFTER APRIL 18, 1969.

(A) GENERAL RULE.—Any aircraft which was new section 38 property for the taxable year in which it was placed in service and which is used outside the United States under a qualifying lease or leases shall be treated as not ceasing to be section 38 property by reason of such use until such aircraft has been so used for a period or periods exceeding 3½ years in total. For purposes of the preceding sentence, the registration of such aircraft under the laws of a foreign country shall be treated as used outside the United States.

(B) COMPUTATION OF QUALIFIED INVESTMENT.—If an aircraft described in subparagraph (A) is disposed of or otherwise ceases to be section 38 property, the increase under paragraph (1) and the adjustment under paragraph [(3)] *(4)* shall not be greater than the increase or adjustment which would result if the qualified investment of such aircraft were based upon a useful life equal to the lesser of (i) the actual useful life of such aircraft with respect to the taxpayer, or, (ii) twice the number of full calendar months during which such aircraft was registered by the Administrator of the Federal Aviation Agency and was used in the United States, operated to and from the United States, or operated under contract with the United States. For purposes of the preceding sentence, an aircraft shall be treated as used in the United States for any calendar month beginning after such aircraft was placed in service, if such month is included in a taxable year ending before January 1, 1971, for which such aircraft was section 38 property (determined without regard to this paragraph).

(C) QUALIFYING LEASE DEFINED.—For purposes of subparagraph (A), the term "qualifying lease" means a lease from an air carrier (as defined in section 101 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301)) which complies with the provisions of the Federal Aviation Act of 1958, as amended, and the rules and regulations promulgated by the Civil Aeronautics Board thereunder, but only if such lease was executed after April 18, 1969.

(b) SECTION NOT TO APPLY IN CERTAIN CASES.—Subsection (a) shall not apply to—

(1) a transfer by reason of death, or

(2) a transaction to which section 381(a) applies.

For purposes of subsection (a), property shall not be treated as ceasing to be section 38 property with respect to the taxpayer by reason of a mere change in the form of conducting the trade or business so long as the property is retained in such trade or business as section 38 property and the taxpayer retains a substantial interest in such trade or business.

(c) SPECIAL RULE.—Any increase in tax under subsection (a) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under subpart A.

**SEC. 48, DEFINITIONS; SPECIAL RULES.**

(a) SECTION 38 PROPERTY.—

(1) IN GENERAL.—Except as provided in this subsection, the term "section 38 property" means—

(A) tangible personal property, or

(B) other tangible property (not including a building and its structural components) but only if such property—

(i) is used as an integral part of manufacturing, production, or extraction or of furnishing transportation, communications, electrical energy, gas, water, or sewage disposal services, or



(ii) constitutes a research facility used in connection with any of the activities referred to in clause (i), or

(iii) constitutes a facility used in connection with any of the activities referred to in clause (i) for the bulk storage of fungible commodities (including commodities in a liquid or gaseous state), or

(C) elevators and escalators, but only if—

(i) the construction, reconstruction, or erection of the elevator or escalator is completed by the taxpayer after June 30, 1963, or

(ii) the elevator or escalator is acquired after June 30, 1963, and the original use of such elevator or escalator commences with the taxpayer and commences after such date.

Such term includes only property with respect to which depreciation (or amortization in lieu of depreciation) is allowable and having a useful life (determined as of the time such property is placed in service) of 3 years or more.

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(c) USED SECTION 38 PROPERTY.—

(1) IN GENERAL.—For purposes of this subpart, the term "used section 38 property" means section 38 property acquired by purchase after December 31, 1961, which is not new section 38 property. Property shall not be treated as "used section 38 property" if, after its acquisition by the taxpayer, it is used by a person who used such property before such acquisition (or by a person who bears a relationship described in section 179(d)(2)(A) or (B) to a person who used such property before such acquisition).

(2) DOLLAR LIMITATION.—

(A) IN GENERAL.—The cost of used section 38 property taken into account under section 46(c)(1)(B) for any taxable year shall not exceed [$50,000] *$75,000*. If such cost exceeds [$50,000] *$75,000*, the taxpayer shall select (at such time and in such manner as the Secretary or his delegate shall by regulations prescribe) the items to be taken into account, but only to the extent of an aggregate cost of [$50,000] *$75,000*. Such a selection, once made, may be changed only in the manner, and to the extent, provided by such regulations.

(B) MARRIED INDIVIDUALS.—In the case of a husband or wife who files a separate return, the limitation under subparagraph (A) shall be [$25,000] *$37,500* in lieu of [$50,000] *$75,000*. This subparagraph shall not apply if the spouse of the taxpayer has no used section 38 property which may be taken into account as qualified investment for the taxable year of such spouse which ends within or with the taxpayer's taxable year.

(C) CONTROLLED GROUPS.—In the case of a controlled group, the [$50,000] *$75,000* amount specified under subparagraph (A) shall be reduced for each component member of the group by apportioning [$50,000] *$75,000* among the component members of such group in accordance with their respective amounts of used section 38 property which may be taken into account.

(D) PARTNERSHIPS.—In the case of a partnership, the limitation contained in subparagraph (A) shall apply with respect to the partnership and with respect to each partner.

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(d) CERTAIN LEASED PROPERTY.—

(1) GENERAL RULE.—A person (other than a person referred to in section [46(d)(1)] *46(e)(1)*) who is a lessor of property may (at such time, in such manner, and subject to such conditions as are provided by regulations prescribed by the Secretary or his delegate) elect with respect to any new section 38 property (other than property described in paragraph (4)) to treat the lessee as having acquired such property for an amount equal to—

(A) except as provided in subparagraph (B), the fair market value of such property, or

(B) if the property is leased by a corporation which is a component member of a controlled group (within the meaning of section 46(a)(5)) to another corporation which is a component member of the same controlled group, the basis of such property to the lessor.

(2) SPECIAL RULE FOR CERTAIN SHORT TERM LEASES.—

(A) IN GENERAL.—A person (other than a person referred to in section [46(d)(1)] *46(e)(1)*) who is a lessor of property described in paragraph (4) may (at such time, in such manner, and subject to such conditions as are provided by regulations prescribed by the Secretary or his delegate) elect with respect to such property to treat the lessee as having acquired a portion of such property for the amount determined under subparagraph (B).

(B) DETERMINATION OF LESSEE'S INVESTMENT.—The amount for which a lessee of property described in paragraph (4) shall be treated as having acquired a portion of such property is an amount equal to a fraction, the numerator of which is the term of the lease and the denominator of which is the class life of the property leased (determined under section 167(m)), of the amount for which the lessee would be treated as having acquired the property under paragraph (1).

(C) DETERMINATION OF LESSOR'S QUALIFIED INVESTMENT.—The qualified investment of a lessor of property described in paragraph (4) in any such property with respect to which he has made an election under this paragraph is an amount equal to his qualified investment in such property (as determined under section 46(c)) multiplied by a fraction equal to the excess of one over the fraction used under subparagraph (B) to determine the lessee's investment in such property.

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**SEC. 50B. DEFINITIONS; SPECIAL RULES.**

(a) WORK INCENTIVE PROGRAM EXPENSES.—

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(f) LIMITATIONS WITH RESPECT TO CERTAIN PERSONS.—In the case of—



(1) an organization to which section 593 applies,

(2) a regulated investment company or a real estate investment trust subject to taxation under subchapter M (section 851 and following), and

(3) a cooperative organization described in section 1381(a), rules similar to the rules provided in section [46(d)] *46(e)* shall apply under regulations prescribed by the Secretary or his delegate.

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## PART IV—STANDARD DEDUCTION FOR INDIVIDUALS

Sec. 141. Standard deduction.
Sec. 142. Individuals not eligible for standard deduction.
Sec. 143. Determination of marital status.
Sec. 144. Election of standard deduction.
Sec. 145. Cross reference.

**SEC. 141. STANDARD DEDUCTION.**

(a) STANDARD DEDUCTION.—Except as otherwise provided in this section, the standard deduction referred to in this title is the larger of the percentage standard deduction or the low income allowance.

[(b) PERCENTAGE STANDARD DEDUCTION.—The percentage standard deduction is an amount equal to the applicable percentage of adjusted gross income shown in the following table, but not to exceed the maximum amount shown in such table (or one-half of such maximum amount in the case of a separate return by a married individual):

| [Taxable years beginning in— | Applicable percentage | Maximum amount |
|---|---|---|
| [1970 | 10 | $1,000 |
| [1971 | 13 | 1,500 |
| [1972 and thereafter | 15 | 2,000] |

*(b) PERCENTAGE STANDARD DEDUCTION.—The percentage standard deduction is an amount equal to 16 percent of adjusted gross income but not to exceed—*

*(1) $3,000 in the case of—*

*(A) a joint return under section 6013, or*

*(B) a surviving spouse (as defined in section 2(a)),*

*(2) $2,500 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or*

*(3) $1,500 in the case of a married individual filing a separate return.*

[(c) LOW INCOME ALLOWANCE.—The low income allowance is $1,300 ($650 in the case of a married individual filing a separate return).]

*(c) LOW INCOME ALLOWANCE.—The low income allowance is—*

*(1) $2,500 in the case of—*

*(A) a joint return under section 6013, or*

*(B) a surviving spouse (as defined in section 2(a)),*

*(2) $1,900 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or*

*(3) $1,250 in the case of a married individual filing a separate return.*

(d) Married Individuals Filing Separate Returns.—Notwithstanding subsection (a)—

(1) The low income allowance shall not apply in the case of a separate return by a married individual if the tax of the other spouse is determined with regard to the percentage standard deduction.

(2) A married individual filing a separate return may, if the low income allowance is less than the percentage standard deduction, and if the low income allowance of his spouse is greater than the percentage standard deduction of such spouse, elect (under regulations prescribed by the Secretary or his delegate) to have his tax determined with regard to the low income allowance in lieu of being determined with regard to the percentage standard deduction.

(e) Limitations in Case of Certain Dependent Taxpayers.—In the case of a taxpayer with respect to whom a deduction under section 151(e) is allowable to another taxpayer for the taxable year—

(1) the percentage standard deduction shall be computed only with reference to so much of his adjusted gross income as is attributable to his earned income (as defined in section 911(b)), and

(2) the low income allowance shall not exceed his earned income for the taxable year.

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## Subpart F—Controlled Foreign Corporations

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**SEC. 962. ELECTION BY INDIVIDUALS TO BE SUBJECT TO TAX AT CORPORATE RATES**

(a) General Rule.—Under regulations prescribed by the Secretary or his delegate, in the case of a United States shareholder who is an individual and who elects to have the provisions of this section apply for the taxable year—

(1) the tax imposed under this chapter on amounts which are included in his gross income under section 951(a) shall (in lieu of the tax determined under section 1) be an amount equal to the tax which would be imposed under section 11 if such amounts were received by a domestic corporation, and

(2) for purposes of applying the provisions of section 960 (relating to foreign tax credit) such amounts shall be treated as if they were received by a domestic corporation.

(b) Election.—An election to have the provisions of this section apply for any taxable year shall be made by a United States shareholder at such time and in such manner as the Secretary or his delegate shall prescribe by regulations. An election made for any taxable year may not be revoked except with the consent of the Secretary or his delegate.

(c) Surtax Exemption.—For purposes of applying subsection (a)(1), the surtax exemption provided by section 11(c) shall not exceed, in the case of any United States shareholder, an amount which bears the same ratio to [$25,000] *$50,000* as the amount included in his gross



income under section 951(a) for the taxable year bears to his pro rata share of the earnings and profits for the taxable year of all controlled foreign corporations with respect to which such United States shareholder includes any amount in gross income under section 951(a).

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# CHAPTER 6—CONSOLIDATED RETURNS

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## Subchapter B—Related Rules

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### PART II—CERTAIN CONTROLLED CORPORATIONS

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**SEC. 1561. LIMITATIONS ON CERTAIN MULTIPLE TAX BENEFITS IN THE CASE OF CERTAIN CONTROLLED CORPORATIONS.**

(a) General Rule.—The component members of a controlled group of corporations on a December 31 shall, for their taxable years which include such December 31, be limited for purposes of this subtitle to—

(1) one [$25,000] *$50,000* surtax exemption under section 11(d),

(2) one $100,000 amount for purposes of computing the accumulated earnings credit under section 535(c)(2) and (3), and

(3) one $25,000 amount for purposes of computing the limitation on the small business deduction of life insurance companies under sections 804(a)(4) and 809(d)(10).

The amount specified in paragraph (1) shall be divided equally among the component members of such group on such December 31 unless all of such component members consent (at such time and in such manner as the Secretary or his delegate shall by regulations prescribe) to an apportionment plan providing for an unequal allocation of such amount. The amounts specified in paragraphs (2) and (3) shall be divided equally among the component members of such group on such December 31 unless the Secretary or his delegate prescribes regulations permitting an unequal allocation of such amounts.

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# Subtitle C—Employment Taxes

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# CHAPTER 24—COLLECTION OF INCOME TAX AT SOURCE ON WAGES

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**SEC. 3402. INCOME TAX COLLECTED AT SOURCE.**

[(a) Requirement of Withholding.—Every employer making payment of wages shall deduct and withhold upon such wages (except as otherwise provided in this section) a tax determined in accordance with the following tables. For purposes of applying such tables, the term "the amount of wages" means the amount by which the wages exceed the number of withholding exemptions claimed, multiplied by the amount of one such exemption as shown in the table in subsection (b)(1):

**Table 1—If the payroll period with respect to an employee is WEEKLY**

(a) Single Person—Including Head of Household:

| If the amount of wages is: | The amount of income tax to be withheld shall be: |
|---|---|
| Not over $11 | 0. |
| Over $11 but not over $35 | 14% of excess over $11. |
| Over $35 but not over $73 | $3.36 plus 18% of excess over $35. |
| Over $73 but not over $202 | $10.20 plus 21% of excess over $73. |
| Over $202 but not over $231 | $37.29 plus 23% of excess over $202. |
| Over $231 but not over $269 | $43.96 plus 27% of excess over $231. |
| Over $269 but not over $333 | $54.22 plus 31% of excess over $269. |
| Over $333 | $74.06 plus 35% of excess over $333. |

(b) Married Person:

| If the amount of wages is: | The amount of income tax to be withheld shall be: |
|---|---|
| Not over $11 | 0. |
| Over $11 but not over $39 | 14% of excess over $11. |
| Over $39 but not over $167 | $3.92 plus 16% of excess over $39. |
| Over $167 but not over $207 | $24.40 plus 20% of excess over $167. |
| Over $207 but not over $324 | $32.40 plus 24% of excess over $207. |
| Over $324 but not over $409 | $60.48 plus 28% of excess over $324. |
| Over $409 but not over $486 | $84.28 plus 32% of excess over $409. |
| Over $486 | $108.92 plus 36% of excess over $486. |

**Table 2—If the payroll period with respect to an employee is BIWEEKLY**

(a) Single Person—Including Head of Household:

| If the amount of wages is: | The amount of income tax to be withheld shall be: |
|---|---|
| Not over $21 | 0. |
| Over $21 but not over $69 | 14% of excess over $21. |
| Over $69 but not over $146 | $6.72 plus 18% of excess over $69. |
| Over $146 but not over $404 | $20.58 plus 21% of excess over $146. |
| Over $404 but not over $462 | $74.76 plus 23% of excess over $404. |
| Over $462 but not over $538 | $88.10 plus 27% of excess over $462. |
| Over $538 but not over $665 | $108.62 plus 31% of excess over $538. |
| Over $665 | $147.99 plus 35% of excess over $665. |

(b) Married Person:

| If the amount of wages is: | The amount of income tax to be withheld shall be: |
|---|---|
| Not over $21 | 0. |
| Over $21 but not over $79 | 14% of excess over $21. |
| Over $79 but not over $335 | $8.12 plus 16% of excess over $79. |
| Over $335 but not over $413 | $49.08 plus 20% of excess over $335. |
| Over $413 but not over $648 | $64.68 plus 24% of excess over $413. |
| Over $648 but not over $817 | $121.08 plus 28% of excess over $648. |
| Over $817 but not over $971 | $168.40 plus 32% of excess over $817. |
| Over $971 | $217.68 plus 36% of excess over $971. |



**Table 3—If the payroll period with respect to an employee is SEMI-MONTHLY**

(a) Single Person—Including Head of Household:

| If the amount of wages is: | The amount of income tax to be withheld shall be: |
|---|---|
| Not over $23 | 0. |
| Over $23 but not over $75 | 14% of excess over $23. |
| Over $75 but not over $158 | $7.28 plus 18% of excess over $75. |
| Over $158 but not over $438 | $22.22 plus 21% of excess over $158. |
| Over $438 but not over $500 | $81.02 plus 23% of excess over $438. |
| Over $500 but not over $583 | $95.28 plus 27% of excess over $500. |
| Over $583 but not over $721 | $117.69 plus 31% of excess over $583. |
| Over $721 | $160.47 plus 35% of excess over $721. |

(b) Married Person:

| If the amount of wages is: | The amount of income tax to be withheld shall be: |
|---|---|
| Not over $23 | 0. |
| Over $23 but not over $85 | 14% of excess over $23. |
| Over $85 but not over $363 | $8.68 plus 16% of excess over $85. |
| Over $363 but not over $448 | $53.16 plus 20% of excess over $363. |
| Over $448 but not over $702 | $70.16 plus 24% of excess over $448. |
| Over $702 but not over $885 | $131.12 plus 28% of excess over $702. |
| Over $885 but not over $1,052 | $182.36 plus 32% of excess over $885. |
| Over $1,052 | $235.80 plus 36% of excess over $1,052. |

**Table 4—If the payroll period with respect to an employee is MONTHLY**

(a) Single Person—Including Head of Household:

| If the amount of wages is: | The amount of income tax to be withheld shall be: |
|---|---|
| Not over $46 | 0. |
| Over $46 but not over $150 | 14% of excess over $46. |
| Over $150 but not over $317 | $14.56 plus 18% of excess over $150. |
| Over $317 but not over $875 | $44.62 plus 21% of excess over $317. |
| Over $875 but not over $1,000 | $161.80 plus 23% of excess over $875. |
| Over $1,000 but not over $1,167 | $190.55 plus 27% of excess over $1,000. |
| Over $1,167 but not over $1,442 | $235.64 plus 31% of excess over $1,167. |
| Over $1,442 | $320.89 plus 35% of excess over $1,442. |

(b) Married Person:

| If the amount of wages is: | The amount of income tax to be withheld shall be: |
|---|---|
| Not over $46 | 0. |
| Over $46 but not over $171 | 14% of excess over $46. |
| Over $171 but not over $725 | $17.50 plus 16% of excess over $171. |
| Over $725 but not over $896 | $106.14 plus 20% of excess over $725. |
| Over $896 but not over $1,404 | $140.34 plus 24% of excess over $896. |
| Over $1,404 but not over $1,771 | 262.26 plus 28% of excess over $1,404. |
| Over $1,771 but not over $2,104 | $365.02 plus 32% of excess over $1,771. |
| Over $2,104 | $471.58 plus 36% of excess over $2,104. |

**Table 5—If the payroll period with respect to an employee is QUARTERLY**

(a) Single Person—Including Head of Household:

| If the amount of wages is: | The amount of income tax to be withheld shall be: |
|---|---|
| Not over $138 | 0. |
| Over $138 but not over $450 | 14% of excess over $138. |
| Over $450 but not over $950 | $43.68 plus 18% of excess over $450. |
| Over $950 but not over $2,625 | $133.68 plus 21% of excess over $950. |
| Over $2,625 but not over $3,000 | $485.43 plus 23% of excess over $2,625. |
| Over $3,000 but not over $3,500 | $571.68 plus 27% of excess over $3,000. |
| Over $3,500 but not over $4,325 | $706.68 plus 31% of excess over $3,500. |
| Over $4,325 | $962.43 plus 35% of excess over $4,325. |

(b) Married Person:

| If the amount of wages is: | The amount of income tax to be withheld shall be: |
|---|---|
| Not over $138 | 0. |
| Over $138 but not over $513 | 14% of excess over $138. |
| Over $513 but not over $2,175 | $52.50 plus 16% of excess over $513. |
| Over $2,175 but not over $2,688 | $318.42 plus 20% of excess over $2,175. |
| Over $2,688 but not over $4,213 | $421.02 plus 24% of excess over $2,688. |
| Over $4,213 but not over $5,313 | $787.02 plus 28% of excess over $4,213. |
| Over $5,313 but not over $6,313 | $1,095.02 plus 32% of excess over $5,313. |
| Over $6,313 | $1,415.02 plus 36% of excess over $6,313. |

**Table 6—If the payroll period with respect to an employee is SEMI-ANNUAL**

(a) Single Person—Including Head of Household:

| If the amount of wages is: | The amount of income tax to be withheld shall be: |
|---|---|
| Not over $275 | 0. |
| Over $275 but not over $900 | 14% of excess over $275. |
| Over $900 but not over $1,900 | $87.50 plus 18% of excess over $900. |
| Over $1,900 but not over $5,250 | $267.50 plus 21% of excess over $1,900. |
| Over $5,250 but not over $6,000 | $971.00 plus 23% of excess over $5,250. |
| Over $6,000 but not over $7,000 | $1,143.50 plus 27% of excess over $6,000. |
| Over $7,000 but not over $8,650 | $1,413.50 plus 31% of excess over $7,000. |
| Over $8,650 | $1,925.00 plus 35% of excess over $8,650. |

(b) Married Person:

| If the amount of wages is: | The amount of income tax to be withheld shall be: |
|---|---|
| Not over $275 | 0. |
| Over $275 but not over $1,025 | 14% of excess over $275. |
| Over $1,025 but not over $4,350 | $105.00 plus 16% of excess over $1,025. |
| Over $4,350 but not over $5,375 | $637.00 plus 20% of excess over $4,350. |
| Over $5,375 but not over $8,425 | $842.00 plus 24% of excess over $5,375. |
| Over $8,425 but not over $10,625 | $1,574.00 plus 28% of excess over $8,425. |
| Over $10,625 but not over $12,625 | $2,190.00 plus 32% of excess over $10,625. |
| Over $12,625 | $2,830.00 plus 36% of excess over $12,625. |



**Table 7—If the payroll period with respect to an employee is ANNUAL**

(a) Single Person—Including Head of Household:

| If the amount of wages is: | The amount of income tax to be withheld shall be: |
|---|---|
| Not over $550 | 0. |
| Over $550 but not over $1,800 | 14% of excess over $550. |
| Over $1,800 but not over $3,800 | $175 plus 18% of excess over $1,800. |
| Over $3,800 but not over $10,500 | $535 plus 21% of excess over $3,800. |
| Over $10,500 but not over $12,000 | $1,942 plus 23% of excess over $10,500. |
| Over $12,000 but not over $14,000 | $2,287 plus 27% of excess over $12,000. |
| Over $14,000 but not over $17,300 | $2,827 plus 31% of excess over $14,000. |
| Over $17,300 | $3,850 plus 35% of excess over $17,300. |

(b) Married Person:

| If the amount of wages is: | The amount of income tax to be withheld shall be: |
|---|---|
| Not over $550 | 0. |
| Over $550 but not over $2,050 | 14% of excess over $550. |
| Over $2,050 but not over $8,700 | $210 plus 16% of excess over $2,050. |
| Over $8,700 but not over $10,750 | $1,274 plus 20% of excess over $8,700. |
| Over $10,750 but not over $16,850 | $1,684 plus 24% of excess over $10,750. |
| Over $16,850 but not over $21,250 | $3,148 plus 28% of excess over $16,850. |
| Over $21,250 but not over $25,250 | $4,380 plus 32% of excess over $21,250. |
| Over $25,250 | $5,660 plus 36% of excess over $25,250. |

**Table 8—If the payroll period with respect to an employee is a DAILY payroll period or a miscellaneous payroll period**

(a) Single Person—Including Head of Household:

| If the amount of wages divided by the number of days in the payroll period is: | The amount of income tax to be withheld shall be: |
|---|---|
| Not over $1.50 | 0. |
| Over $1.50 but not over $4.90 | 14% of excess over $1.50. |
| Over $4.90 but not over $10.40 | $0.48 plus 18% of excess over $4.90. |
| Over $10.40 but not over $28.80 | $1.47 plus 21% of excess over $10.40. |
| Over $28.80 but not over $32.90 | $5.33 plus 23% of excess over $28.80. |
| Over $32.90 but not over $38.40 | $6.27 plus 27% of excess over $32.90. |
| Over $38.40 but not over $47.40 | $7.76 plus 31% of excess over $38.40. |
| Over $47.40 | $10.55 plus 35% of excess over $47.40. |

(b) Married Person:

| If the amount of wages divided by the number of days in the payroll period is: | The amount of income tax to be withheld shall be: |
|---|---|
| Not over $1.50 | 0. |
| Over $1.50 but not over $5.60 | 14% of excess over $1.50. |
| Over $5.60 but not over $23.80 | $0.57 plus 16% of excess over $5.60. |
| Over $23.80 but not over $29.50 | $3.48 plus 20% of excess over $23.80. |
| Over $29.50 but not over $46.20 | $4.62 plus 24% of excess over $29.50. |
| Over $46.20 but not over $58.20 | $8.63 plus 28% of excess over $46.20. |
| Over $58.20 but not over $69.20 | $11.99 plus 32% of excess over $58.20. |
| Over $69.20 | $15.51 plus 36% of excess over $69.20. |

(a) *Requirement of Withholding.*—

(1) *General rule.*—*Except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with*—

(A) *in the case of wages paid on the basis of an annual payroll period, the table set forth in paragraph (2), or*

(B) *in the case of wages paid on the basis of other payroll periods, tables prescribed by the Secretary or his delegate.*

*In the tables prescribed under subparagraph (B), the amounts set forth as the amount of wages and the amount of income tax to be deducted and withheld shall be computed on the basis of the table set forth in paragraph (2). For purposes of this subsection, the term "the amount of wages" means the amount by which the wages exceed the number of withholding exemptions claimed, multiplied by the amount of one such exemption as shown in the table in subsection (b)(1).*

(2) *Annual payroll period.*—

(A) ***Single Person—Including Head of Household:***

| *If the amount of wages is:* | *The amount of income tax to be withheld shall be:* |
|---|---|
| *Not over $3,000* | *0.* |
| *Over $3,000 but not over $4500* | *33% of excess over $3,000.* |
| *Over $4,500 but not over $7,500* | *$495 plus 21% of excess over $4,500.* |
| *Over $7,500 but not over $10,500* | *$1,125 plus 26% of excess over $7,500.* |
| *Over $10,500 but not over $14,000* | *$1,905 plus 21% of excess over $10,500.* |
| *Over $14,000 but not over $15,200* | *$2,640 plus 28% of excess over $14,000.* |
| *Over $15,200 but not over $18,000* | *$2,976 plus 30% of excess over $15,200.* |
| *Over $18,000* | *$3,816 plus 35% of excess over $18,000.* |

(B) ***Married Person:***

| *If the amount of wages is:* | *The amount of income tax to be withheld shall be:* |
|---|---|
| *Not over $2,450* | *0.* |
| *Over $2,450 but not over $5,450* | *16% of excess over $2,450.* |
| *Over $5,450 but not over $9,250* | *$480 plus 20% of excess over $5,450.* |
| *Over $9,250 but not over $12,250* | *$1,240 plus 21% of excess over $9,250.* |
| *Over $12,250 but not over $14,750* | *$1,870 plus 15% of excess over $12,250.* |
| *Over $14,750 but not over $20,950* | *$2,245 plus 26% of excess over $14,750.* |
| *Over $20,950 but not over $25,650* | *$3,857 plus 30% of excess over $20,950.* |
| *Over $25,650* | *$5,267 plus 36% of excess over $25,650.* |

* * * * * * *

(c) Wage Bracket Withholding.—

(1) At the election of the employer with respect to any employee, the employer shall deduct and withhold upon the wages paid to such employee a tax (in lieu of the tax required to be deducted and withheld under subsection (a)) determined in accordance with tables prescribed by the Secretary or his delegate in accordance with paragraph (6).

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(6) In the case of wages paid after December 31, 1969, the amount deducted and withheld under paragraph (1) shall be determined in accordance with tables prescribed by the Secretary or his delegate. In the tables so prescribed, the amounts set forth as amounts of wages and amounts of income tax to be deducted and withheld shall be computed on the basis of [table 7 contained in subsection (a)] *the table for an annual payroll period set forth in subsection (a)(2).*

* * * * * * *



(m) Withholding Allowances Based on Itemized Deductions.—

(1) General rule.—An employee shall be entitled to withholding allowances under this subsection with respect to a payment of wages in a number equal to the number determined by dividing by $750 the excess of—

(A) his estimated itemized deductions, over

[(B) an amount equal to the lesser of (i) $2,000 or (ii) 15 percent of his estimated wages.]

*(B) an amount equal to the lesser of (i) 16 percent of his estimated wages, or (ii) $3,000 ($2,500 in the case of an individual who is not married (within the meaning of section 143) and who is not a surviving spouse (as defined in section 2(a))).*

For purposes of this subsection, a fractional number shall not be taken into account unless it amounts to one-half or more, in which case it shall be increased to 1.

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# Subtitle F—Procedure and Administration

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## CHAPTER 61—INFORMATION AND RETURNS

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### Subchapter A—Returns and Records

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#### PART II—TAX RETURNS OR STATEMENTS

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#### Subpart B—Income Tax Returns

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**SEC. 6012. PERSONS REQUIRED TO MAKE RETURNS OF INCOME.**

(a) General Rule.—Returns with respect to income taxes under subtitle A shall be made by the following:

[(1)(A) Every individual having for the taxable year a gross income of $750 or more, except that a return shall not be required of an individual (other than an individual referred to in section 142(b))—

[(i) who is not married (determined by applying section 143(a)) and for the taxable year has a gross income of less than $2,050, or [(ii) who is entitled to make a joint return under section 6013 and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than $2,800 but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.

Clause (ii) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(e).

[(B) The $2,050 amount specified in subparagraph (A)(i) shall be increased to $2,800 in the case of an individual entitled to an additional personal exemption under section 151(c)(1), and the $2,800 amount specified in subparagraph (A)(ii) shall be increased by $750 for each additional personal exemption to which the individual or his spouse is entitled under section 151(c);]

*(1)(A) Every individual having for the taxable year a gross income of $750 or more, except that a return shall not be required of an individual (other than an individual referred to in section 142(b))—*

*(i) who is not married (determined by applying section 143), is not a surviving spouse (as defined in section 2(a)), and for the taxable year has a gross income of less than $2,650,*

*(ii) who is a surviving spouse (as so defined) and for the taxable year has a gross income of less than $3,250, or*

*(iii) who is entitled to make a joint return under section 6013 and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than $4,000 but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.*

*Clause (iii) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(e).*

*(B) The amount specified in clause (i) or (ii) of subparagraph (A) shall be increased by $750 in the case of an individual entitled to an additional personal exemption under section 151(c)(1), and the amount specified in clause (iii) of subparagraph (A) shall be increased by $750 for each additional personal exemption to which the individual or his spouse is entitled under section 151(c);*

(C) Every individual having for the taxable year a gross income of $750 or more and to whom section 141(e) (relating to limitations in case of certain dependent taxpayers) applies;

(2) Every corporation subject to taxation under subtitle A;

(3) Every estate the gross income of which for the taxable year is $600 or more;

(4) Every trust having for the taxable year any taxable income, or having gross income of $600 or over, regardless of the amount of taxable income;

(5) Every estate or trust of which any beneficiary is a nonresident alien; except that subject to such conditions, limitations, and exceptions and under such regulations as may be prescribed by the Secretary or his delegate, nonresident alien individuals



subject to the tax imposed by section 871 and foreign corporations subject to the tax imposed by section 881 may be exempted from the requirement of making returns under this section; and

(6) Every political organization (within the meaning of section 527(e)(1)), and every fund treated under section 527(g) as if it constituted a political organization, which has political organization taxable income (within the meaning of section 527(c)(1)) for the taxable year;

# CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

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## Subchapter A—Procedure in General

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**SEC. 6401. AMOUNTS TREATED AS OVERPAYMENTS.**

(a) * * *

(b) Excessive Credits.—If the amount allowable as credits under sections 31 (relating to tax withheld on wages), 39 (relating to certain uses of gasoline, special fuels, and lubricating oil), *42 (relating to earned income credit)*, and 667(b) (relating to taxes paid by certain trusts) exceeds the tax imposed by subtitle A (reduced by the credits allowable under subpart A of part IV of subchapter A of chapter 1, other than the credits allowable under sections 31 [and 39], *39, and 42*), the amount of such excess shall be considered an overpayment.

* * * * * * *

## Subchapter B—Rules of Special Application


Sec. 6411. Tentative carryback adjustments.
Sec. 6412. Floor stocks refunds.
Sec. 6413. Special rules applicable to certain employment taxes.
Sec. 6414. Income tax withheld.
Sec. 6415. Credits or refunds to persons who collected certain taxes.
Sec. 6416. Certain taxes on sales and services.
Sec. 6417. Coconut and palm oil.
Sec. 6418. Sugar.
Sec. 6419. Excise tax on wagering.
Sec. 6420. Gasoline used on farms.
Sec. 6421. Gasoline used for certain nonhighway purposes or by local transit systems.
Sec. 6422. Cross references.
Sec. 6423. Conditions to allowance in the case of alcohol and tobacco taxes.
Sec. 6424. Lubricating oil not used in highway motor vehicles.
Sec. 6425. Adjustment of overpayment of estimated income tax by corporation.
Sec. 6426. Refund of aircraft use tax where plane transports for hire in foreign air commerce.
Sec. 6427. Fuels not used for taxable purposes.
*Sec. 6428 Refund of 1974 individual income taxes.*


* * * * * * *

***SEC. 6428. REFUND OF 1974 INDIVIDUAL INCOME TAXES.***

*(a) General Rule.—Except as otherwise provided in this section, each individual shall be treated as having made a payment against*

*the tax imposed by chapter 1 for his first taxable year beginning in 1974 in an amount equal to 10 percent of the amount of his liability for tax for such taxable year.*

*(b) MINIMUM PAYMENT.—The amount treated as paid by reason of this section shall not be less than the lesser of—*

*(1) the amount of the taxpayer's liability for tax for his first taxable year beginning in 1974, or*

*(2) $100 ($50 in the case of a married individual filing a separate return).*

*(c) MAXIMUM PAYMENT.—*

*(1) IN GENERAL.—The amount treated as paid by reason of this section shall not exceed $200 ($100 in the case of a married individual filing a separate return).*

*(2) LIMITATION BASED ON ADJUSTED GROSS INCOME.—The excess (if any) of—*

*(A) the amount which would (but for this paragraph) be treated as paid by reason of this section, over*

*(B) the applicable minimum payment provided by subsection (b),*

*shall be reduced (but not below zero) by an amount which bears the same ratio to such excess as the adjusted gross income for the taxable year in excess of $20,000 bears to $10,000. In the case of a married individual filing a separate return, the preceding sentence shall be applied by substituting "$10,000" for "$20,000" and by substituting "$5,000" for "$10,000".*

*(d) LIABILITY FOR TAX.—For purposes of this section, the liability for tax for the taxable year shall be the sum of—*

*(1) the tax imposed by chapter 1 for such year, reduced by the sum of the credits allowable under—*

*(A) section 33 (relating to foreign tax credit),*

*(B) section 37 (relating to retirement income),*

*(C) section 38 (relating to investment in certain depreciable property),*

*(D) section 40 (relating to expenses of work incentive programs), and*

*(E) section 41 (relating to contributions to candidates for public office), plus*

*(2) the tax on amounts described in section 3102(c) or 3202(c) which are required to be shown on the taxpayer's return of the chapter 1 tax for the taxable year.*

*(e) DATE PAYMENT DEEMED MADE.—The payment provided by this section shall be deemed made on whichever of the following dates is the later:*

*(1) the date prescribed by law (determined without extensions) for filing the return of tax under chapter 1 for the taxable year, or*

*(2) the date on which the taxpayer files his return of tax under chapter 1 for the taxable year.*

*(f) JOINT RETURN.—For purposes of this section, in the case of a joint return under section 6013 both spouses shall be treated as one individual.*

*(g) MARITAL STATUS.—The determination of marital status shall be made under section 143.*



*(h) CERTAIN PERSONS NOT ELIGIBLE.—This section shall not apply to any estate or trust, nor shall it apply to any nonresident alien individual.*

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# CHAPTER 67—INTEREST

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## Subchapter B—Interest on Overpayments

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**SEC. 6611. INTEREST ON OVERPAYMENTS.**

(a) * * *

* * * * * * *

(e)[3] INCOME TAX REFUNDED WITHIN [45] *60* DAYS AFTER RETURN IS FILED.—If any overpayment of tax imposed by subtitle A is refunded within [45] *60* days after the last date prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in case the return is filed after such last date, is refunded within [45] *60* days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

* * * * * * *

[3] The amendment to section 6611(e) applies only to individuals (other than nonresident alien individuals and other than estates and trusts), and is effective only for a taxable year beginning in 1974.

## VIII. OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER HOUSE RULES

In compliance with clauses 2(l)(3) and 2(l)(4) of Rule XI of the Rules of the House of Representatives, the following statements are made.

With regard to subdivision (A) of clause 3, relating to oversight findings, the committee advises that in its review of the economic situation generally, it concluded that changes in taxation should be made, and that from the standpoint of administration and compliance the best action to take in the case of individuals, in addition to a refund of 1974 taxes, was to increase the standard deduction, both the minimum, the maximum, and the percentage applicable. In the area of business taxation, the committee in its review of existing provisions concluded that under present economic conditions the investment credit should be increased from 7 percent generally to 10 percent. In its review of the application of the investment credit, the committee made certain other changes: for public utilities the limitation on the amount of tax liability that may be offset by the investment credit is increased for a temporary period; to aid small business the amount of used property eligible for the investment credit is increased; and for long-lead time property, the credit is to be available as progress payments are made during the construction period. In addition, the bill increases the surtax exemption (the amount to which the 22-percent corporate tax rate rather than the 48-percent rate applies) as an aid to small business.

In compliance with subdivision (B) of clause 3, the committee states that the changes made by this bill involve no new budgetary authority. The bill provides no permanent changes in tax expenditures because the provisions make only temporary tax changes for 1975. The temporary direct effects of the provisions in the bill on tax expenditures are: (1) the excess of the percentage standard deduction over the minimum standard deduction (in terms of tax liabilities) is decreased by the bill with the result that tax expenditures are decreased by about $800 million in the calendar year 1975; (2) the earned income credit increases tax expenditures by $2,894 million in calendar year 1975 tax liabilities and by $275 million and $2,619 million, respectively, in fiscal year 1975 and 1976 revenues; (3) the investment credit changes increase tax expenditures in terms of calendar year tax liabilities by $2,372 million in 1975 and $1,500 million in 1976, and fiscal year revenues by $625 million in 1975; $2,147 million in 1976; and $1,139 in 1977; and (4) the increased surtax exemption increases tax expenditures by $1,200 million on calendar year 1975 tax liability and fiscal year revenues by $360 million in 1975 and $840 million in 1976.

With respect to subdivisions (C) and (D) of clause 3, the Committee advises that no estimate or comparison has been prepared by the Director of the Congressional Budget Office relative to any of the provisions of H.R. 2166, nor have any oversight findings or recommendations been made by the Committee on Government Operations with respect to the subject matter contained in H.R. 2166.

In compliance with clause 2(l)(4) of rule XI, the committee states that the Tax Reduction Act of 1975 is not expected to have a significant inflationary impact on prices or on costs of the operation of the national economy. Any inflationary impact that might arise from decreased funds being available for borrowing by others is conjectural at the present time and can be offset by appropriate monetary policy. In a recession of the current seriousness the inflationary impact is not the major consideration.

## IX. SUPPLEMENTAL VIEWS OF HON. CHARLES A. VANIK

I support H.R. 2166 but only with considerable concern that it can effectively meet its expectations.

The price tag for this legislation is grossly underestimated. It will be difficult to limit the increased investment tax credit to one year or to roll it back next year. It will also prove impossible to withdraw tax relief to the low income group or to reduce the standard deduction. These long-overdue changes for low income groups must become permanent law.

The investment credit could have been made more effective by applying the increase in the tax credit to capital improvements above a base period. Some accommodation could also have been made to labor-intensive industries—extending credit to those which create new jobs above a base period level.

The investment credit for utilities was increased 250% from 4% to 10%. While utility expansion is needed in many areas, the tax incentive may tempt an excessive rate of expansion—particularly since expanded capital expenditures contribute to escalating rate base structures.

The legislation commits the nation to a $21.3 billion in revenue loss, a substantial part of which will remain permanent. It becomes our obligation to restore this permanent treasury loss with an effective tax reform program designed to restore balance in the federal accounts.



CHARLES A. VANIK.

## X. SUPPLEMENTAL VIEWS OF HON. RICHARD F. VANDER VEEN

The U.S. economy is experiencing the most severe recession in over thirty years. This recession, however, is not affecting all U.S. businesses and employees equally. Some businesses are reporting record or normal profits, while other businesses have been extremely hard-hit. For depressed businesses, the reduction in business activity has produced widespread unemployment, severe shortages of working capital, and strained lines of credit.

The bill (H.R. 2166) is deficient in that it does not contain any provision aimed directly at the hard-hit businesses. Rather, the House bill channels all the benefits for business into its increase in the investment tax credit, which will generally provide immediate and direct relief only to companies that are realizing profits.

Under present law, businesses, like individuals, are permitted to temper the effects of nonprofitable years by averaging their income over a period of years. The general rule is that business losses may be carried back three years and forward five years. On a number of occasions in the past, the Congress has recognized the necessity of modifying this general averaging rule when abnormally large operating losses have occurred. There are seven such modifications in present law.

After consulting with the staff of the Joint Committee on Internal Revenue Taxation, I, assisted by Congressman Vander Jagt, offered an amendment in Committee that would have granted businesses an elective loss carryback period of eight years. Such an amendment would permit struggling businesses to receive an immediate infusion of cash, which would reduce capital shortages and lessen the pressure on lines of credit. These companies, by necessity, would immediately invest these funds in the economy, and thereby reduce unemployment and preserve existing jobs. The proposal would rifle the tax benefits to the point where the need is the greatest and where the desired expenditures would be made. Additionally, the "overpayments" produced by this proposal would result from the adoption of an averaging period which stays within the cycle of present law (nine years) but would be more equitable in view of the abnormally large losses created by the 1974–1975 recession.

The investment credit increase adopted by the Committee is unresponsive to the needs of the hard-hit businesses, whereas the loss-averaging provision would have been responsive to that need by permitting taxpayers to immediately recover past overpayments of tax at a time when the funds are urgently required. My efforts, and those of my colleagues, to persuade the Committee to include this proposal in the bill, failed on a tie vote of 18 to 18. The proposal was supported by 12 Democrats and 6 Republicans. I remain convinced that this proposal should have been adopted by the Committee, and that this bill is incomplete without it.

RICHARD F. VANDER VEEN.

## XI. MINORITY VIEWS OF HONS. SCHNEEBELI, CONABLE, DUNCAN, CLANCY, STEIGER, AND FRENZEL

On balance, we support this legislation. We have reservations concerning a number of its aspects.

The President has proposed a 12 percent rebate of 1974 individual income taxes at a cost of $12 billion and increases in the investment tax credit to stimulate business activity which will cost $4 billion. This $16 billion package is designed to stimulate our sagging economy and should be viewed in this context. As such, it is necessary and timely.

H.R. 2166 as reported by the Ways and Means Committee, unfortunately, is not as much a measure to provide immediate economic stimulus as it is a bill to redistribute income on a permanent basis. In this regard, it is highly inflationary at a time when we must proceed cautiously to guard against future inflationary spirals.

The Committee bill provides for an $8.1 billion rebate of 1974 taxes (Title I), permanent tax reductions for low-income Americans amounting to another $8 billion (Title II) and increases in the Investment Tax Credit and the Corporate surtax exemption of $5.1 billion (Title III). The total revenue loss of H.R. 2166 is over $21 billion, or $5 billion more than the package recommended by the President.

The basic problem with H.R. 2166 is that it is neither fish nor fowl. In our view the $8 billion stimulus in Title I in the form of tax rebates is not sufficient to accomplish its intended purpose, since most of it will redound to taxpayers who will not use it to purchase "large ticket items" such as automobiles, appliances and other durable goods.

In addition, the increases in the low income allowance and the standard deduction, as well as the establishment of a tax credit on earned income—all of which are contained in Title II—are merely designed to redistribute income in the form of tax relief to those at the lower end of the income spectrum. Most regrettably, it also excludes all the taxpayers who itemize their deductions. Those excluded are the ones most recommended by circumstances for a tax cut and include those persons whose low income is offset by unusually high deductible expenses resulting from mortgages or other debt, medical expenses, casualty losses and the like.

The AFL-CIO, for example, has estimated that 12.1 million taxpayers (out of a total of 26.0 million, or more than 46 percent) with adjusted gross incomes between $10,000 and $20,000 would receive no benefit from the tax reductions included in Title II of this bill. A portion of a memorandum in which these estimates appear is shown below. That memorandum was generally available to Members of this Committee at the time that Title II was under consideration.

"AMERICAN FEDERATION OF LABOR AND
CONGRESS OF INDUSTRIAL ORGANIZATIONS,
*Washington, D.C., February 5, 1975.*

MEMORANDUM

"To: Andrew J. Biemiller, Director, Department of Legislation.

From: Arnold Cantor, Assistant Director, Department of Research.

Subject: Taxpayers who would receive little or no benefit from the 1975 Tax Reduction Proposal adopted by the Ways & Means Committee.

The following table shows, by income class, the substantial number of middle income taxpayers who would receive no benefit from the Ways & Means action.

| Adjusted gross income | Total number of taxpayers (millions) | Total taxpayers receiving no reduction (millions) | Percent of taxpayers receiving no reduction |
|---|---|---|---|
| 0 to $5,000 | 11.6 | 0.3 | 2.5 |
| $5,000 to $7,000 | 8.6 | .9 | 10.5 |
| $7,001 to $10,000 | 11.7 | 2.5 | 21.4 |
| $10,001 to $15,000 | 16.1 | 6.3 | 39.1 |
| $15,001 to $20,000 | 9.9 | 5.8 | 58.6 |
| $20,001 to $50,000 | 9.0 | 7.0 | 77.8 |
| $50,000 and over | .8 | .8 | (1) |

[1] Virtually all.

"Thus, almost half (46.2%) of taxpayers in the broad middle ($10–20,000 income range) would receive *no* relief.

"Sgnificantly, even among the middle income taxpayers who do receive a reduction (because they do not itemize or would switch to standard deduction) the average reduction is less than $100 per taxpayer in the $10–15,000 income group and less than $135 in the $15–20,000 group."

The staff of the Joint Committee on Internal Revenue Taxation has made similar projections which are depicted in the following charts which the Joint Committee has supplied regarding the distributive effects of Title II.



TABLE 4.—ESTIMATED DECREASE IN FEDERAL INDIVIDUAL INCOME TAX LIABILITY RESULTING FROM THE PROVISIONS IN H.R. 2166 WHICH INCREASE THE LOW-INCOME ALLOWANCE AND THE PERCENTAGE STANDARD DEDUCTION; AND THE PROVISION WHICH GRANTS A REFUNDABLE TAX CREDIT ON CERTAIN EARNED INCOME

[By adjusted gross income class—1974 income levels]

| | Number of returns affected (thousands) | | | Decrease in tax liability | | | |
|---|---|---|---|---|---|---|---|
| | | | | | Percentage distribution of total decrease | | |
| Adjusted gross income class (thousands) | Total number with tax decrease [1] | Number made nontaxable | Number shifting to the standard deduction | Amount [2] (millions) | By income class | Cumulative | By segment |
| 0 to $3 | 16,543 | 4,000 | 99 | $1,435 | 18.5 | 18.5 | |
| $3 to $5 | 8,638 | 4,710 | 546 | 1,969 | 25.4 | 43.9 | 75.3 |
| $5 to $7 | 8,158 | 697 | 1,287 | 1,139 | 14.7 | 58.6 | |
| $7 to $10 | 9,194 | 88 | 2,674 | 1,297 | 16.7 | 75.3 | |
| $10 to $15 | 9,821 | (3) | 2,663 | 958 | 12.4 | 87.7 | 19.4 |
| $15 to $20 | 4,053 | (3) | 1,546 | 541 | 7.0 | 94.7 | |
| $20 to $50 | 1,998 | (3) | 1,016 | 404 | 5.2 | 99.9 | |
| $50 to $100 | 38 | (3) | 18 | 13 | 0.2 | 100.0 | 5.4 |
| $100 and over | 4 | (3) | 2 | 2 | (3) | 100.0 | |
| Total | 58,447 | 9,497 | 9,851 | 7,757 | 100.0 | 100.0 | 100.0 |

[1] Does not include returns representing beneficiaries of the earned income credit who are nonfilers under the 1970 filing requirements.
[2] Does not include an additional $275,000,000 to cover the credit on wage and salary and self-employment income of earners who are nonfilers under 1970 filing requirements.
[3] Less than 500 returns or 0.05 percent.

Note: Details may not add to totals because of rounding.

We also object to a provision in Title II which establishes a new tax credit of 5 percent of earned income up to $4,000, with a phase-out of the credit as income rises to $6,000. This new scheme is intended to provide further tax relief to some individuals in the form of a rebate of about the equivalent of the amount of Social Security tax they pay. To the extent that it is available to persons who have no tax liability, it amounts to a negative income tax.

We are sympathetic with the problems facing low income Americans and feel appropriate changes in the tax structure should be made to deal with their plight. However, we believe permanent alternatives—such as those in Title II—should be considered in conjunction with overall tax reform where the total revenue implications can be determined, rather than in three days of Committee deliberations at the start of a new Congress.

CONCLUSION

For the reasons above stated, we favor a change in the thrust of H.R. 2166 which will assure adequate economic stimulation now, while avoiding the inflationary problems which will be caused by the permanent tax changes made by Title II of this legislation. The substitute offered in Committee by our colleague, Congressman Conable, is one alternative to the approach of Titles I and II of the bill. That substitute offers a one-shot rebate of 1974 taxes on a graduated scale, with a maximum rebate of $430, at a total cost of $12.2 billion.

We believe it important that the Rules Committee grant a rule specifically making the Conable substitute in order on the floor of the House, so that it may receive a fair hearing before all the Members.

H. T. SCHNEEBELI,
BARBER B. CONABLE, Jr.,
JOHN J. DUNCAN,
WILLIAM A. STEIGER,
BILL FRENZEL,
DONALD D. CLANCY.

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## XII. MINORITY VIEWS OF HONS. ARCHER, VANDER JAGT, CRANE, MARTIN, AND BAFALIS

We believe this legislation, originally put forth as an emergency measure to provide stimulus to the economy, is an ill-conceived, slapdash effort which degenerated into a poorly designed vehicle for income redistribution. While we feel that a nation now paying over 40 percent of its national income in taxes desperately needs tax relief, to be fiscally responsible such relief should be matched with restraint on the spending side of the ledger. Otherwise, you incubate future rounds of inflation.

In our opinion, tax cut legislation such as H.R. 2166, namely, legislation not coupled with any matching restrictions on overall federal spending, must meet a number of specific criteria. If done at all, it must be prudent in amount, temporary, carefully designed to give across-the-board stimulative effect to the economy and equitably related to the tax burden borne by all Americans. How does H.R. 2166 meet these criteria?

With regard to the first of these criteria, H.R. 2166 is scarcely prudent in the amount of tax reduction which it effects. It is an inflationary package, totaling in its revenue losses slightly over $21 billion. This cost, and its effects on what are already huge federal deficits projected for Fiscal Years 1975 and 1976, simply are not balanced by the dubious stimulative effects it may have on the economy. It is more likely to stimulate inflation and add to a crisis in the capital markets than make any real contribution to economic recovery.

As for being temporary, the changes included in Title II of this bill, which increase both the minimum and percentage standard deductions and introduce an earned income credit, can scarcely be deemed temporary. In fact, it is difficult to imagine any changes in this area potentially more permanent than those in Title II of H.R. 2166. Therefore, this bill runs the danger of a permanent erosion in our tax base, with accompanying continued higher deficits, as well as enacting additional stimulation for the economy which may be continued long past the point when such stimulation is appropriate.

This bill does not provide across-the-board stimulation for the economy. In an economy as complex as ours, if all major sectors are to be aided, it is crucial that any tax reduction be broadly distributed so that diverse buying habits at various income levels may result in broad-based assistance throughout the economy. In this legislation, however, because middle income Americans receive so few of the benefits, the resulting economic stimulation may well be spotty. This is especially the case with regard to large ticket items such as automobiles, appliances, and other durable goods.

On the question of fairness, this bill also fails. The distribution of benefits under H.R. 2166 is not equitably related to the tax burden borne by all Americans. The middle income American who pays the lion's share of federal taxes receives far too little consideration under this bill. Additionally, millions of hard-working middle income

Americans who own their own homes, and as a consequence itemize deductions on their tax returns, receive nothing under Title II of this bill.

In addition to our general objections to this bill, as related to the criteria which we would apply to any tax reduction bill of this type, we specifically oppose the introduction of an "earned income" credit, created in Title II of this bill. Under this provision, many individuals who now pay no income taxes will receive a direct payment from the federal government, inasmuch as the credit is refundable in those cases where it is greater than tax liability. This introduces a "negative income tax" for many with incomes under $6,000. Such a fundamental change in our tax system should not be made by this backdoor route.

## TITLE I—Refund of 1974 Individual Income Taxes

The 1974 tax rebate provisions of Title I of this bill, while well intentioned, are irresponsible and disastrous in their effect. When the President proposed a 12 percent rebate of 1974 individual income taxes, with a maximum refund of $1,000, he was clearly attempting to pass tax relief on an emergency basis with the aim of stimulating a flagging economy. The revenue cost of even that provision, $12.2 billion, without attendant cuts in spending, is a matter of concern to us. Rebates under the President's proposal, however, in our opinion would have had a more favorable stimulative effect on the economy, especially with regard to large ticket items, such as automobiles, appliances and other durable goods.

Greater purchases of such items will probably not result from Title I, given both the low cap ($200) on the maximum rebate and the fact that most of the rebates will go to those at lower income levels where discretionary income for purchase of expensive goods such as automobiles and large appliances is somewhat limited.

What is really an income redistribution provision, adopted hastily in this Committee in the course of a single day, should not masquerade as any sort of well-reasoned program designed to stem the present economic decline.

## TITLE II—Reductions in Individual Income Taxes in 1975

The income redistribution theme of Title I is continued in Title II, only here it worsens. Any stimulation of the economy resulting from the provisions of this Title will be secondary. Title II is a faulty income redistribution proposal. The provisions of this Title are a disaster both because of the potentially permanent character of the reductions made, reductions which are intended to be temporary in nature, and the illogical and inequitable matter in which this Title grants relief. If income redistribution is to be accomplished in this Congress, it should be fashioned in a careful and deliberative manner as part of overall tax reform where the total revenue implications can be determined. It should not be attemped after three days of Committee deliberations at the start of a new Congress. The Committee is scheduled to work on reform later in the year and these kinds of changes should be deferred until that time.

What does this Title accomplish? Certainly temporary tax relief in 1975 could have been brought about by alterations in the tax tables and schedules. This was an approach supported by various Members



of this Committee and by the Administration. Such an approach would have been a relatively simple means of achieving an equitable distribution of benefits and would have offered the best opportunity for keeping the reduction in taxes temporary.

Instead, this bill increases substantially both the minimum and percentage standard deductions. While such changes may be desirable, they should not be made in the absence of revenue or reduced spending elsewhere to pay for them. Neither deduction has ever been reduced and no one honestly suggests these changes will be temporary. These substantial increases could, in addition, have unintended adverse side effects on charitable contributions because of the reduced attractiveness of itemizing deductions caused by this bill. Also, the middle Americans who shoulder most of the income tax burden are receiving few of the benefits. Much of the total benefit goes to those who now pay little, if any, taxes. The average distribution of benefits under this Title, as set forth in the table below, reflects a most inequitable approach.

TABLE 1.—ESTIMATED DECREASE IN FEDERAL INDIVIDUAL INCOME TAX LIABILITY RESULTING FROM THE PROVISIONS IN H.R. 2166 WHICH INCREASE THE LOW-INCOME ALLOWANCE AND THE PERCENTAGE STANDARD DEDUCTION; AND THE PROVISION WHICH GRANTS A REFUNDABLE TAX CREDIT ON CERTAIN EARNED INCOME

[By adjusted gross income class—1974 income levels]

| Adjusted gross income class (thousands) | Number of returns affected (thousands): Total number with tax decrease [1] | Number made nontaxable | Number shifting to the standard deduction | Decrease in tax liability: Amount [2] (millions) | Percentage distribution of total decrease: By income class | Cumulative | By segment |
|---|---|---|---|---|---|---|---|
| 0 to $3 | 16,543 | 4,000 | 99 | $1,435 | 18.5 | 18.5 | 75.3 |
| $3 to $5 | 8,638 | 4,710 | 546 | 1,969 | 25.4 | 43.9 | |
| $5 to $7 | 8,158 | 697 | 1,287 | 1,139 | 14.7 | 58.6 | |
| $7 to $10 | 9,194 | 88 | 2,674 | 1,297 | 16.7 | 75.3 | |
| $10 to $15 | 9,821 | (3) | 2,663 | 958 | 12.4 | 87.7 | 19.4 |
| $15 to $20 | 4,053 | (3) | 1,546 | 541 | 7.0 | 94.7 | |
| $20 to $50 | 1,998 | (3) | 1,016 | 404 | 5.2 | 99.9 | 5.4 |
| $50 to $100 | 38 | (3) | 18 | 13 | 0.2 | 100.0 | |
| $100 and over | 4 | (3) | 2 | 2 | (3) | 100.0 | |
| Total | 58,447 | 9,497 | 9,851 | 7,757 | 100.0 | 100.0 | 100.0 |

[1] Does not include returns representing beneficiaries of the earned income credit who are nonfilers under the 1970 filing requirements.

[2] Does not include an additional $275,000,000 to cover the credit on wage and salary and self-employment income of earners who are nonfilers under 1970 filing requirements.

[3] Less than 500 returns or 0.05 percent.

Note: Details may not add to totals because of rounding.

Even within income classes, the changes in Title II distribute benefits in an exceptionally random manner. For example, according to an analysis by the AFL–CIO, shown in part below, almost half (over 46 percent) of all taxpayers in the $10,000 to $20,000 adjusted gross income categories will receive no benefits from the changes included in Title II of this bill. This astonishing result flows from the fact that Title II provides no tax relief for the many hard working Americans in these income categories who own their homes, make mortgage payments, pay property taxes, and, therefore, itemize their deductions, using neither the low nor percentage standard deduction. Needless to say, this estimate by the AFL–CIO scarcely comes from an organization which could be generally considered hostile to the Democratic Majority of this Committee which fashioned Title II.

"AMERICAN FEDERATION OF LABOR AND CONGRESS
OF INDUSTRIAL ORGANIZATIONS,
*Washington, D.C., February 5, 1975.*

MEMORANDUM

"To: Andrew J. Biemiller, Director, Department of Legislation.
From: Arnold Cantor, Assistant Director, Department of Research.
Subject: Taxpayers who would receive little or no benefit from the 1975 Tax Reduction Proposal, adopted by the Ways and Means Committee.

"The following table shows, by income class, the substantial number of middle income taxpayers who would receive no benefit from the Ways and Means action.

| Adjusted gross income | Total number of taxpayers (millions) | Total taxpayers receiving no reduction (millions) | Percent of taxpayers receiving no reduction |
|---|---|---|---|
| 0 to $5,000 | 11.6 | 0.3 | 2.5 |
| $5,001 to $7,000 | 8.6 | .9 | 10.5 |
| $7,001 to $10,000 | 11.7 | 2.5 | 21.4 |
| $10,001 to $15,000 | 16.1 | 6.3 | 39.1 |
| $15,001 to $20,000 | 9.9 | 5.8 | 58.6 |
| $20,001 to $50,000 | 9.0 | 7.0 | 77.8 |
| $50,000 and over | .8 | .8 | (1) |

1 Virtually all.

"Thus, almost half (46.2%) of taxpayers in the broad middle ($10–20,000 income range) would receive *no* relief.

"Significantly, even among the middle income taxpayers who do receive a reduction (because they do not itemize or would switch to standard deduction) the average reduction is less than $100 per taxpayer in the $10–15,000 income group and less than $135 in the $15–20,000 group."

Glued onto the end of Title II (Section 203) is a credit for "earned income." Title II incorporates a novelty *Tax Cut for People Who Don't Pay Taxes.* The $29 billion "refund" of the "earned income credit" creates a *negative income tax* for many whose adjusted gross income is less than $6,000. Such a fundamental and profound change in tax policy has no place in a bill to provide a stimulative tax cut. Once the principle is established at this relatively cheap level of $200, the philosophical objection will have been overcome, and the next step will be to fatten the payoff for those for whom the unsuccessful 1972 candidate for President advocated a guaranteed income of $1,000 apiece. In simplest terms, people who pay no taxes should not participate in this tax cut.

CONCLUSION

As a substantial improvement, we intend to support the substitute for Titles I and II which Mr. Conable offered before the Committee, assuming that the Rules Committee accepts the Committee recommendation and grants a rule making the Conable substitute in order on the floor of the House.



We cannot support H.R. 2166. To restate our objections briefly, first, the tax cuts in the bill are imprudently large, unmatched by restraints in federal spending and adding to what are already huge federal deficits in the next two fiscal years. Its inflationary dangers are obvious.

Second, the changes in Title II of the bill are potentially permanent in nature, in what is purportedly an emergency tax bill with *temporary* tax cuts. The bill runs the risk of permanent erosion of our tax base, with long-term federal deficits, and continued stimulation of the economy long past the point when such stimulation will be appropriate.

The bill does not provide across-the-board stimulation for the economy. Middle income Americans receive so few of the benefits that economic stimulation, especially of large ticket items, may be spotty.

Also, the distribution of benefits under this bill is not equitably related to the tax burden borne by all Americans. The hard-working Americans who pay most of our taxes receive a relatively small share of the tax reduction here. Those who itemize get nothing under Title II.

Finally, the "earned income" credit in Title II introduces a "negative income tax" to the tax code and includes in a so-called "tax cut" many who now pay no taxes. This is neither the time nor place for such a provision.

We urge our colleagues to defeat H.R. 2166.

BILL ARCHER,
GUY VANDER JAGT,
PHILIP M. CRANE,
JAMES G. MARTIN,
L. A. BAFALIS.

## XIII. ADDITIONAL MINORITY VIEWS OF HON. GUY VANDER JAGT

In the face of a troubling coincidence of severe inflation and recession, and confronting a potential two-year Federal deficit of more than $100 billion, Congress' job clearly is to target its fiscal decisions so as to maximize their impact in support of precisely defined goals and minimize their unwanted side effects. I am disturbed that the decisions of the Committee on Ways and Means in this bill suggest a failure to keep sight of a goal and to achieve this targeting.

In succumbing to the politically appealing temptation to weight reductions in individual income taxes toward lower income brackets, the Committee majority has jeopardized the stimulative effect of the cuts, particularly in terms of the hard-pressed durable goods sector of the economy. The Committee's publication entitled "Analysis of Administration's Tax Cut Recommendations and Possible Alternatives" cites a survey conducted by Sindlinger and Company as a basis for concluding that as many as two-thirds of the population may save or invest a 1974 tax refund, or use it to pay off debts. But this analysis fails to mention another observation in the January 15, 1975 report of the Sindlinger poll: "Another paradox—and one that could distort the impact of any tax cut—is that willingness to spend the money saved is greatest in the upper income brackets among people who are less fearful about the future. In contrast, low-income persons, more concerned about their own economic security, are heavily disposed to put the money aside or use it to clear up bills. Inasmuch as tax-cut proponents are saying just the opposite—that the tax-cut must go to low-income individuals who will spend it rather than high-income people who will bank it—these findings suggest that tax reduction may have unforeseen consequences."

Through this weighting as well as through increasing the standard deduction for 1975 returns (with an implication of permanency), the Committee has fallen prey to the majority's political instinctiveness toward accelerating the redistribution of income, rather than maintaining its focus upon the Nation's compelling need for a quick, across-the-board reduction in taxes to stimulate business and halt the rise in unemployment. To be sure, the majority party in Congress is not the only source of concern about the equity of Federal taxes or the weight of inflation upon the budgets of low- and moderate-income families. The President's concern for equity and his concern for the well-being of lower-income Americans was displayed in his inclusion of a system of alterations in tax rates and $80 payments to non-taxpaying adults as a part of his program of energy conservation taxes and fees. Remaining inequities in the tax system should be thoughtfully addressed by the Committee in its deliberations on tax reform, subsequent to the sessions on energy taxes. The present bill is not an appropriate vehicle for the initiatives pushed forward by the majority.

In my judgment, America's economic crisis is too grave and her need for economic stimulus too pressing to permit the distortion of purpose that is implicit in the bill as reported. The recommendations indicate that the Committee lost sight of the fundamental objective in this emergency reduction in taxes, which is to immediately stimulate those areas of the economy which are most seriously affected by the recession and which therefore are contributing most heavily to our rising unemployment.

In his State of the Union Address, President Ford expressed our need succinctly: "To bolster business and industry and to create new jobs, I propose a one-year tax reduction of $16 billion." He also stated at that time, "This tax cut does not include the more fundamental reforms needed in our tax system. But it points us in the right direction—allowing us as taxpayers rather than the Government to spend our pay." Clearly, the President shared the perception of the Congressional majority that consideration should be given to basic reforms in the tax system. But I regret that the Committee has blunted the impact of its anti-recession weapon, a cut in personal income taxes, by allowing its desire for redistribution of the tax burden to intrude at this time. Congress could have better addressed that need in another bill this year.

In seeking to respond to the need for corporate tax relief, the Committee missed a major opportunity to help those companies that have been hit the hardest, that have suffered the greatest losses, and that thus have produced a considerable portion of the unemployment problem. Under present law businesses may average their income over a period of years. Generally, business losses may be carried backward three years and forward five years. But in response to abnormally sizable operating losses, Congress occasionally has modified this general averaging rule.

I offered an amendment in Committee which would have granted businesses an option to carry losses backward for whatever period of years they were willing to surrender the opportunity to carry losses forward. A panel of economists testifying on the problems of the hard-hit industries unanimously attested to the stimulative benefit that this carryback modification would bring to the economy. The amendment would have enabled those businesses most crippled by the recession to receive a prompt infusion of cash in the form of a refund drawn against taxes in profitable years. Pressures on credit would have been reduced and capital availability enhanced by the adoption of this amendment. These companies would have been able to preserve existing jobs and to provide new opportunities for employment. Simply stated, this optional extension of the loss carryback provision would have brought corporate tax benefit to the point of greatest need. Furthermore, the unique combination of inflationary and recessionary forces with which our economy is now beleagured cries out for this medication. This is a prescription for recession that would not have been inflationary, because in opting to carry losses backward, companies would have foregone the opportunity to soften future profits by carrying losses forward. In other words, they would have paid greater taxes on future profits, thereby relieving the Federal deficit and dampening inflationing pressures.



I regret that I was unable to convince the Committee to include this provision in the bill. Defeated on a tie vote of 18 to 18, the proposal received the support of 12 Democrats and 6 Republicans. I continue to believe that this emergency tax bill would have been significantly strengthened and its goal better served by the incorporation of this loss carryback provision.

Finally, in the course of the hearings I queried witnesses from the business and labor communities as to the desirability of providing tax incentives for the establishment and expansion of employee stock ownership plans. In light of the depth of interest revealed in this approach, its constructive influence upon corporate productivity, and its relevance to the stimulation of capital formation as a corollary to liberalization of the investment credit, it is unfortunate that the Committee did not include such a provision in this bill.

America's need for effective fiscal policy is great and urgent. I regret the Committee's apparent confusion of goals and its failure to maximize the potential of this sizeable tax cut, particularly in view of the related Federal deficit with which the American people must contend today and tomorrow. Nonetheless, I deeply hope that the result of the legislative process' inevitable compromises will prove equal to the task once again.

GUY VANDER JAGT.

## XIV. ADDITIONAL MINORITY VIEWS OF HON. BILL FRENZEL

1. I support H.R. 2166 with the following reservations.

2. Title I, which provides for an immediate $8 billion rebate on 1974 taxes, is approximately the right amount of money, but, in my judgment, the distribution tables provide too low a ceiling ($200) for maximum stimulation to the economy. I prefer the distribution provided in the Conable Amendment, but I do not support the $12 billion total figure of that amendment.

3. Title II is the most difficult and controversial part of the bill. I agree with those who say the economy needs the continuing monthly stimulus that can best be provided by an adjustment in the withholding tables during the second half of 1975. Unfortunately, the Conable amendment does not provide this ongoing stimulus.

However, the Title II distribution is designed about as poorly as possible. Title II represents a serious collapse of standards for a committee which prides itself on craftsmanship. Changes in the regular tax table are grossly unfair, as has been pointed out dramatically in the AFL–CIO "internal memo."

The worst feature of the bill is section 203, which provides a tax rebate for citizens who may not have paid any federal income tax at all. I happen to be one who looks with favor on the concept of a negative income tax, but to inaugurate such a policy in an emergency tax cut bill is silly. The Committee doesn't know who the people are who will receive this bonanza. We may as well drop dollar bills from airplanes. We are apparently helping some of the poor, but only a few of them, and surely not the poorest of the poor. Section 203 represents an uninformed wasting of tax resources.

This kind of program could be useful, but the Committee has turned it into an uninformed misadventure. I believe the best way to handle this bill simply is to delete section 203 and pass the rest of it despite the imperfections in the tables under both Title I and Title II.

In general, the Committee has obviously tried to use a tax-cut bill to redistribute income. Playing Robin Hood is not a bad idea, but it's not a good idea to do so on an emergency bill. It's a worse idea when the role is played poorly. However noble the Committee's motivations, the payout tables prove that its income distribution plan is inequitable. In my opinion, a tax cut should be a tax cut, and the problems of redistribution of income should be taken up separately and carefully.

4. Finally, the bill leaves the Ways and Means Committee with a recommendation for a closed rule. I do not oppose all closed rules, but I think it is nonsense for a committee to lean on the crutch of a closed rule every time it reports out a bill. This bill is relatively simple. I urge the Rules Committee to give it an open rule waiving only those points of order which are clearly identified and necessary.

5. An attempt will be made to attach an amendment eliminating the oil depletion allowance. I support the elimination of that allowance, but I believe, along with the Chairman, that this bill is not an appropriate vehicle for such a rider. This is an emergency tax cut. The attachment of a depletion amendment will probably slow the bill down enough so that we cannot get the tax cut in the hands of the people in May and June, as the Committee wishes. I shall therefore oppose the attachment of the depletion amendment to this bill.

BILL FRENZEL.

94TH CONGRESS 1st Session } HOUSE OF REPRESENTATIVES { REPORT No. 94–120

# TAX REDUCTION ACT OF 1975

MARCH 26, 1975.—Ordered to be printed

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

# CONFERENCE REPORT

[To accompany H.R. 2166]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2166) to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes, to increase the low income allowance and the percentage standard deduction, to provide a credit for certain earned income, to increase the investment credit and the surtax exemption, 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 House recede from its disagreement to the amendment of the Senate 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:

## *SECTION 1. SHORT TITLE; TABLE OF CONTENTS.*

*(a) SHORT TITLE.—This Act may be cited as the "Tax Reduction Act of 1975".*

*(b) TABLE OF CONTENTS.—*

*Sec. 1. Short title; table of contents.*
*Sec. 2. Amendment of 1954 Code.*

*TITLE I—REFUND OF 1974 INDIVIDUAL INCOME TAXES*

*Sec. 101. Refund of 1974 individual income taxes.*
*Sec. 102. Refunds disregarded in the administration of Federal programs and federally assisted programs.*

*TITLE II—REDUCTIONS IN INDIVIDUAL INCOME TAXES*

*Sec. 201. Increase in low income allowance.*
*Sec. 202. Increase in percentage standard deduction.*
*Sec. 203. Credit for personal exemptions.*
*Sec. 204. Credit for certain earned income.*
*Sec. 205. Withholding tax.*

38–006

*Sec. 206. Increase in income limitation applicable to child and dependent care deduction.*
*Sec. 207. Extension of period for replacing old residence for purposes of nonrecognition of gain under section 1034.*
*Sec. 208. Credit for purchase of new principal residence.*
*Sec. 209. Effective dates.*

*TITLE III—CERTAIN CHANGES IN BUSINESS TAXES*

*Sec. 301. Increase in investment credit.*
*Sec. 302. Allowance of investment credit where construction of property will take more than 2 years.*
*Sec. 303. Change in corporate tax rates and increase in surtax exemption.*
*Sec. 304. Increase in minimum accumulated earnings credit from $100,000 to $150,000.*
*Sec. 305. Effective dates.*

*TITLE IV—CHANGES AFFECTING INDIVIDUALS AND BUSINESSES*

*Sec. 401. Federal welfare recipient employment incentive tax credit.*
*Sec. 402. Time when contributions deemed made to certain pension plans.*

*TITLE V—PERCENTAGE DEPLETION*

*Sec. 501. Limitations on percentage depletion for oil and gas.*

*TITLE VI—TAXATION OF FOREIGN OIL AND GAS INCOME AND OTHER FOREIGN INCOME*

*Sec. 601. Limitations on foreign tax credit for taxes paid in connection with foreign oil and gas income.*
*Sec. 602. Taxation of earnings and profits of controlled foreign corporations and their shareholders.*
*Sec. 603. Denial of DISC benefits with respect to energy resources and other products.*
*Sec. 604. Treatment for purposes of the investment credit of certain property used in international or territorial waters.*

*TITLE VII—MISCELLANEOUS PROVISIONS*

*Sec. 701. Certain unemployment compensation.*
*Sec. 702. Special payment to recipients of benefits under certain retirement and survivor benefit programs.*

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## *SEC. 2. AMENDMENT OF 1954 CODE.*

*Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.*

# *TITLE I—REFUND OF 1974 INDIVIDUAL INCOME TAXES*

## *SEC. 101. REFUND OF 1974 INDIVIDUAL INCOME TAXES.*

*(a) In General.—Subchapter B of chapter 65 (relating to rules of special application in the case of abatements, credits, and refunds) is amended by adding at the end thereof the following new section:*

## *"SEC. 6428. REFUND OF 1974 INDIVIDUAL INCOME TAXES.*

*"(a) General Rule.—Except as otherwise provided in this section, each individual shall be treated as having made a payment against the tax imposed by chapter 1 for his first taxable year beginning in 1974 in an amount equal to 10 percent of the amount of his liability for tax for such taxable year.*

*"(b) Minimum Payment.—The amount treated as paid by reason of this section shall not be less than the lesser of—*

*"(1) the amount of the taxpayer's liability for tax for his first taxable year beginning in 1974, or*

*"(2) $100 ($50 in the case of a married individual filing a separate return).*

*"(c) Maximum Payment.—*

*"(1) In general.—The amount treated as paid by reason of this section shall not exceed $200 ($100 in the case of a married individual filing a separate return).*

*"(2) Limitation based on adjusted gross income.—The excess (if any) of—*

*"(A) the amount which would (but for this paragraph) be treated as paid by reason of this section, over*

*"(B) the applicable minimum payment provided by subsection (b),*

*shall be reduced (but not below zero) by an amount which bears the same ratio to such excess as the adjusted gross income for the taxable year in excess of $20,000 bears to $10,000. In the case of a married individual filing a separate return, the preceding sentence shall be applied by substituting '$10,000' for '$20,000' and by substituting '$5,000' for '$10,000'.*

*"(d) Liability for Tax.—For purposes of this section, the liability for tax for the taxable year shall be the sum of—*

*"(1) the tax imposed by chapter 1 for such year, reduced by the sum of the credits allowable under—*

*"(A) section 33 (relating to foreign tax credit),*

*"(B) section 37 (relating to retirement income),*

*"(C) section 38 (relating to investment in certain depreciable property),*

"(D) section 40 (relating to expenses of work incentive programs), and

"(E) section 41 (relating to contributions to candidates for public office), plus

"(2) the tax on amounts described in section 3102(c) or 3202(c) which are required to be shown on the taxpayer's return of the chapter 1 tax for the taxable year.

"(e) DATE PAYMENT DEEMED MADE.—The payment provided by this section shall be deemed made on whichever of the following dates is the later:

"(1) the date prescribed by law (determined without extensions) for filing the return of tax under chapter 1 for the taxable year, or

"(2) the date on which the taxpayer files his return of tax under chapter 1 for the taxable year.

"(f) JOINT RETURN.—For purposes of this section, in the case of a joint return under section 6013 both spouses shall be treated as one individual.

"(g) MARITAL STATUS.—The determination of marital status for purposes of this section shall be made under section 143.

"(h) CERTAIN PERSONS NOT ELIGIBLE.—This section shall not apply to any estate or trust, nor shall it apply to any nonresident alien individual."

(b) NO INTEREST ON INDIVIDUAL INCOME TAX REFUNDS FOR 1974 REFUNDED WITHIN 60 DAYS AFTER RETURN IS FILED.—In applying section 6611(e) of the Internal Revenue Code of 1954 (relating to income tax refund within 45 days after return is filed) in the case of any overpayment of tax imposed by subtitle A of such Code by an individual (other than an estate or trust and other than a nonresident alien individual) for a taxable year beginning in 1974, "60 days" shall be substituted for "45 days" each place it appears in such section 6611(e).

(c) CLERICAL AMENDMENT.—The table of sections for such subchapter B is amended by adding at the end thereof the following new item:

"Sec. 6428. Refund of 1974 individual income taxes."

### SEC. 102. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

Any payment considered to have been made by any individual by reason of section 6428 of the Internal Revenue Code of 1954 shall not be taken into account as income or receipts for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

## TITLE II—REDUCTIONS IN INDIVIDUAL INCOME TAXES

### SEC. 201. INCREASE IN LOW INCOME ALLOWANCE.

(a) IN GENERAL.—Subsection (c) of section 141 (relating to low income allowance) is amended to read as follows:

"(c) LOW INCOME ALLOWANCE.—The low income allowance is—

"(1) $1,900 in the case of—

"(A) a joint return under section 6013, or

"(B) a surviving spouse (as defined in section 2(a)),

"(2) $1,600 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(3) $950 in the case of a married individual filing a separate return."

(b) CHANGE IN FILING REQUIREMENTS TO REFLECT INCREASE IN LOW INCOME ALLOWANCE.—So much of paragraph (1) of section 6012(a) (relating to persons required to make returns of income) as precedes subparagraph (C) thereof is amended to read as follows:

"(1)(A) Every individual having for the taxable year a gross income of $750 or more, except that a return shall not be required of an individual (other than an individual referred to in section 142(b))—

"(i) who is not married (determined by applying section 143), is not a surviving spouse (as defined in section 2(a)), and for the taxable year has a gross income of less than $2,350,

"(ii) who is a surviving spouse (as so defined) and for the taxable year has a gross income of less than $2,650, or

"(iii) who is entitled to make a joint return under section 6013 and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than $3,400 but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.

Clause (iii) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(e).

"(B) The amount specified in clause (i) or (ii) of subparagraph (A) shall be increased by $750 in the case of an individual entitled to an additional personal exemption under section 151(c)(1), and the amount specified in clause (iii) of subparagraph (A) shall be increased by $750 for each additional personal exemption to which the individual or his spouse is entitled under section 151(c);".

(c) *Change in Optional Tax Tables.*—Section 3 (relating to optional tax tables) is amended by striking out "$10,000" and by inserting in lieu thereof "$15,000".

**SEC. 202. INCREASE IN PERCENTAGE STANDARD DEDUCTION.**

(a) *Increase.*—Subsection (b) of section 141 (relating to percentage standard deduction) is amended to read as follows:

"(b) *Percentage Standard Deduction.*—The percentage standard deduction is an amount equal to 16 percent of adjusted gross income but not to exceed—

"(1) $2,600 in the case of—

"(A) a joint return under section 6013, or

"(B) a surviving spouse (as defined in section 2(a)),

"(2) $2,300 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(3) $1,300 in the case of a married individual filing a separate return."

(b) *Conforming Amendment.*—Subparagraph (B) of section 3402(m)(1) (relating to withholding allowances based on itemized deductions) is amended to read as follows:

"(B) an amount equal to the lesser of (i) 16 percent of his estimated wages, or (ii) $2,600 ($2,300 in the case of an individual who is not married (within the meaning of section 143) and who is not a surviving spouse (as defined in section 2(a)))."

**SEC. 203. TAX CREDIT FOR PERSONAL EXEMPTIONS.**

(a) *In General.*—Subpart A of part VI of subchapter A of chapter 1 (relating to credits allowable against tax) is amended by redesignating section 42 as section 43 and by inserting after section 41 the following new section:

**"SEC. 42. CREDIT FOR PERSONAL EXEMPTIONS.**

"(a) *General Rule.*—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year $30, multiplied by each exemption for which the taxpayer is entitled for the taxable year under subsection (b) or (e) of section 151.

"(b) *Application With Other Credits.*—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year. In determining the credits allowed under—

"(1) section 33 (relating to foreign tax credit),

"(2) section 37 (relating to retirement income),

"(3) section 38 (relating to investment in certain depreciable property),

"(4) section 40 (relating to expenses of work incentive programs), and

"(5) section 41 (relating to contributions to candidates for public office),

the tax imposed by this chapter shall (before any other reductions) be reduced by the credit allowed by this section."



(b) *Technical and Clerical Amendments.*—

(1) The table of sections for such subpart is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 42. Credit for personal exemptions.
"Sec. 43. Overpayments of tax."

(2) Section 56(a)(2) (relating to imposition of minimum tax) is amended by striking out "and" at the end of clause (iv), by striking out "; and" at the end of clause (v) and inserting in lieu thereof ", and", and by inserting after clause (v) the following new clause:

"(vi) section 42 (relating to credit for personal exemptions); and".

(3) Section 56(c)(1) (relating to tax carryovers) is amended by striking out "and" at the end of subparagraph (D), by striking out "exceed" at the end of subparagraph (E) and inserting in lieu thereof "and", and by inserting after subparagraph (E) the following new subparagraph:

"(F) section 42 (relating to credit for personal exemptions), exceed".

(4) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 41" and inserting in lieu thereof "41, and 42".

**SEC. 204. CREDIT FOR CERTAIN EARNED INCOME.**

(a) *Allowance of Credit.*—Subpart A of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by redesignating section 43 as section 44, and by inserting after section 42 the following new section:

**"SEC. 43. EARNED INCOME.**

"(a) *Allowance of Credit.*—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of so much of the earned income for the taxable year as does not exceed $4,000.

"(b) *Limitation.*—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount equal to 10 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $4,000.

"(c) *Definition.*—For purposes of this section—

"(1) *Eligible individual.*—The term 'eligible individual' means an individual who, for the taxable year—

"(A) maintains a household (within the meaning of section 214(b)(3)) in the United States which is the principal place of abode of that individual and of a child of that individual with respect to whom he is entitled to claim a deduction under section 151(e)(1)(B) (relating to additional exemption for dependents), and

"(B) is not entitled to exclude any amount from gross income under section 911 (relating to earned income from sources without the United States) or section 931 (relating to income from sources within the possessions of the United States).

"(2) *EARNED INCOME.*—

"(A) *The term 'earned income' means*—

"(i) *wages, salaries, tips, and other employee compensation, plus*

"(ii) *the amount of the taxpayer's net earnings from self-employment for the taxable year (within the meaning of section 1402(a)).*

"(B) *For purposes of subparagraph (A)*—

"(i) *except as provided in clause (ii), any amount shall be taken into account only if such amount is includible in the gross income of the taxpayer for the taxable year,*

"(ii) *the earned income of an individual shall be computed without regard to any community property laws,*

"(iii) *no amount received as a pension or annuity shall be taken into account, and*

"(iv) *no amount to which section 871(a) applies (relating to income of nonresident alien individuals not connected with United States business) shall be taken into account.*

"(d) *MARRIED INDIVIDUALS.—In the case of an individual who is married (within the meaning of section 143), this section shall apply only if a joint return is filed for the taxable year under section 6013.*

"(e) *TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.*"

(b) *REFUND TO BE MADE WHERE CREDIT EXCEEDS LIABILITY FOR TAX.*—

(1) *Section 6401(b) (relating to excessive credits) is amended*—

(A) *by inserting "43 (relating to earned income credit)," before "and 667(b)"; and*

(B) *by striking out "and 39" and inserting in lieu thereof a comma and "39 and 43".*

(2) *Section 6201(a)(4) (relating to assessment authority) is amended by*—

(A) *inserting "or 43" after "section 39" in the caption of such section; and*

(B) *striking out "oil)," and inserting in lieu thereof "oil) or section 43 (relating to earned income),".*

(c) *CLERICAL AMENDMENT.—The table of sections for such subpart is amended by striking out the last item and inserting in lieu thereof the following:*

"*Sec. 43. Credit for certain earned income.*
"*Sec. 44. Overpayments of tax.*"

### SEC. 205. WITHHOLDING TAX.

(a) *REQUIREMENT OF WITHHOLDING.—Subsection (a) of section 3402 (relating to income tax collected at source) is amended to read as follows:*

"(a) *REQUIREMENT OF WITHHOLDING.—Except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with tables prescribed by the Secretary or his delegate. The tables so prescribed shall be the same as the tables contained in this subsection as in effect on January 1, 1975, except that the amounts set forth as amounts of income tax to be withheld with respect to wages paid after April 30, 1975, and before January 1, 1976, shall reflect the full calendar year effect for 1975 of the amendments made by section 201, 202, 203, and 204 of the Tax Reduction Act of 1975. For purposes of applying such tables, the term 'the amount of wages' means the amount by which the wages exceed the number of withholding exemptions claimed, multiplied by the amount of one such exemption as shown in the table in subsection (b)(1).*"



(b) *CONFORMING AMENDMENT.—Section 3402(c)(6) (relating to wage bracket withholding) is amended by striking out "table 7 contained in subsection (a)" and inserting in lieu thereof "the table for an annual payroll period prescribed pursuant to subsection (a)".*

### SEC. 206. INCREASE IN INCOME LIMITATION APPLICABLE TO CHILD AND DEPENDENT CARE DEDUCTION.

*Section 214 (relating to expenses for household and dependent care services necessary for gainful employment) is amended by striking out "$18,000" each place it appears in subsection (d) and inserting in lieu thereof "$35,000".*

### SEC. 207. EXTENSION OF PERIOD FOR REPLACING OLD RESIDENCE FOR PURPOSES OF NONRECOGNITION OF GAIN UNDER SECTION 1034.

(a) *ONE-YEAR PERIOD INCREASED TO 18 MONTHS.*—

(1) *Subsections (a), (c)(4), (c)(5), (d), and (h) of section 1034 (relating to nonrecognition of gain on sale or exchange of residence) are each amended by striking out "1 year" each place it appears and inserting in lieu thereof "18 months".*

(2) *Subsection (c)(5) of section 1034 is amended by striking out "one year" and inserting in lieu thereof "18 months".*

(b) *18-MONTH PERIOD FOR CONSTRUCTING NEW RESIDENCE INCREASED TO 2 YEARS.—Subsection (c)(5) of section 1034 is amended by striking out "18 months" and inserting in lieu thereof "2 years".*

### SEC. 208. CREDIT FOR PURCHASE OF NEW PRINCIPAL RESIDENCE.

(a) *ALLOWANCE OF CREDITS.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowed) is amended by redesignating section 44 as section 45 and by inserting after section 43 the following new section:*

### "SEC 44. PURCHASE OF NEW PRINCIPAL RESIDENCE.

"(a) *GENERAL RULE.—In the case of an individual there is allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to 5 percent of the purchase price of a new principal residence purchased or constructed by the taxpayer.*

"(b) *LIMITATIONS.*—

"(1) *MAXIMUM CREDIT.—The credit allowed under subsection (a) may not exceed $2,000.*

"(2) *Limitation to one residence.—The credit under this section shall be allowed with respect to only one residence of the taxpayer.*

"(3) *Married individuals.—In the case of a husband and wife who file a joint return under section 6013, the amount specified under paragraph (1) shall apply to the joint return. In the case of a married individual filing a separate return, paragraph (1) shall be applied by substituting '$1,000' for '$2,000'.*

"(4) *Certain other taxpayers.—In the case of individuals to whom paragraph (3) does not apply who together purchase the same new principal residence for use as their principal residence, the amount of the credit allowed under section (a) shall be allocated among such individuals as prescribed by the Secretary or his delegate, but the sum of the amounts allowed to such individuals shall not exceed $2,000 with respect to that residence.*

"(5) *Application with other credits.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under sections 33, 37, 38, 40, 41, and 42.*

"(c) *Definitions.—For purposes of this section—*

"(1) *New principal residence.—The term 'new principal residence' means a principal residence (within the meaning of section 1034), the original use of which commences with the taxpayer, and includes, without being limited to, a single family structure, a residential unit in a condominium or cooperative housing project, and a mobile home.*

"(2) *Purchase price.—The term 'purchase price' means the adjusted basis of the new principal residence on the date of the acquisition thereof.*

"(3) *Purchase.—The term 'purchase' means any acquisition of property, but only if—*

"(A) *the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b) (but, in applying section 267 (b) and (c) for purposes of this section, paragraph (4) of section 267(c) shall be treated as providing that the family of an individual shall include only his spouse, ancestors, and lineal descendants), and*

"(B) *the basis of the property in the hands of the person acquiring it is not determined—*

"(i) *in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or*

"(ii) *under section 1014(a) (relating to property acquired from a decedent).*

"(d) *Recapture for Certain Dispositions.—*

"(1) *In general.—Except as provided in paragraphs (2) and (3), if the taxpayer disposes of property with respect to the purchase of which a credit was allowed under subsection (a) at any time within 36 months after the date on which he acquired it (or, in the case of construction by the taxpayer, on the day on which he first occupied it) as his principal residence, then the tax imposed under this chapter for the taxable year in which terminates the replacement period under paragraph (2) with respect to the disposition is increased by an amount equal to the amount allowed as a credit for the purchase of such property.*



"(2) *Acquisition of new residence.—If, in connection with a disposition described in paragraph (1) and within the applicable period prescribed in section 1034, the taxpayer purchases or constructs a new principal residence, then the provisions of paragraph (1) shall not apply and the tax imposed by this chapter for the taxable year following the taxable year during which disposition occurs is increased by an amount which bears the same ratio to the amount allowed as a credit for the purchase of the old residence as (A) the adjusted sales price of the old residence (within the meaning of section 1034), reduced (but not below zero) by the taxpayer's cost of purchasing the new residence (within the meaning of such section) bears to (B) the adjusted sales price of the old residence.*

"(3) *Death of owner; casualty loss; involuntary conversion; etc.—The provisions of paragraph (1) do not apply to—*

"(A) *a disposition of a residence made on account of the death of any individual having a legal or equitable interest therein occurring during the 36 month period to which reference is made under such paragraph,*

"(B) *a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily and involuntarily converted (within the meaning of section 1033(a)), or*

"(C) *a disposition pursuant to a settlement in a divorce or legal separation proceeding where the other spouse retains the residence as principal residence.*

"(e) *Property to Which Section Applies.—*

"(2) *Self-constructed property begun before March 13, 1975.—In the case of property the construction of which was begun by the taxpayer before March 13, 1975, only that portion of the basis of such property properly allocable to construction after March 12, 1975, shall be taken into account in determining the amount of the credit allowable under subsection (a).*

"(3) *Binding contract.—For purposes of this subsection, a contract for the purchase of a residence which is conditioned upon the purchaser's obtaining a loan for the purchase of the residence (including conditions as to the amount or interest rate of such loan) is not considered non-binding on account of that condition.*

"(1) *In general.—The provisions of this section apply to a new principal residence—*

"(A) *the construction of which began before March 26, 1975,*

"(B) *which is acquired and occupied by the taxpayers after March 12, 1975, and before January 1, 1977, and*

"(C) *if not constructed by the taxpayer, which was acquired by the taxpayer under a binding contract entered into by the taxpayer before January 1, 1976.*

"(4) *Certification must be attached to return.—This section shall not apply to any residence (other than a residence constructed by the taxpayer) unless there is attached to the return of tax on which the credit is claimed a certification by the seller, in accordance with regulations prescribed by the Secretary or his delegate, that the purchase price is the lowest price at which the residence was ever offered for sale."*

(b) *Suits To Recover Amounts of Price Increases.—If—*

(1) *any person certifies under section 44(e)(4) of the Internal Revenue Code of 1954 that the price for which a residence was sold is the lowest price at which the residence was ever offered for sale, and*

(2) *the price for which the residence was sold exceeded the lowest price at which the residence was ever offered for sale,*

*such person shall be liable to the purchaser of such residence in an amount equal to three times the amount of such excess. The United States district courts shall have jurisdiction of suits to recover such amounts without regard to any other provision of law. In any suit brought under this subsection in which judgment is entered for the purchaser, he shall also be entitled to recover a reasonable attorney's fee,*

(c) *Denial of Deduction.—Notwithstanding the provisions of section 162 or 212 of the Internal Revenue Code of 1954, no deduction shall be allowed in computing taxable income for two-thirds of any amount paid or incurred on a judgment entered against any person in a suit brought under subsection (b).*

(d) *Technical and Clerical Amendments.—*

(1) *The table of sections for such subpart is amended by striking out the last item and inserting in lieu thereof the following:*

*"Sec. 44. Credit for purchase of new principal residence.*
*"Sec. 45. Overpayments of tax.'*

(2) *Section 56(a)(2) (relating to imposition of minimum tax) is amended by striking out "and" at the end of clause (v), by striking out "; and" at the end of clause (vi) and inserting in lieu thereof ", and", and by inserting after clause (vi) the following new clause:*

*"(vii) section 44 (relating to credit for purchase of new principal residence); and".*

(3) *Section 56(c)(1) (relating to tax carryovers) is amended by striking out "and" at the end of subparagraph (E), by striking out "exceed" at the end of subparagraph (F) and inserting in lieu thereof "and", and by inserting after subparagraph (F) the following new subparagraph:*

*"(G) section 44 (relating to credit for purchase of new principal residence), exceed".*

(4) *Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 42" and inserting in lieu thereof "42, and 44".*



***SEC. 209. EFFECTIVE DATES.***

(a) *Sections 201, 202(a), and 203.—The amendments made by sections 201, 202(a), and 203 shall apply to taxable years ending after December 31, 1974. Such amendments shall cease to apply to taxable years ending after December 31, 1975.*

(b) *Section 204.—The amendments made by section 204 shall apply to taxable years beginning after December 31, 1974, and before January 1, 1976.*

(c) *Sections 202(b) and 205.—The amendments made by sections 202(b) and 205 shall apply to wages paid after April 30, 1975, and before January 1, 1976.*

(d) *Section 206.—The amendments made by section 206 apply to taxable years beginning after the date of enactment of this Act.*

(e) *Section 207.—The amendments made by section 207 shall apply to old residences (within the meaning of section 1034 of the Internal Revenue Code of 1954) sold or exchanged after December 31, 1974, in taxable years ending after such date.*

# *TITLE III—CERTAIN CHANGES IN BUSINESS TAXES*

## *SEC. 301. INCREASE IN INVESTMENT CREDIT.*

*(a) INCREASE OF INVESTMENT CREDIT.—Paragraph (1) of section 46 (a) (determining the amount of the investment credit) is amended to read as follows:*

*"(1) GENERAL RULE.—*

*"(A) TEN PERCENT CREDIT.—Except as otherwise provided in this paragraph, in the case of a property described in subparagraph (D), the amount of the credit allowed by section 38 for the taxable year shall be an amount equal to 10 percent of the qualified investment (as determined under subsections (c) and (d)).*

*"(B) ELEVEN PERCENT CREDIT.—Except as otherwise provided in this paragraph, in the case of a corporation which elects to have the provisions of this subparagraph apply, the amount of the credit allowed by section 38 for the taxable year with respect to property described in subparagraph (D) shall be an amount equal to 11 percent of the qualified investment (as determined under subsections (c) and (d)). An election may not be made to have the provisions of this subparagraph apply for the taxable year unless the corporation meets the requirements of section 301(d) of the Tax Reduction Act of 1975. An election by a corporation to have the provisions of this subparagraph apply shall be made at such time, in such form, and in such manner as the Secretary or his delegate may prescribe.*

*"(C) SEVEN PERCENT CREDIT.—Except as otherwise provided in this paragraph, the amount of credit allowed by section 38 for the taxable year shall be an amount equal to 7 percent of the qualified investment (as determined under subsections (c) and (d)).*

*"(D) TRANSITIONAL RULES.—The provisions of subparagraphs (A) and (B) shall apply only to—*

*"(i) property to which subsection (d) does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer after January 21, 1975, but only to the extent of the basis thereof attributable to the construction, reconstruction, or erection after January 21, 1975, and before January 1, 1977."*

*"(ii) property to which subsection (d) does not apply, acquired by the taxpayer after January 21, 1975, and before January 1, 1977, and placed in service by the taxpayer before January 1, 1977, and*

"(iii) property to which subsection (d) applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d)) with respect to qualified progress expenditures made after January 21, 1975, and before January 1, 1977."

(b) PUBLIC UTILITY PROPERTY.—

(1) DETERMINATION OF QUALIFIED INVESTMENT.—Subparagraph (A) of section 46(c)(3) (relating to determination of qualified investment in the case of public utility property) is amended to read as follows:

"(A) To the extent that subsection (a)(1)(C) applies to property which is public utility property, the amount of the qualified investment shall be 4/7 of the amount determined under paragraph (1).".

(2) INCREASE IN 50-PERCENT LIMITATION.—Section 46(a) (relating to determination of amount of credit) is amended by adding at the end thereof the following new paragraph:

"(6) ALTERNATIVE LIMITATION IN THE CASE OF CERTAIN UTILITIES.—

(A) IN GENERAL.—If, for a taxable year ending after calendar year 1974 and before calendar year 1981, the amount of the qualified investment of the taxpayer which is attributable to public utility property is 25 percent or more of his aggregate qualified investment, then subparagraph (C) of paragraph (2) of this subsection shall be applied by substituting for 50 percent his applicable percentage for such year.

"(B) APPLICABLE PERCENTAGE.—The applicable percentage of any taxpayer for any taxable year is—

"(i) 50 percent, plus

"(ii) that portion of the tentative percentage for the taxable year which the taxpayer's amount of qualified investment which is public utility property bears to his aggregate qualified investment.

If the proportion referred to in clause (ii) is 75 percent or more, the applicable percentage of the taxpayer for the year shall be 50 percent plus the tentative percentage for such year.

"(C) TENTATIVE PERCENTAGE.—For purposes of subparagraph (B), the tentative percentage shall be determined under the following table:

| "If the taxable year ends in: | The tentative percentage is: |
|---|---|
| 1975 or 1976 | 50 |
| 1977 | 40 |
| 1978 | 30 |
| 1979 | 20 |
| 1980 | 10 |

"(D) PUBLIC UTILITY PROPERTY DEFINED.—For purposes of this paragraph, the term 'public utility property' has the meaning given to such term by the first sentence of subsection (c)(3)(B)."

(3) LIMITATION IN CASE OF CERTAIN REGULATED COMPANIES.—Section 46(f), as redesignated by section 302(a) of this Act (relating to limitation in case of certain regulated companies), is amended by adding at the end thereof the following new paragraph:



"(8) PROHIBITION OF IMMEDIATE FLOWTHROUGH.—An election made under paragraph (3) shall apply only to the amount of the credit allowable under section 38 with respect to public utility property (within the meaning of subsection (a)(6)(D)) determined as if the Tax Reduction Act of 1975 had not been enacted. Any taxpayer who had timely made an election under paragraph (3) may, at his own option and without regard to any requirement imposed by an agency described in subsection (c)(3)(B), elect within 90 days after the date of the enactment of the Tax Reduction Act of 1975 (in such manner as the Secretary or his delegate shall prescribe) to have the provisions of paragraph (3) apply with respect to the amount of the credit allowable under section 38 with respect to such property which is in excess of the amount determined under the preceding sentence. If such taxpayer does not make such an election, paragraph (1) or (2) (whichever paragraph is applicable without regard to this paragraph) shall apply to such excess credit, except that if neither paragraph (1) nor (2) is applicable (without regard to this paragraph), paragraph (1) shall apply unless the taxpayer elects (in such manner as the Secretary or his delegate shall prescribe) within 90 days after the date of the enactment of the Tax Reduction Act of 1975 to have the provisions of paragraph (2) apply. The provisions of this paragraph shall not be applied to disallow such excess credit before the first final determination which is inconsistent with such requirements is made, determined in the same manner as under paragraph (4)."

(4) EFFECTIVE DATES.—The amendment made by paragraph (1) of this subsection shall apply to property placed in service after January 21, 1975, in taxable years ending after January 21, 1975. The amendments made by paragraphs (2) and (3) shall apply to taxable years ending after December 31, 1974.

(c) INCREASE FROM $50,000 TO $100,000 OF DOLLAR LIMITATION ON USED PROPERTY.—

(1) IN GENERAL.—Paragraph (2) of subsection 48(c) (relating to dollar limitation in case of used section 38 property) is amended—

(A) by striking out "$50,000" each place it appears and inserting in lieu thereof "$100,000", and

(B) by striking out "$25,000" and inserting in lieu thereof "$50,000".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply only to taxable years beginning after December 31, 1974, and before January 1, 1977.

(d) PLAN REQUIREMENTS FOR TAXPAYERS ELECTING 11-PERCENT CREDIT.—In order to meet the requirements of this subsection—

(1) A corporation (hereinafter in this subsection referred to as the "employer") must establish an employee stock ownership plan (described in paragraph (2)) which is funded by transfers of employer securities in accordance with the provisions of paragraph (6) and which meets all other requirements of this subsection.

(2) The plan referred to in paragraph (1) must be a defined contribution plan established in writing which—

*(A) is a stock bonus plan, a stock bonus and a money purchase pension plan, or a profit-sharing plan,*

*(B) is designed to invest primarily in employer securities, and*

*(C) meets such other requirements (similar to requirements applicable to employee stock ownership plans as defined in section 4975(e)(7) of the Internal Revenue Code of 1954) as the Secretary of the Treasury or his delegate may prescribe.*

*(3) The plan must provide for the allocation of all employer securities transferred to it or purchased by it (because of the requirements of section 46(a)(1)(B) of the Internal Revenue Code of 1954) to the account of each participant (who was a participant at any time during the plan year, whether or not he is a participant at the close of the plan year) as of the close of each plan year in an amount which bears substantially the same proportion to the amount of all such securities allocated to all participants in the plan for that plan year as the amount of compensation paid to such participant (disregarding any compensation in excess of the first $100,000 per year) bears to the compensation paid to all such participants during that year (disregarding any compensation in excess of the first $100,000 with respect to any participant). Notwithstanding the first sentence of this paragraph, the allocation to participants' accounts may be extended over whatever period may be necessary to comply with the requirements of section 415 of the Internal Revenue Code of 1954.*

*(4) The plan must provide that each participant has a nonforfeitable right to any stock allocated to his account under paragraph (3), and that no stock allocated to a participant's account may be distributed from that account before the end of the eighty-fourth month beginning after the month in which the stock is allocated to the account except in the case of separation from the service, death, or disability.*

*(5) The plan must provide that each participant is entitled to direct the plan as to the manner in which any employer securities allocated to the account of the participant are to be voted.*

*(6) On making a claim for credit, adjustment, or refund under section 38 of the Internal Revenue Code of 1954, the employer states in such claim that it agrees, as a condition of receiving any such credit, adjustment, or refund, to transfer employer securities forthwith to the plan having an aggregate value at the time of the claim of 1 percent of the amount of the qualified investment (as determined under section 46 (c) and (d) of such Code) of the taxpayer for the taxable year. For purposes of meeting the requirements of this paragraph, a transfer of cash shall be treated as a transfer of employer securities if the cash is, under the plan, used to purchase employer securities.*

*(7) Notwithstanding any other provision of law to the contrary, if the plan does not meet the requirements of section 401 of the Internal Revenue Code of 1954—*

*(A) stock transferred under paragraph (6) and allocated to the account of any participant under paragraph (3) and dividends thereon shall not be considered income of the participant or his beneficiary under the Internal Revenue Code of 1954 until actually distributed or made available to the participant or his beneficiary and, at such time, shall be taxable under section 72 of such Code (treating the participant or his beneficiary as having a basis of zero in the contract).*



*(B) no amount shall be allocated to any participant in excess of the amount which might be allocated if the plan met the requirements of section 401 of such Code, and*

*(C) the plan must meet the requirements of sections 410 and 415 of such Code.*

*(8) If the amount of the credit determined under section 46(a)(1)(B) of the Internal Revenue Code of 1954, is recaptured in accordance with the provisions of such Code, the amounts transferred to the plan under this subsection and allocated under the plan shall remain in the plan or in participant accounts, as the case may be, and continue to be allocated in accordance with the original plan agreement.*

*(9) For purposes of this subsection, the term—*

*(A) "employer securities" means common stock issued by the employer or a corporation which is in control of the employer (within the meaning of section 368(c) of the Internal Revenue Code of 1954) with voting power and dividend rights no less favorable than the voting power and dividend rights of other common stock issued by the employer or such controlling corporation, or securities issued by the employer or such controlling corporation, convertible into such stock, and*

*(B) "value" means the average of closing prices of the employer's securities, as reported by a national exchange on which securities are listed, for the 20 consecutive trading days immediately preceding the date of transfer or allocation of such securities or, in the case of securities not listed on a national exchange, the fair market value as determined in good faith and in accordance with regulations issued by the Secretary of the Treasury or his delegate.*

*(10) The Secretary of the Treasury or his delegate shall prescribe such regulations and require such reports as may be necessary to carry out the provisions of this subsection.*

*(11) If the employer fails to meet any requirement imposed under this subsection or under any obligation undertaken to comply with the requirement of this subsection, he is liable to the United States for a civil penalty of an amount equal to the amount involved in such failure. The preceding sentence shall not apply if the taxpayer corrects such failure (as determined by the Secretary of the Treasury or his delegate) within 90 days after notice thereof. For purposes of this paragraph, the term "amount involved" means an amount determined by the Secretary or his delegate, but not in excess of 1 percent of the qualified investment of the taxpayer for the taxable year under section 46(a)(1)(B) and not less than the product of one-half of one percent of such amount multiplied by the number of months (or parts thereof) during which such failure continues. The amount of such penalty may be*

*collected by the Secretary of the Treasury in the same manner in which a deficiency in the payment of Federal income tax may be collected.*

*(12) Notwithstanding any provisions of the Internal Revenue Code of 1954 to the contrary, no deduction shall be allowed under section 162, 212, or 404 of such Code for amounts transferred to an employee stock ownership plan and taken into account under this subsection.*

## *SEC. 302. ALLOWANCE OF INVESTMENT CREDIT WHERE CONSTRUCTION OF PROPERTY WILL TAKE MORE THAN 2 YEARS.*

*(a) GENERAL RULE.—Section 46 (relating to amount of credit) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:*

*"(d) QUALIFIED PROGRESS EXPENDITURES.—*

*"(1) IN GENERAL.—In the case of any taxpayer who has made an election under paragraph (6), the amount of his qualified investment for the taxable year (determined under subsection (c) without regard to this subsection) shall be increased by an amount equal to his aggregate qualified progress expenditures for the taxable year with respect to progress expenditure property.*

*"(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—*

*"(A) IN GENERAL.—For purposes of this subsection, the term 'progress expenditure property' means any property which is being constructed by or for the taxpayer and which—*

*"(i) has a normal construction period of two years or more, and*

*"(ii) it is reasonable to believe will be new section 38 property having a useful life of 7 years or more in the hands of the taxpayer when it is placed in service.*

*Clauses (i) and (ii) of the preceding sentence shall be applied on the basis of facts known at the close of the taxable year of the taxpayer in which construction begins (or, if later, at the close of the first taxable year to which an election under this subsection applies).*

*"(B) NORMAL CONSTRUCTION PERIOD.—For purposes of subparagraph (A), the term 'normal construction period' means the period reasonably expected to be required for the construction of the property—*

*"(i) beginning with the date on which physical work on the construction begins (or, if later, the first day of the first taxable year to which an election under this subsection applies), and*

*"(ii) ending on the date on which it is expected that the property will be available for placing in service.*

*"(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—*

*"(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term 'qualified progress expenditures' means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.*

*"(B) NON-SELF-CONSTRUCTED PROPERTY.—In the case of non-self-constructed property, the term 'qualified progress expenditures' means the lesser of—*

*"(i) the amount paid during the taxable year to another person for the construction of such property, or*

*"(ii) the amount which represents that proportion of the overall cost to the taxpayer of the construction by such other person which is properly attributable to that portion of such construction which is completed during such taxable year.*

*"(4) SPECIAL RULES FOR APPLYING PARAGRAPH (3).—For purposes of paragraph (3)—*

*"(A) COMPONENT PARTS, ETC.—Property which is to be a component part of, or is otherwise to be included in, any progress expenditure property shall be taken into account—*

*"(i) at a time not earlier than the time at which it becomes irrevocably devoted to use in the progress expenditure property, and*

*"(ii) as if (at the time referred to in clause (i)) the taxpayer had expended an amount equal to that portion of the cost to the taxpayer of such component or other property which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.*

*"(B) CERTAIN BORROWINGS DISREGARDED.—Any amount borrowed directly or indirectly by the taxpayer from the person constructing the property for him shall not be treated as an amount expended for such construction.*

*"(C) CERTAIN UNUSED EXPENDITURES CARRIED OVER.—In the case of non-self-constructed property, if for the taxable year—*

*"(i) the amount under clause (i) of paragraph (3)(B) exceeds the amount under clause (ii) of paragraph (3)(B), then the amount of such excess shall be taken into account under such clause (i) for the succeeding taxable year, or*

*"(ii) the amount under clause (ii) of paragraph (3)(B) exceeds the amount under clause (i) of paragraph (3)(B), then the amount of such excess shall be taken into account under such clause (ii) for the succeeding taxable year.*

*"(D) DETERMINATION OF PERCENTAGE OF COMPLETION.—In the case of non-self-constructed property, the determination under paragraph (3)(B)(ii) of the proportion of the overall cost to the taxpayer of the construction of any property which is properly attributable to construction completed during any taxable year shall be made, under regulations prescribed by the Secretary or his delegate, on the basis of engineering or architectural estimates or on the basis of cost accounting records. Unless the taxpayer establishes otherwise*

*by clear and convincing evidence, the construction shall be deemed to be completed not more rapidly than ratably over the normal construction period.*

*"(E) No qualified progress expenditures for certain prior periods.—In the case of any property, no qualified progress expenditures shall be taken into account under this subsection for any period before January 22, 1975 (or, if later, before the first day of the first taxable year to which an election under this subsection applies).*

*"(F) No qualified progress expenditures for property for year it is placed in service, etc.—In the case of any property, no qualified progress expenditures shall be taken into account under this subsection for the earlier of—*

*"(i) the taxable year in which the property is placed in service, or*

*"(ii) the first taxable year for which recapture is required under section 47(a)(3) with respect to such property,*

*or for any taxable year thereafter.*

*"(5) Other definitions.—For purposes of this subsection—*

*"(A) Self-constructed property.—The term 'self-constructed property' means property more than half of the construction expenditures for which it is reasonable to believe will be made directly by the taxpayer.*

*"(B) Non-self-constructed property.—The term 'non-self-constructed property' means property which is not self-constructed property.*

*"(C) Construction, etc.—The term 'construction' includes reconstruction and erection, and the term 'constructed' includes reconstructed and erected.*

*"(D) Only construction of section 38 property to be taken into account.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.*

*"(6) Election.—An election under this subsection may be made at such time and in such manner as the Secretary or his delegate may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary or his delegate.*

*"(7) Transitional rules.—The qualified investment taken into account under this subsection for any taxable year beginning before January 1, 1980, with respect to any property shall be (in lieu of the full amount) an amount equal to the sum of—*

*"(A) the applicable percentage of the full amount determined under the following table:*

| *"For a taxable year beginning in:* | *The applicable percentage is:* |
|---|---|
| *1974 or 1975* | *20* |
| *1976* | *40* |
| *1977* | *60* |
| *1978* | *80* |
| *1979* | *100;* |



*plus*

*"(B) in the case of any property to which this subsection applied for one or more preceding taxable years, 20 percent of the full amount for each such preceding taxable year.*

*For purposes of this paragraph, the term 'full amount', when used with respect to any property for any taxable year, means the amount of the qualified investment for such property for such year determined under this subsection without regard to this paragraph."*

*(b) Conforming Amendments.—*

*(1) Amendment of section 46(c).—Section 46(c) (relating to qualified investment) is amended by adding at the end thereof the following new paragraph:*

*"(4) Coordination with subsection (d).—The amount which would (but for this paragraph) be treated as qualified investment under this subsection with respect to any property shall be reduced (but not below zero) by any amount treated by the taxpayer or a predecessor of the taxpayer (or, in the case of a sale and leaseback described in section 47(a)(3)(C), by the lessee) as qualified investment with respect to such property under subsection (d), to the extent the amount so treated has not been required to be recaptured by reason of section 47(a)(3)."*

*(2) Disposition, etc.—*

*(A) Subsection (a) of section 47 (relating to certain dispositions, etc., of section 38 property) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:*

*"(3) Property ceases to be progress expenditure property.—*

*"(A) In general.—If during any taxable year any property taken into account in determining qualified investment under section 46(d) ceases (by reason of sale or other disposition, cancellation or abandonment of contract, or otherwise) to be, with respect to the taxpayer, property which, when placed in service, will be new section 38 property, then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero the qualified investment taken into account with respect to such property.*

*"(B) Certain excess credit recaptured.—Any amount which would have been applied as a reduction of the qualified investment in property by reason of paragraph (4) of section 46(c) but for the fact that a reduction under such paragraph cannot reduce qualified investment below zero shall be treated as an amount required to be recaptured under subparagraph (A) for the taxable year in which the property is placed in service.*

*"(C) Certain sales and leasebacks.—Under regulations prescribed by the Secretary or his delegate, a sale by, and leaseback to, a taxpayer who, when the property is placed in service, will be a lessee to whom section 48(d) applies shall not be treated as a cessation described in subparagraph (A) to*

*the extent that the qualified investment which will be passed through to the lessee under section 48(d) with respect to such property is not less than the qualified progress expenditures properly taken into account by the lessee with respect to such property.*

*"(D) Coordination with paragraph (1).—If, after property is placed in service, there is a disposition or other cessation described in paragraph (1), paragraph (1) shall be applied as if any credit which was allowable by reason of section 46(d) and which has not been required to be recaptured before such cessation were allowable for the taxable year the property was placed in service."*

*(c) Clerical Amendments.—*

*(1) Paragraph (4) of section 47(a) (as redesignated by subsection (b)(2)(A) of this section) is amended by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1) or (3)".*

*(2) Paragraphs (5) and (6)(B) of section 47(a) are each amended by striking out "paragraph (3)" and inserting in lieu thereof "paragraph (4)".*

*(3) Paragraphs (1) and (2) of section 48(d) are each amended by striking out "section 46(d)(1)" and inserting in lieu thereof "section 46(e)(1)".*

*(4) Subsection (f) of section 50B is amended by striking out "section 46(d)" and inserting in lieu thereof "section 46(e)".*

## *SEC. 303. CHANGE IN CORPORATE TAX RATES AND INCREASE IN SURTAX EXEMPTION.*

*(a) Tax Rates.—Section 11(b) (relating to corporate normal tax) is amended to read as follows:*

*"(b) Normal Tax.—The normal tax is equal to—*

*"(1) in the case of a taxable year ending before January 1, 1975, or after December 31, 1975, 22 percent of the taxable income, and*

*"(2) in the case of a taxable year ending after December 31, 1974, and before January 1, 1976, the sum of—*

*"(A) 20 percent of so much of the taxable income as does not exceed $25,000, plus*

*"(B) 22 percent of so much of the taxable income as exceeds $25,000.".*

*(b) Surtax Exemption.—Section 11 (d) (relating to surtax exemption) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".*

*(c) Technical and Conforming Amendments.—*

*(1) Paragraph (1) of section 1561(a) (as in effect for taxable years beginning after December 31, 1974) (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000". In applying subsection (b)(2) of section 11, the first $25,000 of taxable income and the second $25,000 of taxable income shall each be allocated among the component members of a controlled group of corporations in the same manner as the surtax exemption is allocated.*



*(2) Paragraph (7) of section 12 (relating to cross references for tax on corporations) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".*

*(3) Section 962(c) (relating to surtax exemption for individuals electing to be subject to tax at corporate rates) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".*

## *SEC. 304. INCREASE IN MINIMUM ACCUMULATED EARNINGS CREDIT FROM $100,000 TO $150,000.*

*(a) Increase.—Paragraphs (2) and (3) of section 535(c) (relating to accumulated earnings credit) are each amended by striking out "$100,000" and inserting in lieu thereof "$150,000".*

*(b) Conforming Amendments.—Sections 243(b)(3)(C)(i) (relating to qualifying dividends for purposes of the dividends received deduction), 1551(a) (relating to disallowance of surtax exemption and accumulated earnings credit) and 1561(a)(2) (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) are each amended by striking out "$100,000" and inserting in lieu thereof "$150,000".*

## *SEC. 305. EFFECTIVE DATES.*

*(a) Section 302.—The amendments made by section 302 shall apply to taxable years ending after December 31, 1974.*

*(b) Section 303.—*

*(1) In general.—The amendments made by section 303 shall apply to taxable years ending after December 31, 1974. The amendments made by subsections (b) and (c) of such section shall cease to apply for taxable years ending after December 31, 1975.*

*(2) Changes treated as changes in tax rate.—Section 21 (relating to change in rates during taxable year) is amended by adding at the end thereof the following new subsection:*

*"(f) Increase in Surtax Exemption.—In applying subsection (a) to a taxable year of a taxpayer which is not a calendar year, the change made by section 303(b) of the Tax Reduction Act of 1975 in section 11(d) (relating to corporate surtax exemption) shall be treated as a change in a rate of tax."*

*(c) Section 304.—The amendments made by section 304 apply to taxable years beginning after December 31, 1974.*

# *TITLE IV—CHANGES AFFECTING INDIVIDUALS AND BUSINESSES*

## *SEC. 401. FEDERAL WELFARE RECIPIENT EMPLOYMENT INCENTIVE TAX CREDIT.*

(*a*) *In General.*—

(*1*) *Section 50A* (*a*) (*relating to determination of amount of credit*) *is amended by adding at the end thereof the following new paragraph:*

"(*6*) *Limitation with respect to nonbusiness eligible employees.—Notwithstanding paragraph* (*1*), *the credit allowed by section 40 with respect to Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer during the taxable year to an eligible employee whose services are not performed in connection with a trade or business of the taxpayer shall not exceed $1,000.*"

(*2*) *Section 50A* (*c*)(*2*)(*A*) (*relating to amount of credit*) *is amended—*

(*A*) *by striking out "or" at the end of clause* (*ii*),

(*B*) *by striking out the period at the end of clause* (*iii*) *and inserting in lieu thereof a comma and "or", and*

(*C*) *by inserting at the end thereof the following new clause:*

"(*iv*) *a termination of employment of an individual with respect to whom Federal welfare recipient employment incentive expenses* (*as described in section 50B* (*a*)(*2*)) *are taken into account under subsection* (*a*)."

(*3*) *Section 50B*(*a*) (*relating to definitions; special rules*) *is amended to read as follows:*

"(*a*) *Work Incentive Program Expenses.*—

"(*1*) *In General.—For purposes of this subpart, the term 'work incentive program expenses' means the sum of—*

"(*A*) *the amount of wages paid or incurred by the taxpayer for services rendered during the first 12 months of employment* (*whether or not consecutive*) *of employees who are certified by the Secretary of Labor as—*

"(*i*) *having been placed in employment under a work incentive program established under section 432*(*b*)(*1*) *of the Social Security Act, and*

"(*ii*) *not having displaced any individual from employment, plus*

"(*B*) *the amount of Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer during the taxable year.*

*"(2) Definition.—For purposes of this section, the term 'Federal welfare recipient employment incentive expenses' means the amount of wages paid or incurred by the taxpayer for services rendered to the taxpayer before July 1, 1976, by an eligible employee.*

*"(3) Exclusion.—No item taken into account under paragraph (1)(A) shall be taken into account under paragraph (1)(B). No item taken into account under paragraph (1)(B) shall be taken into account under paragraph 1(A)."*

*(4) Section 50B(c) is amended—*

*(A) by striking out "subsection (a)" in paragraph (1) and inserting in lieu thereof "subsection (a)(1)(A)", and*

*(B) by striking out "subsection (a)" in paragraph (4) and inserting in lieu thereof "subsection (a)(1)(A)".*

*(5) Section 50B is amended by redesignating subsection (g) as (h) and by inserting immediately after subsection (f) the following new subsection:*

*"(g) Eligible Employee.—*

*"(1) Eligible employee.—For purposes of subsection (a)(1)(B), the term 'eligible employee' means an individual—*

*"(A) who has been certified by the appropriate agency of State or local government as being eligible for financial assistance under part A of title IV of the Social Security Act and as having continuously received such financial assistance during the 90 day period which immediately precedes the date on which such individual is hired by the taxpayer,*

*"(B) who has been employed by the taxpayer for a period in excess of 30 consecutive days on a substantially full-time basis,*

*"(C) who has not displaced any other individual from employment by the taxpayer, and*

*"(D) who is not a migrant worker.*

*The term 'eligible employee' includes an employee of the taxpayer whose services are not performed in connection with a trade or business of the taxpayer.*

*"(2) Migrant worker.—For purposes of paragraph (1), the term 'migrant worker' means an individual who is employed for services for which the customary period of employment by one employer is less than 30 days if the nature of such services requires that such individual travel from place to place over a short period of time."*

*(b) Effective Date.—The amendments made by this section with respect to federal welfare recipient employment incentive expenses shall apply to such expenses paid or incurred by a taxpayer to an eligible employee whom such taxpayer hires after the date of the enactment of this Act.*

### *SEC. 402. TIME WHEN CONTRIBUTIONS DEEMED MADE TO CERTAIN PENSION PLANS.*

*Section 1017 of the Employee Retirement Income Security Act of 1974 (relating to effective dates for funding, etc., provisions of that Act) is amended—*



*(1) in subsection (b) by striking out "(c) through (h)," and inserting in lieu thereof "(c) through (i),"; and*

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

*"(i) Contributions to H.R. 10 Plans.—Notwithstanding subsections (b) and (c)(2), in the case of a plan in existence on January 1, 1974, the amendment made by section 1013(c)(2) of this Act shall apply, with respect to a plan which provides contributions or benefits for employees some or all of whom are employees within the meaning of section 401(c)(1) of the Internal Revenue Code of 1954, for plan years beginning after December 31, 1974, but only if the employer (within the meaning of section 401(c)(4) of such Code) elects in such manner and at such time as the Secretary of the Treasury or his delegate shall by regulations prescribe, to have such amendment so apply. Any election made under this subsection, once made, shall be irrevocable."*

# *TITLE V—PERCENTAGE DEPLETION*

## *SEC. 501. LIMITATIONS ON PERCENTAGE DEPLETION FOR OIL AND GAS.*

*(a) IN GENERAL.—Part I of subchapter I of chapter 1 (relating to natural resources) is amended by inserting after section 613 the following new section:*

## *"SEC. 613A. LIMITATIONS ON PERCENTAGE DEPLETION IN CASE OF OIL AND GAS WELLS.*

*"(a) GENERAL RULE.—Except as otherwise provided in this section, the allowance for depletion under section 611 with respect to any oil or gas well shall be computed without regard to section 613.*

*"(b) EXEMPTION FOR CERTAIN DOMESTIC GAS WELLS.—*

*"(1) IN GENERAL.—The allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to—*

*"(A) regulated natural gas,*

*"(B) natural gas sold under a fixed contract, and*

*"(C) any geothermal deposit in the United States or in a possession of the United States which is determined to be a gas well within the meaning of section 613(b)(1)(A),*

*and 22 percent shall be deemed to be specified in subsection (b) of section 613 for purposes of subsection (a) of that section.*

*"(2) DEFINITIONS.—For purposes of this subsection—*

*"(A) NATURAL GAS SOLD UNDER A FIXED CONTRACT.—The term 'natural gas sold under a fixed contract' means domestic natural gas sold by the producer under a contract, in effect on February 1, 1975, and at all times thereafter before such sale, under which the price for such gas cannot be adjusted to reflect to any extent the increase in liabilities of the seller for tax under this chapter by reason of the repeal of percentage depletion for gas. Price increases after February 1, 1975, shall be presumed to take increases in tax liabilities into account unless the taxpayer demonstrates to the contrary by clear and convincing evidence.*

*"(B) REGULATED NATURAL GAS.—The term 'regulated natural gas' means domestic natural gas produced and sold by the producer, before July 1, 1976, subject to the jurisdiction of the Federal Power Commission, the price for which has not been adjusted to reflect to any extent the increase in*

*liability of the seller for tax under this chapter by reason of the repeal of percentage depletion for gas. Price increases after February 1, 1975, shall be presumed to take increases in tax liabilities into account unless the taxpayer demonstrates the contrary by clear and convincing evidence.*

"(c) *Exemption for Independent Producers and Royalty Owners.*—

"(1) *In general.—Except as provided in subsection (d), the allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to—*

"(A) *so much of the taxpayer's average daily production of domestic crude oil as does not exceed the taxpayer's depletable oil quantity; and*

"(B) *so much of the taxpayer's average daily production of domestic natural gas as does not exceed the taxpayer's depletable natural gas quantity;*

*and the applicable percentage (determined in accordance with the table contained in paragraph (5)) shall be deemed to be specified in subsection (b) of section 613 for purposes of subsection (a) of that section.*

"(2) *Average daily production.—For purposes of paragraph (1)—*

"(A) *the taxpayer's average daily production of domestic crude oil or natural gas for any taxable year, shall be determined by dividing his aggregate production of domestic crude oil or natural gas, as the case may be, during the taxable year by the number of days in such taxable year, and*

"(B) *in the case of a taxpayer holding a partial interest in the production from any property (including an interest held in a partnership) such taxpayer's production shall be considered to be that amount of such production determined by multiplying the total production of such property by the taxpayer's percentage participation in the revenues from such property.*

*In applying this paragraph, there shall not be taken into account any production of crude oil or natural gas resulting from secondary or tertiary processes (as defined in regulations prescribed by the Secretary or his delegate).*

*(b) applies.*

"(3) *Depletable oil quantity.*—

"(A) *In general.—For purposes of paragraph (1), the taxpayer's depletable oil quantity shall be equal to—*

"(i) *the tentative quantity determined under the table contained in subparagraph (B), reduced (but not below zero) by*

"(ii) *the taxpayer's average daily secondary or tertiary production for the taxable year.*



"(B) *Phase-out table.—For purposes of subparagraph (A)—*

*"In the case of production during the calendar year:*

| | The tentative quantity in barrels is |
|---|---|
| 1975 | 2,000 |
| 1976 | 1,800 |
| 1977 | 1,600 |
| 1978 | 1,400 |
| 1979 | 1,200 |
| 1980 and thereafter | 1,000 |

"(4) *Daily depletable natural gas quantity.—For purposes of paragraph (1), the depletable natural gas quantity of any taxpayer for any taxable year shall be equal to 6,000 cubic feet multiplied by the number of barrels of the taxpayer's depletable oil quantity to which the taxpayer elects to have this paragraph apply. The taxpayer's depletable oil quantity for any calendar year shall be reduced by the number of barrels with respect to which an election under this paragraph applies. Such election shall be made at such time and in such manner as the Secretary or his delegate shall by regulations prescribe.*

"(5) *Applicable percentage.—For purposes of paragraph (1)—*

| "In the case of production during the calendar year: | The applicable percentage is: |
|---|---|
| 1975 | 22 |
| 1976 | 22 |
| 1977 | 22 |
| 1978 | 22 |
| 1979 | 22 |
| 1980 | 20 |
| 1981 | 20 |
| 1982 | 18 |
| 1983 | 16 |
| 1984 and thereafter | 15 |

"(6) *Oil and natural gas resulting from secondary or tertiary processes.*—

"(A) *In general.—Except as provided in subsection (d), the allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to—*

"(i) *so much of the taxpayer's average daily secondary or tertiary production of domestic crude oil as does not exceed the taxpayer's depletable oil quantity (determined with regard to paragraph (3)(A)(ii); and*

"(ii) *so much of the taxpayer's average daily secondary or tertiary production of domestic natural gas as does not exceed the taxpayer's depletable natural gas quantity (determined without regard to paragraph (3)(A)(ii));*

*and 22 percent shall be deemed to be specified in subsection (b) of section 613 for purposes of subsection (a) of that section.*

"(B) *AVERAGE DAILY SECONDARY OR TERTIARY PRODUCTION.—For purposes of this subsection—*

"(i) *the taxpayer's average daily secondary or tertiary production of domestic crude oil or natural gas for any taxable year shall be determined by dividing his aggregate production of domestic crude oil or natural gas, as the case may be, resulting from secondary or tertiary processes during the taxable year by the number of days in such taxable year, and*

"(ii) *in the case of a taxpayer holding a partial interest in the production from any property (including any interest held in any partnership) such taxpayer's production shall be considered to be that amount of such production determined by multiplying the total production of such property by the taxpayer's percentage participation in the revenues from such property.*

"(C) *TERMINATION.—This paragraph shall not apply after December 31, 1983.*

"(7) *SPECIAL RULES.—*

"(A) *PRODUCTION OF CRUDE OIL IN EXCESS OF DEPLETABLE OIL QUANTITY.—If the taxpayer's average daily production of domestic crude oil exceeds his depletable oil quantity, the allowance under paragraph (1)(A) with respect to oil produced during the taxable year from each property in the United States shall be that amount which bears the same ratio to the amount of depletion which could have been allowable under section 613(a) for all of the taxpayer's oil produced from such property during the taxable year (computed as if section 613 applied to all of such production at the rate specified in paragraph (5) or (6), as the case may be as his depletable oil quantity bears to the aggregate number of barrels representing the average daily production of domestic crude oil of the taxpayer for such year.*

"(B) *PRODUCTION OF NATURAL GAS IN EXCESS OF DEPLETABLE NATURAL GAS QUANTITY.—If the taxpayer's average daily production of domestic natural gas exceeds his depletable natural gas quantity, the allowance under paragraph (1)(B) with respect to natural gas produced during the taxable year from each property in the United States shall be that amount which bears the same ratio to the amount of depletion which would have been allowable under section 613(a) for all of the taxpayers natural gas produced from such property during the taxable year (computed as if section 613 applied to all of such production at the rate specified in paragraph (5) or (6) as the case may be) as the amount of his depletable natural gas quantity in cubic feet bears to the aggregate number of cubic feet representing the average daily production of domestic natural gas of the taxpayer for such year.*



"(C) *TAXABLE INCOME FROM THE PROPERTY.—If both oil and gas are produced from the property during the taxable year, for purposes of subparagraphs (A) and (B) the taxable income from the property, in applying the 50-percent limitation in section 613(a), shall be allocated between the oil production and the gas production in proportion to the gross income during the taxable year from each.*

"(D) *PARTNERSHIPS.—In the case of a partnership, the depletion allowance in the case of oil and gas wells to which this subsection applies shall be computed separately by the partners and not by the partnership.*

"(E) *SECONDARY OR TERTIARY PRODUCTION.—If the taxpayer has production from secondary or tertiary recovery processes during the taxable year, this paragraph (under regulations prescribed by the Secretary or his delegate) shall be applied separately with respect to such production.*

"(8) *BUSINESSES UNDER COMMON CONTROL; MEMBERS OF THE SAME FAMILY.—*

"(A) *Component members of controlled group treated as one taxpayer.—For purposes of this subsection, persons who are members of the same controlled group of corporations shall be treated as one taxpayer.*

"(B) *Aggregation of business entities under common control.—If 50 percent or more of the beneficial interest in two or more corporations, trusts, or estates is owned by the same or related persons (taking into account only persons who own at least 5 percent of such beneficial interest), the tentative quantity determined under the table in paragraph (3)(B) shall be allocated among all such entities in proportion to the respective production of domestic crude oil during the period in question by such entities.*

"(C) *Allocation among members of the same family.—In the case of individuals who are members of the same family, the tentative quantity determined under the table in paragraph (3)(B) shall be allocated among such individuals in proportion to the respective production of domestic crude oil during the period in question by such individuals.*

"(D) *Definition and special rules.—For purposes of this paragraph—*

"(i) *the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that section 1563(b)(2) shall not apply and except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a),*

"(ii) *a person is a related person to another person if such persons are members of the same controlled group of corporations or if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b), except that for this purpose the family of an individual includes only his spouse and minor children,*

"(iii) *the family of an individual includes only his spouse and minor children, and* "(iv) each 6,000 cubic feet of domestic natural gas shall be treated as 1 barrel of domestic crude oil.

"(9) TRANSFER OF OIL OR GAS PROPERTY.—

"(A) In the case of a transfer (including the subleasing of a lease) after December 31, 1974 of an interest (including an interest in a partnership or trust) in any proven oil or gas property, paragraph (1) shall not apply to the transferee (or sublessee) with respect to production of crude oil or natural gas attributable to such interest, and such production shall not be taken into account for any computation by the transferee (or sublessee) under this subsection. A property shall be treated as a proven oil or gas property if at the time of the transfer the principal value of the property has been demonstrated by prospecting or exploration or discovery work.

"(B) Subparagraph (A) shall not apply in the case of—

"(i) a transfer of property at death, or

"(ii) the transfer in an exchange to which section 351 applies if following the exchange the tentative quantity determined under the table contained in paragraph (3)(B) is allocated under paragraph (8) between the transferor and transferee.

"(10) SPECIAL RULE FOR FISCAL YEAR TAXPAYERS.—In applying this subsection to a taxable year which is not a calendar year, each portion of such taxable year which occurs during a single calendar year shall be treated as if it were a short taxable year.

"(11) CERTAIN PRODUCTION NOT TAKEN INTO ACCOUNT.—In applying this subsection, there shall not be taken into account the production of natural gas with respect to which subsection (b) applies.

"(d) LIMITATIONS ON APPLICATIONS OF SUBSECTION (c).—

"(1) Limitation based on taxable income.—The deduction for the taxable year attributable to the application of subsection (c) shall not exceed 65 percent of the taxpayer's taxable income for the year computed without regard to—

"(A) depletion with respect to production of oil and gas subject to the provisions of subsection (c),

"(B) any net operating loss carryback to the taxable year under section 172, and

"(C) any capital loss carryback to the taxable year under section 1212.

If an amount is disallowed as a deduction for the taxable year by reason of application of the preceding sentence, the disallowed amount shall be treated as an amount allowable as a deduction under subsection (c) for the following taxable year, subject to the application of the preceding sentence to such taxable year. For purposes of basis adjustments and determining whether cost depletion exceeds percentage depletion with respect to the production from a property, any amount disallowed as a deduction on the application of this paragraph shall be allocated to the respective properties from which the oil or gas was produced in proportion to the percentage depletion otherwise allowable to such properties under subsection (c).



"(2) RETAILERS EXCLUDED.—Subsection (c) shall not apply in the case of any taxpayer who directly, or through a related person, sells oil or natural gas, or any product derived from oil or natural gas—

"(A) through any retail outlet operated by the taxpayer or a related person, or

"(B) to any person—

"(i) obligated under an agreement or contract with the taxpayer or a related person to use a trademark, trade name, or service mark or name owned by such taxpayer or a related person, in marketing or distributing oil or natural gas or any product derived from oil or natural gas, or

"(ii) given authority, pursuant to an agreement or contract with the taxpayer or a related person, to occupy any retail outlet owned, leased, or in any way controlled by the taxpayer or a related person.

"(3) RELATED PERSON.—For purposes of this subsection, a person is a related person with respect to the taxpayer if a significant ownership interest in either the taxpayer or such person is held by the other, or if a third person has a significant ownership interest in both the taxpayer and such person. For purposes of the preceding sentence, the term 'significant ownership interest' means—

"(A) with respect to any corporation, 5 percent or more in value of the outstanding stock of such corporation,

"(B) with respect to a partnership, 5 percent or more interest in the profits or capital of such partnership, and

"(C) with respect to an estate or trust, 5 percent or more of the beneficial interests in such estate or trust.

"(4) CERTAIN REFINERS EXCLUDED. If the taxpayer or a related person engages in the refining of crude oil, subsection (c) shall not apply to such taxpayer if on any day during the taxable year the refinery runs of the taxpayer and such person exceed 50,000 barrels.

"(e) DEFINITIONS.—For purposes of this section—

"(1) CRUDE OIL.—The term 'crude oil' includes a natural gas liquid recovered from a gas well in lease separators or field facilities.

"(2) NATURAL GAS.—The term 'natural gas' means any product (other than crude oil) of an oil or gas well if a deduction for depletion is allowable under section 611 with respect to such product.

"(3) DOMESTIC.—The term 'domestic' refers to production from an oil or gas well located in the United States or in a possession of the United States.

"(4) BARREL.—The term 'barrel' means 42 United States gallons."

(b) TECHNICAL AMENDMENTS.—

(1) Section 613(d) (relating to percentage depletion) is amended to read as follows:

"(d) DENIAL OF PERCENTAGE DEPLETION IN CASE OF OIL AND GAS WELLS.—Except as provided in section 613A, in the case of any oil or gas well, the allowance for depletion shall be computed without reference to this section."

(2) Section 613(b) is amended—

(A) by striking out subparagraph (A) of paragraph (1) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively,

(B) by striking out "(1)(C)" each place it appears in paragraphs (3), (4), and (7) and inserting in lieu thereof "(1)(B)", and

(C) by amending the last sentence of paragraph (7)—

(i) by striking out "or" at the end of clause (A),

(ii) by striking out the period at the end of clause (B) and inserting in lieu thereof "; or", and

(iii) by adding at the end thereof the following new clause:

"(C) oil and gas wells."

(3) Section 703(a)(2) (relating to deductions not allowable to a partnership) is amended by striking out "and" at the end of subparagraph (E), by striking out the period at the end of subparagraph (F) and inserting in lieu ", and", and by adding at the end thereof the following new subparagraph:

"(G) the deduction for depletion under section 611 with respect to oil and gas production subject to the provisions of section 613A(c)."

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect on January 1, 1975, and shall apply to taxable years ending after December 31, 1974.

# TITLE VI—TAXATION OF FOREIGN OIL AND GAS AND OTHER FOREIGN INCOME

## SEC. 601. LIMITATIONS ON FOREIGN TAX CREDIT FOR TAXES PAID IN CONNECTION WITH FOREIGN OIL AND GAS INCOME.

(a) IN GENERAL.—Subpart A of part III of subchapter N of chapter 1 (relating to foreign tax credit) is amended by adding at the end thereof the following new section:

### "SEC. 907. SPECIAL RULES IN CASE OF FOREIGN OIL AND GAS INCOME

"(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN TAX UNDER SECTION 901.—In applying section 901, the amount of any income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid) during the taxable year with respect to foreign oil and gas extraction income which would (but for this subsection) be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which the amount of such taxes exceeds the product of—

"(1) the amount of the foreign oil and gas extraction income for the taxable year, multiplied by

"(2) the percentage which is—

"(A) in taxable years ending in 1975, 110 percent of,

"(B) in taxable years ending in 1976, 105 percent of, and

"(C) in taxable years ending after 1976, 2 percentage points above,

the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11.

"(b) APPLICATION OF SECTION 904 LIMITATION.—The provisions of section 904 shall be applied separately with respect to—

"(1) foreign oil related income, and

"(2) other taxable income.

With respect to foreign oil related income, the overall limitation provided by section 904(a)(2) shall apply and the per-country limitation provided by section 904(a)(1) shall not apply.

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

(1) FOREIGN OIL AND GAS EXTRACTION INCOME.—The term 'foreign oil and gas extraction income' means the taxable income derived from sources without the United States and its possessions from—

"(A) *the extraction (by the taxpayer or any other person) of minerals from oil or gas wells, or*

"(B) *the sale or exchange of assets used by the taxpayer in the trade or business described in subparagraph (A).*

"(2) FOREIGN OIL RELATED INCOME.—*The term 'foreign oil related income' means the taxable income derived from sources outside the United States and its possessions from—*

"(A) *the extraction (by the taxpayer or any other person) of minerals from oil or gas wells,*

"(B) *the processing of such minerals into their primary products,*

"(C) *the transportation of such minerals or primary products,*

"(D) *the distribution or sale of such minerals or primary products, or*

"(E) *the sale or exchange of assets used by the taxpayer in the trade or business described in subparagraph (A), (B), (C), or (D).*

"(3) DIVIDENDS, INTEREST, PARTNERSHIP DISTRIBUTION, ETC.—*The term 'foreign oil and gas extraction income' and the term 'foreign oil related income' include—*

"(A) *dividends and interest from a foreign corporation in respect of which taxes are deemed paid by the taxpayer under section 902,*

"(B) *dividends from a domestic corporation which are treated under section 861(a)(2)(A) as income from sources without the United States,*

"(C) *amounts with respect to which taxes are deemed paid under section 960(a), and*

"(D) *the taxpayer's distributive share of the income of partnerships.*

*to the extent such dividends, interest, amounts, or distributive share is attributable to foreign oil and gas extraction income, or to foreign oil related income, as the case may be; except that interest described in subparagraph (A) and dividends described in subparagraph (B) shall not be taken into account in computing foreign oil and gas extraction income but shall be taken into account in computing foreign oil-related income.*

"(4) CERTAIN LOSSES.—*If for any foreign country for any taxable year the taxpayer would have a net operating loss if only items from sources within such country (including deductions properly apportioned or allocated thereto) which relate to the extraction of minerals from oil or gas wells were taken into account, such items—*

"(A) *shall not be taken into account in computing foreign oil and gas extraction income for such year, but*

"(B) *shall be taken into account in computing foreign oil related income for such year.*

"(d) DISREGARD OF CERTAIN POSTED PRICES, ETC.—*For purposes of this chapter, in determining the amount of taxable income in the case of foreign oil and gas extraction income, if the oil or gas is disposed of, or is acquired other than from the government of a foreign country, at a posted price (or other pricing arrangement) which differs from the fair market value for such oil or gas, such fair market value shall be used in lieu of such posted price (or other pricing arrangement).*



"(e) TRANSITIONAL RULES.—

"(f) RECAPTURE OF FOREIGN OIL RELATED LOSS.—

(1) GENERAL RULE.—*For purposes of this subpart, in the case of any taxpayer who sustains a foreign oil related loss for any taxable year—*

"(A) *that portion of the foreign oil related income for each succeeding taxable year which is equal to the lesser of—*

"(i) *the amount of such loss (to the extent not used under this paragraph in prior years), or*

"(ii) *50 percent of the foreign oil related income for such succeeding taxable year,*

*shall be treated as income from sources within the United States (and not as income from sources without the United States), and*

"(B) *the amount of the income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid) to a foreign country for such succeeding taxable year with respect to foreign oil related income shall be reduced by an amount which bears the same proportion to the total amount of such foreign taxes as the amount treated as income from sources within the United States under subparagraph (A) bears to the total foreign oil related income for such succeeding taxable year.*

*For purposes of this chapter, the amount of any foreign taxes for which credit is denied under subparagraph (B) of the preceding sentence shall not be allowed as a deduction for any taxable year. For purposes of this subsection, foreign oil related income shall be determined without regard to this subsection.*

"(2) FOREIGN OIL RELATED LOSS DEFINED.—*For purposes of this subsection, the term 'foreign oil related loss' means the amount by which the gross income for the taxable year from sources without the United States and its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in determining the foreign oil related income for such year is exceeded by the sum of the deductions properly apportioned or allocated thereto, except that there shall not be taken into account—*

"(A) *any net operating loss deduction allowable for such year under section 172(a) or any capital loss carrybacks and carryovers to such year under section 1212, and*

"(B) *any—*

"(i) *foreign expropriation loss for such year, as defined in section 172(k)(1), or*

"(ii) *loss for such year which arises from fire, storm, shipwreck, or other casualty, or from theft,*

*to the extent such loss is not compensated for by insurance or otherwise.*

"(3) *Dispositions.*—

"(A) *In general.*—*For purposes of this chapter, if property used in a trade or business described in subparagraph (A), (B), (C), or (D) of subsection (c)(2) is disposed of during any taxable year—*

"(i) *the taxpayer notwithstanding any other provision of this chapter (other than paragraph (1)) shall be deemed to have received and recognized foreign oil related income in the taxable year of the disposition, by reason of such disposition, in an amount equal to the lesser of the excess of the fair market value of such property over the taxpayer's adjusted basis in such property or the remaining amount of the foreign oil related losses which were not used under paragraph (1) for such taxable year or any prior taxable year, and*

"(ii) *paragraph (1) shall be applied with respect to such income by substituting '100 percent' for '50 percent'.*

"(B) *Disposition defined.*—*For purposes of this subsection, the term 'disposition' includes a sale, exchange, distribution, or gift of property, whether or not gain or loss is recognized on the transfer.*

"(1) *Taxable years ending after December 31, 1974.*—*In applying subsections (d) and (e) of section 904 for purposes of determining the amount which may be carried over from a taxable year ending before January 1, 1975, to any taxable year ending after December 31, 1974—*

"(A) *subsection (a) of this section shall be deemed to have been in effect for such prior taxable year and for all taxable years thereafter, and*

"(B) *the carryover from such prior year shall be divided (effective as of the first day of the first taxable year ending after December 31, 1974) into—*

"(i) *a foreign oil related carryover, and*

"(ii) *another carryover,*

*on the basis of the proportionate share of the foreign oil related income, or the other taxable income, as the case may be, of the total taxable income taken into account in computing the amount of such carryover.*

"(2) *Taxable years ending after December 31, 1975.*—*In applying subsections (d) and (e) of section 904 for purposes of determining the amount which may be carried over from a taxable year ending before January 1, 1976, to any taxable year ending after December 31 1975, if the per-country limitation provided by section 904(a)(1) applied to such prior taxable year and to the taxpayer's last taxable year ending before January 1, 1976, then in the case of any foreign oil related carryover—*

"(A) *the first sentence of section 904(e)(2) shall not apply, but*



"(B) *such amount may not exceed the amount which could have been used in such succeeding taxable year if the per-country limitation continued to apply.*

(b) *Certain Payments Not To Be Considered as Taxes.*—*Section 901 is amended by redesignating subsection (f) as subsection (g), and by adding after subsection (e) the following new subsection:*

"(C) *Exceptions.*—*Notwithstanding subparagraph (B), the term 'disposition' does not include—*

"(i) *a disposition of property which is not a material factor in the realization of income by the taxpayer, or*

"(ii) *a disposition of property to a domestic corporation in a distribution or transfer described in section 381(a).*

"(g) *Western Hemisphere Trade Corporations Which Are Members of an Affiliated Group.*—*If a Western Hemisphere trade corporation is a member of an affiliated group for the taxable year, then in applying section 901, the amount of any income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid) during the taxable year with respect to foreign oil and gas extraction income which would (but for this section and section 1503(b)) be taken into account for purposes of section 901 shall be reduced by the greater of—*

"(1) *the reduction with respect to such taxes provided by subsection (a) of this section, or*

"(2) *the reduction determined under section 1503(b) by applying section 1503(b) separately with respect to such taxes, but not by both such reductions.*"

"(f) *Certain Payments for Oil or Gas Not Considered as Taxes.*—*Notwithstanding subsection (b) and sections 102 and 960, the amount of any income, or profits, and excess profits taxes paid or accrued during the taxable year to any foreign country in connection with the purchase and sale of oil or gas extracted in such country is not to be considered as tax for purposes of section 275(a) and this section if—*

"(1) *the taxpayer has no economic interest in the oil or gas to which section 611(a) applies, and*

"(2) *either such purchase or sale is at a price which differs from the fair market value for such oil or gas at the time of such purchase or sale.*"

(c) *Clerical Amendment.*—*The table of sections for subpart A of part III of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:*

"**Sec. 907. *Special rules in case of foreign oil and gas income.***"

(d) *Effective Dates.*—*The amendments made by this section shall apply to taxable years ending after December 31, 1974; except that—*

(1) *the second sentence of section 907(b) shall apply to taxable years ending after December 31, 1975, and*

(2) *the provisions of section 907(f) shall apply to losses sustained in taxable years ending after December 31, 1975.*

## SEC. 602. TAXATION OF EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS AND THEIR SHAREHOLDERS.

*(a) Repeal of Minimum Distribution Exception To Requirement of Current Taxation of Subpart F Income.—*

*(1) Repeal of Minimum Distribution Provisions.—Section 963 (relating to receipt of minimum distributions by domestic corporations) is hereby repealed.*

*(2) Certain Distributions by Controlled Foreign Corporations to Regulated Investment Companies Treated as Dividends.—Subsection (b) of section 851 (relating to limitations on definition of regulated investment company) is amended by adding at the end thereof the following new sentence:*

*"For purposes of paragraph (2), there shall be treated as dividends amounts included in gross income under section 951(a)(1)(A)(i) for the taxable year to the extent that, under section 959(a)(1), there is a distribution out of the earnings and profits of the taxable year which are attributable to the amounts so included."*

*(3) Conforming Amendments.—*

*(A) The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 963.*

*(B) Subparagraph (A)(i) of section 951(a)(1) (relating to general rule for amounts included in gross income of United States shareholders) is amended by striking out "except as provided in section 963,".*

*(b) Limitation on Definition of Foreign Base Company Sales Income.—Paragraph (1) of section 954(d) (relating to definition of foreign base company sales income) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, personal property does not include agricultural commodities which are not grown in the United States in commercially marketable quantities."*

*(c) Repeal of Exception to Requirement of Current Taxation of Subpart F Income for Reinvestment in Less Developed Countries.—*

*(1) Repeal of Section 954(b)(1).—Paragraph (1) of subsection (b) of section 954 (relating to exclusions and special rules regarding foreign base company income) is hereby repealed.*

*(2) Repeal of Section 954(f).—Subsection (f) of section 954 (relating to increase in qualified investments in less developed countries) is hereby repealed.*

*(3) Amendment of Section 951(a)(1)(A)(ii).—Clause (ii) of section 951(a)(1)(A) is amended by striking out "(determined under section 955(a)(3))" and inserting in lieu thereof "(determined under section 955(a)(3) as in effect before the enactment of the Tax Reduction Act of 1975)".*

*(4) Repeal of Section 951(a)(3).—Paragraph (3) of section 951(a) (relating to limitation on pro rata share of previously excluded subpart F income withdrawn from investment) is hereby repealed.*



*(5) Repeal of Section 955.—Section 955 (relating to withdrawal of previously excluded subpart F income from qualified investment) is hereby repealed.*

*(6) Less developed country corporation defined.—Subsection (d) of section 902 is amended to read as follows:*

*"(d) Less Developed Country Corporation Defined.—For purposes of this section, the term 'less developed country corporation' means—*

*"(1) a foreign corporation which, for its taxable year, is a less developed country corporation within the meaning of paragraph (3) or (4), and*

*"(2) a foreign corporation which owns 10 percent or more of the total combined voting power of all classes of stock entitled to vote of a foreign corporation which is a less developed country corporation within the meaning of paragraph (3), and—*

*"(A) 80 percent or more of the gross income of which for its taxable year meets the requirement of paragraph (3)(A), and*

*"(B) 80 percent or more in value of the assets of which on each day of such year consists of property described in paragraph (3)(B).*

*A foreign corporation which is a less developed country corporation for its first taxable year beginning after December 31, 1962, shall, for purposes of this section, be treated as having been a less developed country corporation for each of its taxable years beginning before January 1, 1963.*

*"(3) The term 'less developed country corporation' means a foreign corporation which during the taxable year is engaged in the active conduct of one or more trades or businesses and—*

*"(A) 80 percent or more of the gross income of which for the taxable year is derived from sources within less developed countries; and*

*"(B) 80 percent or more in value of the assets of which on each day of the taxable year consists of—*

*"(i) property used in such trades or businesses and located in less developed countries,*

*"(ii) money, and deposits with persons carrying on the banking business,*

*"(iii) stock, and obligations which, at the time of their acquisition, have a maturity of one year or more, of any other less developed country corporation,*

*"(iv) an obligation of a less developed country,*

*"(v) an investment which is required because of restrictions imposed by a less developed country, and*

*"(vi) property described in section 956(b)(2).*

*For purposes of subparagraph (A), the determination as to whether income is derived from sources within less developed countries shall be made under regulations prescribed by the Secretary or his delegate.*

*"(4) The term 'less developed country corporation' also means a a foreign corporation—*

*(A) 80 percent or more of the gross income of which for the taxable year consists of—*

*"(i) gross income derived from, or in connection with, the using (or hiring or leasing for use) in foreign commerce of aircraft or vessels registered under the laws of a less developed country, or from, or in connection with, the performance of services directly related to use of such aircraft or vessels, or from the sale or exchange of such aircraft or vessels, and*

*"(ii) dividends and interest received from foreign corporations which are less developed country corporations within the meaning of this paragraph and 10 percent or more of the total combined voting power of all classes of stock of which are owned by the foreign corporation, and gain from the sale or exchange of stock or obligations of foreign corporations which are such less developed country corporations, and*

*"(B) 80 percent or more of the assets of which on each day of the taxable year consists of (i) assets used, or held for use, for or in connection with the production of income described in subparagraph (A), and (ii) property described in section 956(b)(2).*

*"(5) The term 'less developed country' means (in respect to any foreign corporation) any foreign country (other than an area within the Sino-Soviet bloc) or any possession of the United States with respect to which, on the first day of the taxable year, there is in effect an Executive order by the President of the United States designating such country or possession as an economically less developed country for purposes of this section. For purposes of the preceding sentence, an overseas territory, department, province, or possession may be treated as a separate country. No designation shall be made under this paragraph with respect to—*

| | |
|---|---|
| *Australia* | *Luxembourg* |
| *Austria* | *Monaco* |
| *Belgium* | *Netherlands* |
| *Canada* | *New Zealand* |
| *Denmark* | *Norway* |
| *France* | *Union of South Africa* |
| *Germany (Federal Republic)* | *San Marino* |
| *Hong Kong* | *Sweden* |
| *Italy* | *Switzerland* |
| *Japan* | *United Kingdom* |
| *Liechtenstein* | |

*After the President has designated any foreign country or any possession of the United States as an economically less developed country for purposes of this section, he shall not terminate such designation (either by issuing an Executive order for that purpose or by issuing an Executive order under the first sentence of this paragraph which has the effect of terminating such designation) unless, at least 30 days prior to such termination, he has notified the Senate and the House of Representatives of his intention to terminate such designation. Any designation in effect on March 26, 1975, under section 955(c)(3) (as in effect before the enactment of the Tax Reduction Act of 1975) shall be treated as made under this paragraph."*



*(7) CLERICAL AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 955.*

*(d) SHIPPING PROFITS OF CONTROLLED FOREIGN CORPORATION TO BE TAXED CURRENTLY EXCEPT TO EXTENT REINVESTED IN SHIPPING OPERATIONS—*

*(1) SHIPPING PROFITS INCLUDED IN GROSS INCOME OF UNITED STATES SHAREHOLDERS.—*

*(A) Section 954(a) (relating to foreign base company income) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:*

*"(4) the foreign base company shipping income for the taxable year (determined under subsection (f) and reduced as provided in subsection (b)(5))."*

*(B) Paragraph (2) of section 954(b) is amended to read as follows:*

*"(2) EXCLUSION FOR REINVESTED SHIPPING INCOME.—For purposes of subsection (a), foreign base company income does not include foreign base company shipping income to the extent that the amount of such income does not exceed the increase for the taxable year in qualified investments in foreign base company shipping operations of the controlled foreign corporation (as determined under subsection (g))."*

*(C) Subparagraphs (A) and (B) of section 954(b)(3) are each amended by striking out "paragraphs (1) and (5)" and inserting in lieu thereof "paragraphs (2) and (5)".*

*(D) Subparagraph (B) of section 954(b)(3) is amended by striking out "paragraphs (1), (2)," and inserting in lieu thereof "paragraph (2).".*

*(E) Paragraph (5) of section 954(b) is amended by striking out "and the foreign base company services income" and inserting in lieu thereof "the foreign base company services income, and the foreign base company shipping income".*

*(F) Section 954(b) is amended by adding at the end thereof the following new paragraph:*

*"(6) SPECIAL RULES FOR FOREIGN BASE COMPANY SHIPPING INCOME.—Income of a corporation which is foreign base company shipping income under paragraph (4) of subsection (a) (determined without regard to the exclusion under paragraph (2) of this subsection)—*

*"(A) shall not be considered foreign base company income of such corporation under any other paragraph of subsection (a) and*

*"(B) if distributed through a chain of ownership described under section 958(a), shall not be included in foreign base company income of another controlled foreign corporation in such chain."*

(G) *Section 954 is amended by adding at the end thereof the following new subsections:*

"(f) *Foreign Base Company Shipping Income.—For purposes of subsection (a)(4), the term 'foreign base company shipping income' means income derived from, or in connection with, the use (or hiring or leasing for use) of any aircraft or vessel in foreign commerce, or from, or in connection with, the performance of services directly related to the use of any such aircraft, or vessel, or from the sale, exchange, or other disposition of any such aircraft or vessel. Such term includes, but is not limited to—*

"(1) *dividends and interest received from a foreign corporation in respect of which taxes are deemed paid under section 902, and gain from the sale, exchange, or other disposition of stock or obligations of such a foreign corporation to the extent that such dividends, interest, and gains are attributable to foreign base company shipping income, and*

"(2) *that portion of the distributive share of the income of a partnership attributable to foreign base company shipping income.*

"(g) *Increase in Qualified Investments in Foreign Base Company Shipping Operations.—For purposes of subsection (b)(2), the increase for any taxable year in qualified investments in foreign base company shipping operations of any controlled foreign corporation is the amount by which—*

"(1) *the qualified investments in foreign base company shipping operations (as defined in section 955(b)) of the controlled foreign corporation at the close of the taxable year, exceed*

"(2) *the qualified investments in foreign base company shipping operations (as so defined) of the controlled foreign corporation at the close of the preceding taxable year."*

(2) *Amounts Included in Gross Income of United States Shareholders.—*

(A) *Subparagraph (A) of section 951(a)(1) is amended by striking out "and" at the end of clause (i), by striking out the semicolon at the end of clause (ii) and inserting in lieu thereof a comma, and by adding at the end thereof the following new clause:*

"(iii) *his pro rata share (determined under section 955(a)(3)) of the corporation's previously excluded subpart F income withdrawn from foreign base company shipping operations for such year; and ".*

(B) *Section 951(a) is amended by inserting after paragraph (2) the following new paragraph:*

"(3) *Limitation on Pro Rata Share of Previously Excluded Subpart F Income Withdrawn from Investment.—For purposes of paragraph (1)(A)(iii), the pro rata share of any United States shareholder of the previously excluded subpart F income of a controlled foreign corporation withdrawn from investment in foreign base company shipping operations shall not exceed an amount—*

"(A) *which bears the same ratio to his pro rata share of such income withdrawn (as determined under section 955(a)(3)) for the taxable year, as*



"(B) *the part of such year during which the corporation is a controlled foreign corporation bears to the entire year."*

(3) *Withdrawal of Previously Excluded Subpart F Income from Qualified Investment.—*

(A) *Subpart F of part III of subchapter N of chapter 1 is amended by inserting after section 954 the following new section:*

### "SEC. 955. WITHDRAWAL OF PREVIOUSLY EXCLUDED SUBPART F INCOME FROM QUALIFIED INVESTMENT.

"(a) *General Rules.—*

"(1) *Amount Withdrawn.—For purposes of this subpart, the amount of previously excluded subpart F income of any controlled foreign corporation withdrawn from investment in foreign base company shipping operations for any taxable year is an amount equal to the decrease in the amount of qualified investments in foreign base company shipping operations of the controlled foreign corporation for such year, but only to the extent that the amount of such decrease does not exceed an amount equal to—*

"(A) *the sum of the amounts excluded under section 954(b)(2) from the foreign base company income of such corporation for all prior taxable years, reduced by*

"(B) *the sum of the amounts of previously excluded subpart F income withdrawn from investment in foreign base company shipping operations of such corporation determined under this subsection for all prior taxable years.*

"(2) *Decrease in Qualified Investments.—For purposes of paragraph (1), the amount of the decrease in qualified investments in foreign base company shipping operations of any controlled foreign corporation for any taxable year is the amount by which—*

"(A) *the amount of qualified investments in foreign base company shipping operations of the controlled foreign corporation at the close of the preceding taxable year, exceeds*

"(B) *the amount of qualified investments in foreign base company shipping operations of the controlled foreign corporation at the close of the taxable year,*

*to the extent that the amount of such decrease does not exceed the sum of the earnings and profits for the taxable year and the earnings and profits accumulated for prior taxable years beginning after December 31, 1975, and the amount of previously excluded subpart F income invested in less developed country corporations described in section 955(c)(2) (as in effect before the enactment of the Tax Reduction Act of 1975) to the extent attributable to earnings and profits accumulated for taxable years beginning after December 31, 1962. For purposes of this paragraph, if qualified investments in foreign base company shipping operations are disposed of by the controlled foreign corporation during the taxable year, the amount of the decrease in qualified investments in foreign base company shipping operations of such controlled foreign corporation for such year shall be reduced by an amount equal to the amount (if any) by which the losses on such disposi-*

*tions during such year exceed the gains on such dispositions during such year.*

"(3) PRO RATA SHARE OF AMOUNT WITHDRAWN.—*In the case of any United States shareholder, the pro rata share of the amount of previously excluded subpart F income of any controlled foreign corporation withdrawn from investment in foreign base company shipping operations for any taxable year is his pro rata share of the amount determined under paragraph (1).*

"(b) QUALIFIED INVESTMENTS IN FOREIGN BASE COMPANY SHIPPING OPERATIONS.—

"(1) IN GENERAL.—*For purposes of this subpart, the term 'qualified investments in foreign base company shipping operations' means investments in—*

"(A) *any aircraft or vessel used in foreign commerce, and*

"(B) *other assets which are used in connection with the performance of services directly related to the use of any such aircraft or vessel.*

*Such term includes, but is not limited to, investments by a controlled foreign corporation in stock or obligations of another controlled foreign corporation which is a related person (within the meaning of section 954(d)(3)) and which holds assets described in the preceding sentence, but only to the extent that such assets are so used.*

"(2) QUALIFIED INVESTMENTS BY RELATED PERSONS.—*For purposes of determining the amount of qualified investments in foreign base company shipping operations, an investment (or a decrease in investment) in such operations by one or more controlled foreign corporations may, under regulations prescribed by the Secretary or his delegate, be treated as an investment (or a decrease in investment) by another corporation which is a controlled foreign corporation and is a related person (as defined in section 954(d)(3)) with respect to the corporation actually making or withdrawing the investment.*

"(3) SPECIAL RULE.—*For purposes of this subpart, a United States shareholder of a controlled foreign corporation may, under regulations prescribed by the Secretary or his delegate, elect to make the determinations under subsection (a)(2) of this section and under subsection (g) of section 954 as of the close of the years following the years referred to in such subsections, or as of the close of such longer period of time as such regulations may permit, in lieu of on the last day of such years. Any election under this paragraph made with respect to any taxable year shall apply to such year and to all succeeding taxable years unless the Secretary or his delegate consents to the revocation of such election.*

"(4) AMOUNT ATTRIBUTABLE TO PROPERTY.—*The amount taken into account under this subpart with respect to any property described in paragraph (1) shall be its adjusted basis, reduced by any liability to which such property is subject.*



"(5) INCOME EXCLUDED UNDER PRIOR LAW.—*Amounts invested in less developed country corporations described in section 955 (c)(2) (as in effect before the enactment of the Tax Reduction Act of 1975) shall be treated as qualified investments in foreign base company shipping operations and shall not be treated as investments in less developed countries for purposes of section 951 (a)(1)(A)(ii).*"

(B) *The table of sections of subpart F of part III of subchapter N of chapter 1 is amended by inserting after the item relating to section 954 the following new item:*

"**Sec. 955. Withdrawal of previously excluded subpart F income from qualified investment.**"

(e) EXCLUSION FROM FOREIGN BASE COMPANY INCOME WHERE FOREIGN BASE COMPANY INCOME IS LESS THAN 10 PERCENT OF GROSS INCOME.—*Paragraph (3) of section 954(b) is amended by striking out "30 percent" each place it appears and inserting in lieu thereof "10 percent".*

(f) EFFECTIVE DATE.—*The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of United States shareholders (within the meaning of 951(b) of the Internal Revenue Code of 1954) within which or with which such taxable years of such foreign corporations end.*

## *SEC. 603. DENIAL OF DISC BENEFITS WITH RESPECT TO ENERGY RESOURCES AND OTHER PRODUCTS.*

(a) AMENDMENT OF SECTION 993 (c)(2).—*Section 993(c)(2) (relating to property excluded from export property) is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or", and by adding at the end thereof the following:*

"(C) *products of a character with respect to which a deduction for depletion is allowable (including oil, gas, coal, or uranium products) under section 611, or*

"(D) *products the export of which is prohibited or curtailed under section 4(b) of the Export Administration Act of 1969 (50 U.S.C. App. 2403(b)) to effectuate the policy set forth in paragraph (2)(A) of section 3 of such Act (relating to the protection of the domestic economy).*

*Subparagraph (C) shall not apply to any commodity or product at least 50 percent of the fair market value of which is attributable to manufacturing or processing, except that subparagraph (C) shall apply to any primary product from oil, gas, coal, or uranium. For purposes of the preceding sentence, the term 'processing' does not include extracting or handling, packing, packaging, grading, storing, or transporting.*"

(b) EFFECTIVE DATE.—*The amendments made by subsection (a) shall apply to sales, exchanges, and other dispositions made after March 18, 1975, in taxable years ending after such date.*

### SEC. 604. TREATMENT FOR PURPOSES OF THE INVESTMENT CREDIT OF CERTAIN PROPERTY USED IN INTERNATIONAL OR TERRITORIAL WATERS.

*(a) AMENDMENT TO 1954 CODE.—*

*(1) IN GENERAL.—Clause (x) of section 48(a)(2)(B) (relating to property used outside the United States) is amended by striking out "territorial waters" and inserting in lieu thereof "territorial waters within the northern portion of the Western Hemisphere".*

*(2) DEFINITION.—Subparagraph (B) of section 48(a)(2) is amended by adding at the end thereof the following new sentence: "For purposes of clause (x), the term 'northern portion of the Western Hemisphere' means the area lying west of the 30th meridian west of Greenwich, east of the international dateline, and north of the Equator, but not including any foreign country which is a country of South America.".*

*(b) EFFECTIVE DATE.—*

*(1) IN GENERAL.—The amendments made by subsection (a) shall apply to property, the construction, reconstruction, or erection of which was completed after March 18, 1975, or the acquisition of which by the taxpayer occurred after such date.*

*(2) BINDING CONTRACT.—The amendments made by subsection (a) shall not apply to property constructed, reconstructed, erected, or acquired pursuant to a contract which was on April 1, 1974, and at all times thereafter, binding on the taxpayer.*

*(3) CERTAIN LEASE-BACK TRANSACTIONS, ETC.—Where a person who is a party to a binding contract described in paragraph (2) transfers rights in such contract (or in the property to which such contract relates) to another person but a party to such contract retains a right to use the property under a lease with such other person, then to the extent of the transferred rights such other person shall, for purposes of paragraph (2), succeed to the position of the transferor with respect to such binding contract and such property. The preceding sentence shall apply, in any case in which the lessor does not make an election under section 48(d) of the Internal Revenue Code of 1954, only if a party to such contract retains a right to use the property under a long-term lease.*

# TITLE VII—MISCELLANEOUS PROVISIONS

### SEC. 701. CERTAIN UNEMPLOYMENT COMPENSATION.

*(a) AMENDMENT OF EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1974.—Section 102(e) of the Emergency Unemployment Compensation Act of 1974 is amended—*

*(1) in paragraph (2) thereof, by striking out "The amount" and inserting in lieu thereof "Except as provided in paragraph (3), the amount"; and*

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

*"(3) Effective only with respect to benefits for weeks of unemployment ending before July 1, 1975, the amount established in such account for any individual shall be equal to the lesser of—*

*"(A) 100 per centum of the total amount of regular compensation (including dependents' allowances) payable to him with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation; or*

*"(B) twenty-six times his average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year."*

*(b) MODIFICATION OF AGREEMENTS.—The Secretary of Labor shall, at the earliest practicable date after the enactment of this Act, propose to each State with which he has in effect an agreement entered into pursuant to section 102 of the Emergency Unemployment Compensation Act of 1974 a modification of such agreement designed to cause payments of emergency compensation thereunder to be made in the manner prescribed by such Act, as amended by subsection (a) of this section. Notwithstanding any provision of the Emergency Unemployment Compensation Act of 1974, if any such State shall fail or refuse, within a reasonable time after the date of the enactment of this Act, to enter into such a modification of such agreement, the Secretary of Labor shall terminate such agreement.*

### SEC. 702. SPECIAL PAYMENT TO RECIPIENTS OF BENEFITS UNDER CERTAIN RETIREMENT AND SURVIVOR BENEFIT PROGAMS.

*(a) PAYMENT.—The Secretary of the Treasury shall, at the earliest practicable date after the enactment of this Act, make a $50 payment to each individual, who for the month of March, 1975, was entitled (without regard to sections 202(j)(1) and 223(b) of title II of the*

*Social Security Act and without the application of section 5(a)(ii) of the Railroad Retirement Act of 1974) to—*

*(1) a monthly insurance benefit payable under title II of the Social Security Act,*

*(2) a monthly annuity or pension payment under the Railroad Retirement Act of 1935, the Railroad Retirement Act of 1937, or the Railroad Retirement Act of 1974, or*

*(3) a benefit under the supplemental security income benefits program established by title XVI of the Social Security Act;*

*except that, (A) such $50 payment shall be made only to individuals who were paid a benefit for March 1975 in a check issued no later than August 31, 1975; (B) no such $50 payment shall be made to any individual who is not a resident of the United States (as defined in section 210(i) of the Social Security Act); and (C) if an individual is entitled under two or more of the programs referred to in clauses (1), (2), and (3), such individual shall be entitled to receive only one such $50 payment. For purposes of this subsection, the term "resident" means an individual whose address of record for check payment purposes is located within the United States.*

*(b) Recipient Identification.—The Secretary of Health, Education, and Welfare and the Railroad Retirement Board shall provide the Secretary of the Treasury with such information and data as may be needed to enable the Secretary of the Treasury to ascertain which individuals are entitled to the payment authorized under subsection (a).*

*(c) Coordination With Other Federal Programs.—Any payment made by the Secretary of the Treasury under this section to any individual shall not be regarded as income (or, in the calendar year 1975, as a resource) of such individual (or of the family of which he is a member) for purposes of any Federal or State program which undertakes to furnish aid or assistance to individuals or families, where eligibility to receive such aid or assistance (or the amount of such aid or assistance) under such program is based on the need therefor of the individual or family involved. The requirement imposed by the preceding sentence shall be treated as a condition for Federal financial participation in any State (or local) welfare program for any calendar quarter commencing after the date of enactment of this Act.*

*(d) Appropriations Authorization.—There are hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this section.*

*(e) Payment Not To Be Considered Income.—Payments made under this section shall not be considered as gross income for purposes of the Internal Revenue Code of 1954.*

And the Senate agree to the same.

Amend the title so as to read: "An Act to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes, to increase the low income allowance and the percentage standard deduction, to provide a credit for personal exemptions and a credit



for certain earned income, to increase the investment credit and the surtax exemption, to reduce percentage depletion for oil and gas, and for other purposes."

And the Senate agree to the same.

Al Ullman,
James A. Burke,
Dan Rostenkowski,
Phil Landrum,
Charles A. Vanik,
*Managers on the Part of the House.*

Russell B. Long,
Herman Talmadge,
Vance Hartke,
Abraham Ribicoff,
W. D. Hathaway,
Floyd K. Haskell,
Robert Dole,
*Managers on the Part of the Senate.*

## Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the 2 Houses on the amendment of the Senate to the bill (H.R. 2166) to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes, to increase the low income allowance and the percentage standard deduction, to provide a credit for certain earned income, to increase the investment credit and the surtax exemption, and for other purposes, submit the following joint statement to the House and the Senate an explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

### Refund of 1974 Individual Income Taxes

*House bill.*—The House bill provides for a refund of 1974 tax liability to be made in one installment beginning in May, 1975. The amount of the refund is to be 10 percent of tax liability up to a maximum refund of $200. Each taxpayer is to receive a refund of at least $100 (or the full amount of his or her actual tax liability if it is less than $100). The refund is to be phased down from the maximum of $200 to $100 as the taxpayer's adjusted gross income rises from $20,000 to $30,000.

*Senate amendment.*—The Senate amendment provides for a similar refund of 1974 tax liability except that the amount of the refund will be equal to 12 percent of tax liability up to a maximum refund of $240 with a minimum of $120 (or the full amount of the taxpayer's tax liability if it is less than $120).

*Conference substitute.*—The conference substitute provides for the same refund of 1974 tax liability as in the House bill.

### Refunds Disregarded in the Administration of Federal Programs and Federally Assisted Programs

*House bill.*—The House bill provides that 1974 income tax refunds under section 101 of the bill are not to be considered income or resources for purposes of determining who is eligible to receive benefits or assistance, or the amount or extent of benefits or assistance, under any Federal or Federally assisted program.

*Senate amendment.*—The Senate amendment is identical to the House provision.

*Conference substitute.*—The conference substitute is the same as the House bill and Senate amendment.

### Reduction in Individual Income Taxes

(Increase In Low-Income Allowance and Standard Deduction; Personal Exemption Credit)

*House bill.*—The bill raises the minimum standard deduction ("low-income allowance") to $1,900 for single persons and to $2,500 for joint returns. It also increases the percentage standard deduction to 16 percent, with a maximum of $2,500 for single persons and $3,000 for joint returns. These increases under the House bill are effective only for the 1975 tax year.

*Senate amendment.*—Instead of the increase in the low-income allowance and the percentage standard deduction provided by the House bill, the Senate amendment provides a $200 optional tax credit for each personal exemption deduction to which a taxpayer is entitled in lieu of the $750 deduction and a reduction of 1 percentage point in the tax rates applicable to the first $4,000 of taxable income. The $200 optional tax credit is for the 1975 tax year, and the rate reduction is for 1975 and 1976 tax years.

The amendment provides that taxpayers are to compute their tax by using either the $750 exemption deduction of present law or the tax credit of $200 per exemption provided by the amendment depending on which alternative results in a lower tax liability. The amendment also provides that any overstatement of tax liability resulting from incorrectly choosing the personal exemption deduction instead of the credit (or vice versa) will be treated by the Internal Revenue Service as a mathematical error. The Internal Revenue Service will automatically check the computation made on each return and will refund (or credit) any excess amounts paid resulting from the overstatement of tax liability. Under the amendment the personal exemption tax credit is to apply on a 1 year basis for a taxable year beginning in 1975 only.

In addition to the optional tax credit for personal exemptions, the Senate amendment provides a 1 percentage point reduction in the tax rates applicable to the first $4,000 of taxable income in the case of joint returns. In the case of single persons and married individuals filing separate returns, there are 5 brackets for the first $4,000 of taxable income (3 brackets in the case of heads of households). The amendment also reduces each of these brackets by 1 percentage point.

*Conference substitute.*—The conference substitute raises the minimum standard deduction to $1,600 for single persons and to $1,900 for joint returns. It also increases the percentage standard deduction to 16 percent, with a maximum of $2,300 for single persons and $2,600 for joint returns. This is to be effective for 1975.

In addition, the conference substitute provides for a tax credit, in addition to the personal exemption, of $30 for each taxpayer, spouse, and dependent. The credit is effective for 1975.

### Earned Income Tax Credit

*House bill.*—The bill provides for a refundable credit of 5 percent of earned income up to a maximum of $200. The credit is to be phased out from the maximum $200 to zero as earned income (or adjusted gross income, if greater) increases from $4,000 to $6,000. The earned income credit applies only for 1975.

*Senate amendment.*—The Senate amendment provides a tax credit of 10 percent of earned income up to a maximum of $400. The amount of the credit is to be phased out from the maximum amount down to zero as the earned income (or adjusted gross income, if greater) increases from $4,000 to $8,000. Only individuals who maintain a household in the United States for themselves and for 1 or more dependent children are eligible to claim the credit under the Senate amendment. As in the House bill, the Senate amendment applies only to taxable years beginning in 1975.



*Conference substitute.*—The conference substitute adopts the Senate version of the earned income credit. The language in the Senate amendment with reference to the income being taken into account for welfare purposes, however, is not included as the conferees intend that the language applicable under present law is not changed.

### Change in Withholding Rates

*House bill.*—The bill provides a new annual percentage withholding table, which reflects the increases in the low income allowance, the percentage standard deduction, and the provision for an earned income credit provided in the House bill. The Internal Revenue Service is required to calculate withholding tables for other periods and for wage bracket withholding.

*Senate amendment.*—The Senate amendment requires the Secretary of the Treasury to prescribe new withholding tables which reflect the $200 personal exemption tax credit provided by the Senate amendment, the reduction in income tax rates provided by the Senate amendment, and the earned income credit as modified by the Senate amendment. The changes in the withholding tables are to take effect, as in the House bill, on May 1, 1975.

*Conference substitute.*—The conference substitute requires the Secretary to prescribe new withholding tables which reflect the temporary increases in the minimum standard deduction and the percentage standard deduction, the earned income credit, and the additional tax credit provided in the conference substitute. The changes in the withholding tables are to take effect on May 1, 1975.

### Deduction of Certain Expenses Necessary for Gainful Employment (Childcare Deduction)

*House bill.*—The House bill does not contain this provision.

*Senate amendment.*—The Senate amendment removes the present limits on deductible expenditures (maximum of $4,800 per year) and the income phaseout (the $4,800 maximum phased out $1 for each $2 of adjusted gross income in excess of $18,000 for the husband and wife). It changes the deduction from an itemized deduction (deductible from adjusted gross income) to a "business deduction" (deductible from gross income in determining AGI). Payments to related persons are also made deductible, if the transaction is made in an "arms-length" fashion (pursuant to Treasury regulations).

The Senate amendment also provides for an optional tax credit for 50 percent of the allowable child care expenses, up to a maximum credit of $50 per month ($25 in the case of a married person filing a separate tax return). The changes in the Senate amendment are effective for taxable years beginning after the date of enactment.

*Conference substitute.*—The conference substitute provides for an increase in the maximum adjusted gross income level from $18,000 to $35,000, before the phaseout begins. This change is effective for taxable years beginning after date of enactment.

EXTENSION OF PERIOD FOR REPLACING OLD RESIDENCE FOR PURPOSES OF NONRECOGNITION OF GAIN UNDER SECTION 1034

*House bill.*—No provision.

*Senate amendment.*—The Senate amendment provides an extension of the time period in which a taxpayer may purchase a subsequent principal residence and thereby defer gain, from one year to 18 months (before or after sale). The amendment also extends the period in which the taxpayer may construct a subsequent residence from 18 months to 24 months (if construction begins within 18 months after the sale of the former residence). The extension is effective for sales of residences after December 31, 1973.

*Conference substitute.*—The conference substitute follows the Senate amendment except that it makes the provision effective for sales of residences after December 31, 1974.

TAX CREDIT FOR HOME PURCHASES

*House bill.*—No provision.

*Senate amendment.*—The Senate amendment provides a tax credit for the purchase or construction by an individual taxpayer of a new principal residence. Under the amendment, the definition of a new principal residence includes, but is not limited to, a single family structure, a unit in a condominium or cooperative housing project, and a mobile home. The rate of the credit is equal to 5 percent of the taxpayer's basis in the new residence and the amount of the credit is limited to a maximum of $2,000.

Generally, to be eligible for the credit, the taxpayer must have acquired the home as his principal place of residence after March 12, 1975, and before January 1, 1976. However, the credit will apply to binding contracts entered into before January 1, 1976, if settlement and occupancy occur before January 1, 1977.

*Conference substitute.*—The conference substitute follows the Senate amendment on the 5-percent credit and $2,000 maximum, except that it allows a credit only with respect to a new principal residence that was constructed or was under construction before March 26, 1975. In addition, to be eligible for the credit the taxpayer must attach to his income tax return a certification by the seller that the purchase price paid by the buyer is the lowest price at which the new residence was ever offered for sale. Both civil and criminal penalties will be imposed for false certification.

INCREASE IN INVESTMENT CREDIT

*House bill.*—The House bill provides for an increase in the investment credit rate for all taxpayers (including public utilities) to 10 percent from 7 percent (4 percent in the case of certain public utility property). The additional credit for public utilities is limited to $100 million for any one taxpayer. The House provision modifies the limitation on the amount of tax liability that may be offset by the investment tax credit for a year in the case of most public utility property (which under present law is entitled to only a 4 percent investment credit). The percentage limit for public utility property is to be increased from



the general 50 percent limit to 100 percent of the income tax liability for 1975 and 1976. In each of the next five taxable years, the increase for public utilities is to be reduced by 10 percentage points until 1981, and thereafter, at which time the 50 percent limitation again is effective. Additionally, the House provision increases from $50,000 to $75,000 the amount of use property which can qualify for the investment credit for any 1 year.

The 10 percent investment credit rate is to be available for property acquired and placed in service after January 21, 1975, and before January 1, 1976. It is also to be available for property placed in service in 1976 if the property was acquired pursuant to an order placed before January 1, 1976. In addition, in the case of property constructed, reconstructed, or erected by the taxpayer, the 10 percent investment credit rate is to be available for property completed by the taxpayer after January 21, 1975, but only to the extent of the portion of the value actually attributable to construction, etc., by the taxpayer after January 21, 1975, and before January 1, 1976. The provisions increasing the amount of used property which can qualify for the investment credit apply to taxable years beginning in 1975. The provisions with respect to progress payments apply to payments made after January 21, 1975, in taxable years ending after December 31, 1974.

*Senate amendment.*—The Senate amendment provides that, if certain requirements are met, a 12 percent investment credit is to be available with respect to property acquired and placed in service after January 21, 1975, and before January 1, 1977. Similarly, in the case of property constructed, reconstructed, or erected by the taxpayer, the 12 percent credit is also to be available with respect to property completed by the taxpayer after January 21, 1975, to the extent of the part of the basis of the property properly attributable to construction, etc., after January 21, 1975, and before January 1, 1977.

In cases where the property on which a taxpayer may claim an investment credit (qualified investment in property) for a year exceeds $10,000,000, the 12 percent rate is to be available only if the taxpayer establishes or maintains an employee stock ownership plan. To be eligible for the 12 percent rate in this case, a corporation will be required to contribute to the plan for the taxable year common stock or securities convertible into common stock (or cash for the acquisition of such stock or securities) of the employer in an amount equal to one-half of the additional 2 percentage points increase above the permanent 10 percent rate (i.e., one-twelfth of the total allowable investment credit in this case). If these requirements are not satisfied, the taxpayer will be eligible only for the 10 percent investment credit which the committee provision adopts as a permanent increase in the investment tax credit rate. However, the 12 percent rate will be available without regard to the requirement for an employee stock ownership plan if the qualified investment property of the taxpayer for the taxable year is less than $10,000,000.

The Senate provision puts no limit on the amount of the increase in the investment credit which will be allowed to a public utility. Additionally, the Senate provision adopts the temporary increase in the 50 percent limitation on the amount of tax liability that may be offset by the investment credit with the modification that such increase shall be available for taxable years ending in 1975 rather than for taxable years beginning in 1975.

The Senate provision also provides that the additional credit provided for a public utility by reason of the rate increase or the increase in the limitation based on tax liability is generally not to be available if the additional credit is used to reduce the rate base, unless the credit is then restored to the rate base at least as fast as ratably over the useful life of the property. The additional credit is generally not to be allowed if it is flowed through to income as a reduction in cost faster than ratably over the useful life of the property to which the increased credit applies. This rule with respect to the additional credit is to apply with respect to property used predominately in the trade or business of the furnishing or sale of electrical energy, water, or sewage disposal services, gas through a local distribution system, telephone service, domestic telegraph service, or other domestic communication service, if the rates for furnishing or sale are regulated by a governmental body.

If the governmental regulatory agency requires ratable flow through to income, it cannot require any adjustment to the rate base; if the agency requires adjustments to the rate base, it cannot require flow through to income.

A special election is provided to permit the immediate flow through of the additional credit without the consequence of disallowance in certain cases. This election is to be available only with respect to property where the benefits of accelerated depreciation are flowed through to customers. The election must be made by the taxpayer within 90 days after the date of enactment of the bill. In this case the taxpayer must make the election at its own option and without regard to any requirement imposed by a regulatory agency.

If a regulatory agency requires the flowing through of a company's additional investment credit at a rate faster than permitted, or insists upon a greater rate base adjustment than is permitted, the additional investment credit is to be disallowed, but only after a final determination (made after enactment of this provision) is put into effect. The rules provided under present law with respect to determinations made by a regulatory body on the finality of its orders will apply to the flow through provision. Lastly, the Senate provision repeals the limitation on the amount of used property which may be included as qualified investment for the purposes of the investment credit with respect to used property acquired by the taxpayer after January 21, 1975.

*Conference substitute.*—The conference substitute provides for a 10-percent investment credit for all taxpayers (including public utilities) for property acquired and placed in service after January 21, 1975, and before January 1, 1977. In the case of property acquired after December 31, 1976, the 7-percent investment credit (or 4 percent for public utility property) provided under present law is to apply (even if ordered by the taxpayer before 1977). In the case of constructed property, the 10-percent credit is to apply to the portion of the basis attributable to construction occurring after January 21, 1975, and before January 1, 1977.



In the case of a corporate taxpayer, a taxpayer may elect an 11-percent credit with respect to qualified investment for the period beginning January 22, 1975, and ending December 31, 1976, if an amount equal to one percent of the qualified investment is contributed to an employee stock ownership plan.

The rules governing such employee stock ownership plans are substantially the same as in the Senate amendment. However, under the conference substitute the entire contribution is to be transferred to the plan at one time, and not over 10 years. Also, participants are to be immediately vested in the full amount of such contributions, as soon as the contributions are allocated to their accounts. Additionally, distributions of such contributions cannot occur for 7 years (or may occur upon death or disability).

The conference substitute is the same as the Senate amendment which deleted the $100 million limitation on the increase in the investment credit attributable to the rate change that could be claimed by any one public utility.

With respect to the increase in the 50 percent of tax limitation for public utility property, the conference substitute is the same as the Senate amendment.

With respect to the treatment of the increased credit for utility ratemaking purposes, the conference substitute is the same as the Senate amendment but for technical changes which would make new elections by a public utility unnecessary if ratable flowthrough, or ratable rate base restoration treatment already applied to a utility under present law.

With respect to the limitation on qualified investment in used property, the conference substitute provides an increase to $100,000 from $50,000 for taxable years beginning after December 31, 1974, and before January 1, 1977. Thereafter, the $50,000 limitation under present law is to apply.

### Allowance of Investment Credit Where Construction of Property Will Take More Than Two Years

*House bill.*—Section 302 of the House bill provides that in the case of long lead time property, that is, property that requires at least 2 years to construct, the investment tax credit is to be available to the extent that progress payments are made during the construction period (rather than being allowed in the later year when the property is ultimately placed in service). During the first 5 years this provision is in effect, a transitional rule provides for a phase-in of the new system at the rate of 20 percent a year. The temporary 10 percent rate for the investment credit is to be available for qualified progress expenditures made in the period after January 21, 1975, and before January 1, 1976. In general, the provisions with respect to progress payments apply to payments made after January 21, 1975, in taxable years ending after December 31, 1974.

*Senate amendment.*—The Senate amendment adopts the House provision for progress payments without change.

*Conference substitute.*—The conference substitute is the same as the House bill and Senate amendment.

### Increase in Corporate Surtax Exemption and Change in Corporate Tax Rates

*House bill.*—Section 303 of the House bill provides for an increase in the corporate surtax exemption from $25,000 to $50,000 for the period which is calendar year 1975.

*Senate amendment.*—The Senate amendment adopts the House provision with respect to the increase in the corporate surtax exemption without change. Additionally, the Senate provision reduces the normal tax by 4 percentage points (from 22 percent to 18 percent) while at the same time increasing the surtax by 4 percentage points (from 26 percent to 30 percent). The increase in the corporate surtax exemption and the reduction in the corporate rates are effective for taxable years ending after December 31, 1974. They are to apply, however, only for 1 year and are to cease to apply for taxable years ending after December 31, 1975.

*Conference substitute.*—The Conference substitute is the same as the House bill and the Senate amendment with regard to the increase in the corporate surtax exemption from $25,000 to $50,000 for 1975 only. In addition, the conference substitute provides a reduction for 1975 in the corporate normal tax rate from 22 percent to 20 percent on the first $25,000 of net income (with the 22 percent rate applicable to the second $25,000 of net income).

### Increase in Minimum Accumulated Earnings Credit From $100,000 to $150,000

*House bill.*—No comparable provision in the House bill.

*Senate amendment.*—The Senate amendment provides for an increase of the accumulated earnings credit from $100,000 to $150,000. Thus, a corporation may accumulate as much as $150,000 of earnings before its retained earnings may be subject to the accumulated earnings tax. The amendments relating to the increase in the minimum accumulated earnings credit apply to taxable years beginning after December 31, 1974.

*Conference substitute.*—The conference substitute is the same as the Senate amendment.

### Election To Substitute Net Operating Loss Carryback Years for Carryforward Years

*House bill.*—The House bill does not have this provision.

*Senate amendment.*—The Senate amendment allows taxpayers generally an election to convert carryover periods for which they are presently eligible into additional carryback years for net operating losses incurred for taxable years 1975 and 1976. (Present law provides generally for a 3-year carryback and a 5-year carryforward for net operating losses incurred by business taxpayer.)

In addition, the Senate amendment provides that, where a corporation would receive a tax benefit under this change of more than $10 million, 25 percent of such tax benefit from the first year of the extended loss carryback is to be placed in an employee stock ownership plan over a 10-year period. A corporation could also put up to 50 percent of this amount (of the 25 percent) into a supplemental unemployment benefit plan if transferred within one year from the time of election.



*Conference substitute.*—The conference substitute does not contain this provision.

### Federal Welfare Recipients Employment Incentive Credit

*House bill.*—No provision.

*Senate amendment.*—The State amendment makes the 20-percent credit of the present law WIN credit available also with respect to wages paid to certain AFDC recipients. The AFDC recipient must have been continuously receiving such financial assistance during the 90-day period immediately preceding the date on which the individual is hired by the employer, and the AFDC recipient must have been employed by the taxpayer for a period in excess of 30 consecutive days on a full-time basis before the credit is allowable. The credit is not allowable for any person who has displaced an individual from employment nor for a migrant worker. For nonbusiness employers, there is a limit of $1,000 per individual so employed each year.

The provision is effective for hirings after the date of enactment and for services rendered to the employer before July 1, 1976.

*Conference substitute.*—The conference substitute follows the Senate amendment.

### Time for Making Contributions to "H.R. 10" Plans

*House bill.*—No provision.

*Senate amendment.*—The Senate amendment added a provision under which, as to 1974 and subsequent years, a contribution to a pension, profit-sharing, etc., plan would be treated for deduction purposes as being made for a given year even though it was not in fact made until after the end of that year, but only if the contribution was in fact made by the time for filing the tax return for that year (including extensions of time for filing). This amendment would apply only to contributions for plans of self-employed people (so-called "H.R. 10" plans) and only if the employer elects to have this rule apply.

Under present law (the 1974 pension act), this rule is to apply as to 1976 and subsequent years for existing plans, both H.R. 10 plans and corporate plans.

*Conference substitute.*—Under the conference substitute, the rule of the Senate amendment is to apply for 1975 and subsequent years (but not for 1974).

### Repeal of Excise Tax on Motor Vehicles

*House bill.*—No provision.

*Senate amendment.*—The Senate amendment repeals the present 10-percent manufacturers excise tax (5 percent on or after October 1, 1977) on the sale of trucks and buses, truck trailers and semi-trailers, and highway tractors used in combination with trailers and semi-trailers. The Senate amendment also repeals the 8-percent manufacturers excise tax (5 percent on or after October 1, 1977) on the sale of truck and bus-related parts and accessories. The Senate amendment also provides for floor stock refunds and refunds for certain consumer purchases.

*Conference substitute.*—The conference substitute does not include the Senate amendment.

While the Conference Committee is quite aware of the depressed condition existing in the truck manufacturing and marketing industry, it felt that the repeal of these excise taxes should more properly be considered in conjunction with the Public Works Committees, at a later date when Congress considers the Federal Highway Act and the Highway Trust Fund of which these taxes are a part.

## Tax Credit for Qualified Insulation and Solar Energy Equipment Expenditure

*House bill.*—No provision.

*Senate amendment.*—The Senate amendment provides a tax credit for qualified insulation expenditures for new and used residences and commercial buildings of 40 percent of the first $500 and 20 percent of any excess expenditures. In addition, a tax credit is allowed for qualified solar energy equipment expenditures for new and used residences and commercial buildings of 40 percent on the first $1,000 of expenditures and 20 percent of any excess up to $2,000. For new residences, the credit is available only to the extent the qualified original insulation materials exceed the minimum HUD standards; this limitation does not apply to storm windows, storm doors and solar heating and cooling equipment.

Under the Senate amendment, unused credits may be carried back to any year for which this provision is in effect and carried over 4 years. The provision is effective during taxable years beginning after December 31, 1974, and ending before January 1, 1980.

*Conference substitute.*—The conference substitute does not contain this provision. The conferees decided to defer consideration of this because incentives for insulation and solar energy equipment expenditures are being considered in the Ways and Means Committee energy bill.

## Tax Exemption for Homeowner's Associations, Etc.

*House bill.*—The House bill does not contain this provision.

*Senate amendment.*—The Senate amendment provides that a homeowner's association, etc., may be exempt from taxation if it is organized and operated exclusively for the operation, management, preservation, maintenance and repair of (1) the residential units owned by its members or (2) the common areas or facilities owned by the association or its members. The provision is effective for taxable years beginning after December 31, 1973.

*Conference substitute.*—The conference substitute does not contain this provision. The conferees deferred consideration of this provision believing it appropriate to consider it in tax reform legislation.



## Percentage Depletion for Oil and Gas

*House bill.*—The House bill repeals percentage depletion generally for oil or gas produced on or after January 1, 1975. Depletion is continued for natural gas sold under a fixed price contract in effect February 1, 1975, which does not permit price adjustment after that date to reflect repeal of depletion. Depletion is also continued until July 1, 1976, for gas sold in interstate commerce if no price adjustment is permitted after February 1, 1975, to reflect repeal of depletion.

For geothermal steam, present law is unaffected, so that if steam is ultimately held by the courts to be a gas entitled to a 22-percent rate of depletion, this treatment will be continued.

*Senate amendment.*—Under the Senate amendment, the deduction for percentage depletion is generally eliminated with respect to oil and gas produced on or after January 1, 1975, with certain exceptions. These include the exceptions provided under the House bill. In addition, the Senate amendment retains percentage depletion at 22 percent on a permanent basis for the small independent producer to the extent that his average daily production of oil does not exceed 2,000 barrels a day, or his average daily production of natural gas does not exceed 12,000,000 cubic feet. Where the independent producer has both oil and natural gas production, the exemption must be allocated between the two types of production.

In determining how much of a taxpayer's total production for the year will be entitled to the 22-percent rate, his total production for the year is averaged over the entire taxable year to arrive at an average daily figure, regardless of when the production might actually have occurred.

Where the producer has a partial interest in mineral property, his production from that property, for purposes of the exemption, will be proportional to his interest. For example, an individual owning a 10-percent interest in property with 2,000 barrels of average daily production will be treated as having used 200 barrels of his exemption in connection with that property.

If the taxpayer's average daily production exceeds 2,000 barrels (or 12,000,000 cubic feet of gas) the Senate amendment requires that the small production exemption be allocated among all of the properties in which the taxpayer has an interest. The allocation is made by totaling the production from all properties and allocating to each property the same proportion of the small production exemption as that property's total production bears to the taxpayer's total production from all properties.

Under the amendment, the 2,000 barrel (12,000,000 cubic feet) exemption is to be allocated (a) among the corporations which are members of the same controlled group of corporations (as defined in sec. 1563(a), but with a 50 percent common control test); among corporation trusts and estates if 50 percent of the beneficial interest is owned by the same or related persons; and (c) among the taxpayer and his spouse and minor children.

The small producer exemption is not to be available, under the Senate amendment, with respect to any oil or gas property transferred after December 31, 1974, if the principal value of the property has been demonstrated before the transfer, except in the case of a transfer by reason of death, or a transfer pursuant to a section 351 transaction.

Also, the small producer exemption is only to be available in the case of the independent oil or gas producer. The exemption is not available to any producer owning or controlling a retail outlet for the sale of oil or natural gas or petroleum products, or for a producer who refines more than 50,000 barrels of oil on any one day of the taxable year.

The deduction resulting from the small producer exemption may not exceed 50 percent of the taxpayer's net income from all sources (computed without regard to depletion allowed under the small producer exemption, net operating loss carrybacks and capital loss carrybacks). Percentage depletion which may not be used as a result of this limitation may be carried forward on an unlimited basis and used in a succeeding year (subject to the 50 percent limitation applicable to that year).

In addition, the deduction resulting from the small producer exemption is to be available, under the Senate amendment, only to the extent of the taxpayer's qualified plowback investment for the year (as well as any qualified plowback investment which was unused in the preceding year). The plowback requirement does not apply, under the amendment, to percentage depletion attributable to a royalty interest.

*Conference substitute.*—The conference substitute follows the Senate amendment in providing a small producer exemption from the repeal of percentage depletion for oil and gas. Initially the exemption ("depletable oil quantity") is 2,000 barrels of average daily production (or 12,000,000 cubic feet of natural gas). However, the exemption is to be phased down gradually, but not eliminated, so as to minimize the impact of the reduction on small independent producers.

Under the substitute, the exemption is to be reduced 200 barrels a year for 5 years from 1976 through 1980, when the permanent exemption of 1,000 barrels per day will be reached. The depletion rate for oil and gas covered under the small producer exemption will also be phased down gradually from 22 percent. In 1981, the rate will be 20 percent; in 1982, 18 percent; in 1983, 16 percent; and in 1984 the rate will be reduced to a permanent level of 15 percent. However, under the substitute, a taxpayer will be permitted to take percentage depletion, at a 22 percent rate, on all production resulting from secondary or tertiary recovery methods until 1984 (but not in excess of 1,000 barrels per day).

The deduction resulting from the small producer exemption may not exceed 65 percent of the taxpayer's net income from all sources (computed without regard to depletion allowed under the small producer exemption, net operating loss carrybacks and capital loss carrybacks).

Also, under the substitute, there is to be no plowback requirement in connection with percentage depletion under the small producer exemption.



## Limitation on Foreign Tax Credit for Taxes Paid in Connection With Foreign Oil and Gas Income

*House bill.*—No provision.

*Senate amendment.*—The Senate amendment repeals the foreign tax credit on all foreign oil-related income and allows any taxes on that income as a deduction. The amendment also provides that foreign oil-related income is to be taxed at a 24-percent rate.

*Conference substitute.*—The conference substitute modifies the Senate amendment and applies a strict limitation on the use of foreign tax credits from foreign oil extraction income and foreign oil-related income. The substitute limits the amount of payments in the form of foreign taxes on foreign oil extraction income which will be treated as creditable taxes to 52.8 percent of taxable income from foreign oil extraction in taxable years ending in 1975, 50.4 percent of such taxable income in 1976, and 50 percent of such taxable income in subsequent taxable years. Any taxes paid in excess of that amount are to be disregarded and not allowed as a deduction. Any excess credits within the respective percentage limitations are to be allowed to offset U.S. tax only against foreign oil-related income.

Also, any payments to a foreign country in connection with the purchase and sale of oil or gas extracted in that country are not to be considered as a tax if the taxpayer has no economic interest in the oil or gas to which section 611(a) of the code applies and either such purchase or such sale is made at a price other than the fair market price of such oil or gas at the time of such purchase or sale. The market price is to be determined without regard to any tax liabilities to the country of extraction to which the oil or gas is subject upon purchase. This provision, of course, is not to apply to fees or other types of income from the provision of services which relate to the extraction of oil or gas for another person. Any payments not allowed as taxes under this provision are to be allowed as deductions.

In addition, the conferees agreed that beginning in 1976 the per country limitation on creditable foreign taxes is not to apply to foreign oil-related income. Instead, the amount of creditable taxes with respect to such income is to be calculated under the overall limitation. The conferees believe that this change should be considered significant in judging requests to revoke consolidated return elections.

The conferees also agreed that beginning in 1975 any losses with respect to foreign oil-related income should be recaptured against future oil-related income by limiting the foreign tax credits available with respect to such future income.

The conference substitute is to apply to taxable years ending after date of enactment.

## Taxation of Earnings and Profits of Controlled Foreign Corporations and Their Shareholders

*House bill.*—No provision.

*Senate amendment.*—The Senate amendment provides that U.S. persons holding a one-percent or greater interest in foreign corporations are to be taxed currently on their proportionate share of the income from those corporations in cases where more than 50 percent of the stock of the corporations is controlled by U.S. persons.

*Conference substitute.*—The conference substitute provides for a number of specific measures which substantially expand the extent to which foreign subsidiaries of U.S. corporations are subject to current U.S. taxation on tax haven types of income under the so-called subpart F rules of the Code.

The conferees expressed their belief that the foreign tax provisions of present law relating to the deferral of foreign income should be further reviewed at the earliest possible date. The conferees indicated that this review should include an examination of the adequacy of existing provisions dealing with the disclosure and reporting of income (and related deductions) of foreign subsidiaries of U.S. corporations.

The conference substitute repeals the minimum distribution exception to the subpart F rules which, under present law, permits a deferral of U.S. taxation on tax haven types of income in cases where the foreign corporation (or various combinations of foreign-related corporations) distributes certain minimum dividends to their U.S. shareholders. The effect of repealing this exception is to tax currently all income of foreign subsidiaries of U.S. corporations which is deemed to be tax haven income under the existing so-called subpart F rules of the Code. An exception to this provision was made for agricultural commodities not produced in commercially marketable quantities in the United States. Under the exception, these commodities grown (or raised) abroad are to be excluded from foreign base company sales income.

The conference agreement also repeals the exception from the subpart F rules which presently permits a deferral of taxation in cases in which the tax haven income is reinvested in less-developed countries.

In addition, the conference agreement repeals the rule of present law which permits a deferral of U.S. tax for shipping income received by a foreign subsidiary of a U.S. corporation. However, deferral of tax is to be continued to the extent that the profits of these corporations are reinvested in shipping operations.

Finally, the conferees agreed to modify the present rule in the subpart F provisions which permits corporations having less than 30 percent of their gross income in the form of tax haven income to avoid the current taxation provisions of subpart F. The conference substitute provides that such tax haven income will be taxed currently under the subpart F rules in any case where it equals or exceeds 10 percent of gross income.

These provisions are to apply to taxable years beginning after December 31, 1975.

### Elimination of Domestic International Sales Corporation Treatment for Certain Natural Resources and Energy Products

*House bill.*—No provision.

*Senate amendment.*—The Senate amendment denies the benefits provided for domestic international sales corporations (DISC's) for the export of natural resources and energy products (i.e., products for which an allowance for cost depletion is provided) and for products subject to export control under section 4(b) of the Export Administration Act of 1969. The provision applies to sales made after March 18, 1975.



*Conference substitute.*—The conference substitute follows the Senate amendment.

### Investment Tax Credit on Foreign Drilling Rigs

*House bill.*—No provision.

*Senate amendment.*—The Senate amendment denies the investment tax credit for foreign situs drilling rigs used outside of the northern half of the Western Hemisphere. The provision applies to property placed in service after March 18, 1975, unless such property is covered by a binding contract which was in effect on April 1, 1974.

*Conference substitute.*—The conference substitute follows the Senate amendment.

### Extension of Unemployment Compensation Act of 1974

*House bill.*—No provision.

*Senate amendment.*—The Senate amendment extends the benefits of the Emergency Unemployment Compensation Act of 1974 for an additional 13 weeks to those who have exhausted 52 weeks of benefits. This is available only for the period ending June 30, 1975. The provision states that the Secretary of Labor shall, at the earliest practicable date after the enactment, propose to each State with which he has in effect an agreement under section 102 of the 1974 Act a modification of such agreement designed to cause payments of emergency compensation as provided in the Senate amendment.

*Conference substitute.*—The conference substitute follows the Senate amendment.

### Special Payments to People Receiving Benefits Under Social Security, Railroad Retirement, or Supplemental Security Income Programs

*House bill.*—No provision.

*Senate amendment.*—The Senate amendment added a provision to the bill, under which a one-time special payment of $100 is to be made by the Secretary of the Treasury to each individual who, for March, 1975, was entitled to monthly insurance benefits under title II of the Social Security Act, to monthly pension or annuity benefits under the Railroad Retirement Acts, or to supplemental security income benefits. An individual could receive only one such $100 special payment, even though he was entitled, for March, 1975, to benefits under 2 or more of the above-mentioned programs.

The Secretary of Health, Education, and Welfare and the Railroad Retirement Board are to provide the Treasury with such data and information as may be necessary to determine who is entitled to these special payments.

Receipt of the special payment by an individual is not to affect his eligibility for, or the amount of, the aid or assistance which he or his family would otherwise be entitled to receive under a welfare-type program. Federal financial participation in any State (or local) welfare-type program is to cease if that program violates the "disregard" requirement described in the preceding sentence.

*Conference substitute.*—The conference substitute generally follows the Senate amendment, except that the amount of the special payment is to be $50 per qualified recipient. In addition, the conference substitute restricts it to residents of the United States who have applied for benefits under one of the three programs prior to April 1, 1975, and who actually receive a benefit for the month of March 1975 which is paid by August 31, 1975. The conference agreement includes the requirement that these payments be disregarded in determining eligibility under other programs and clarifies their non-taxable nature for income tax purposes.

The conferees emphasize that these payments are not social security benefits in any sense but are intended to provide to the aged, blind, and disabled a payment comparable in nature to the tax rebates which the bill provides to those who are working. These payments, therefore, should be clearly identifiable as Treasury Department payments and not be included in or confused with social security benefit checks.

## Dyeing of Certain Heating Oil

*House bill.*—No provision.

*Senate amendment.*—The Senate amendment requires that certain heating fuel oil be colored with an oil soluble dye, so that such non-taxed fuel oil may be distinguishable from taxable diesel fuel oil for highway use. The Administrator of the Federal Energy Administration is to determine the appropriate soluble dye and the point of the petroleum distribution system to add the dye; and he may enter the premises (during business hours) to inspect for violations. Violators are to be subject to a fine of not more than $25,000, or imprisonment of not more than 5 years, or both.

The provision is to be effective on the date of enactment.

*Conference substitute.*—The conference substitute does not contain this provision. The conferees deferred consideration of this because the subject would be reviewed during the Ways and Means Committee consideration of the energy bill.

Al Ullman,
James A. Burke,
Dan Rostenkowski,
Phil Landrum,
Charles A. Vanik,
*Managers on the Part of the House.*

Russell B. Long,
Herman Talmadge,
Vance Hartke,
Abraham Ribicoff,
W. D. Hathaway,
Floyd K. Haskell,
Robert Dole,
*Managers on the Part of the Senate.*

○

Public Law 94-12
94th Congress, H. R. 2166
March 29, 1975

# An Act

To amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes, to increase the low income allowance and the percentage standard deduction, to provide a credit for personal exemptions and a credit for certain earned income, to increase the investment credit and the surtax exemption, to reduce percentage depletion for oil and gas, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* Tax Reduction Act of 1975.

**SEC. 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) Short Title.—This Act may be cited as the "Tax Reduction Act of 1975". 26 USC 1 note.

(b) Table of Contents.—


Sec. 1. Short title; table of contents.
Sec. 2. Amendment of 1954 Code.

TITLE I—REFUND OF 1974 INDIVIDUAL INCOME TAXES

Sec. 101. Refund of 1974 individual income taxes.
Sec. 102. Refunds disregarded in the administration of Federal programs and federally assisted programs.

TITLE II—REDUCTIONS IN INDIVIDUAL INCOME TAXES

Sec. 201. Increase in low income allowance.
Sec. 202. Increase in percentage standard deduction.
Sec. 203. Credit for personal exemptions.
Sec. 204. Credit for certain earned income.
Sec. 205. Withholding tax.
Sec. 206. Increase in income limitation applicable to child and dependent care deduction.
Sec. 207. Extension of period for replacing old residence for purposes of nonrecognition of gain under section 1034.
Sec. 208. Credit for purchase of new principal residence.
Sec. 209. Effective dates.

TITLE III—CERTAIN CHANGES IN BUSINESS TAXES

Sec. 301. Increase in investment credit.
Sec. 302. Allowance of investment credit where construction of property will take more than 2 years.
Sec. 303. Change in corporate tax rates and increase in surtax exemption.
Sec. 304. Increase in minimum accumulated earnings credit from $100,000 to $150,000.
Sec. 305. Effective dates.

TITLE IV—CHANGES AFFECTING INDIVIDUALS AND BUSINESSES

Sec. 401. Federal welfare recipient employment incentive tax credit.
Sec. 402. Time when contributions deemed made to certain pension plans.

TITLE V—PERCENTAGE DEPLETION

Sec. 501. Limitations on percentage depletion for oil and gas.

TITLE VI—TAXATION OF FOREIGN OIL AND GAS INCOME AND OTHER FOREIGN INCOME

Sec. 601. Limitations on foreign tax credit for taxes paid in connection with foreign oil and gas income.
Sec. 602. Taxation of earnings and profits of controlled foreign corporations and their shareholders.
Sec. 603. Denial of DISC benefits with respect to energy resources and other products.
Sec. 604. Treatment for purposes of the investment credit of certain property used in international or territorial waters.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Certain unemployment compensation.
Sec. 702. Special payment to recipients of benefits under certain retirement and survivor benefit programs.

SEC. 2. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954. 26 USC 1 et seq.

# TITLE I—REFUND OF 1974 INDIVIDUAL INCOME TAXES

SEC. 101. REFUND OF 1974 INDIVIDUAL INCOME TAXES.

(a) IN GENERAL.—Subchapter B of chapter 65 (relating to rules of special application in the case of abatements, credits, and refunds) is amended by adding at the end thereof the following new section:

26 USC 6428. "SEC. 6428. REFUND OF 1974 INDIVIDUAL INCOME TAXES.

"(a) GENERAL RULE.—Except as otherwise provided in this section, each individual shall be treated as having made a payment against the tax imposed by chapter 1 for his first taxable year beginning in 1974 in an amount equal to 10 percent of the amount of his liability for tax for such taxable year. 26 USC 1.

"(b) MINIMUM PAYMENT.—The amount treated as paid by reason of this section shall not be less than the lesser of—

"(1) the amount of the taxpayer's liability for tax for his first taxable year beginning in 1974, or

"(2) $100 ($50 in the case of a married individual filing a separate return).

"(c) MAXIMUM PAYMENT.—

"(1) IN GENERAL.—The amount treated as paid by reason of this section shall not exceed $200 ($100 in the case of a married individual filing a separate return).

"(2) LIMITATION BASED ON ADJUSTED GROSS INCOME.—The excess (if any) of—

"(A) the amount which would (but for this paragraph) be treated as paid by reason of this section, over

"(B) the applicable minimum payment provided by subsection (b),

shall be reduced (but not below zero) by an amount which bears the same ratio to such excess as the adjusted gross income for the taxable year in excess of $20,000 bears to $10,000. In the case of a married individual filing a separate return, the preceding sentence shall be applied by substituting '$10,000' for '$20,000' and by substituting '$5,000' for '$10,000'.

"(d) LIABILITY FOR TAX.—For purposes of this section, the liability for tax for the taxable year shall be the sum of—

"(1) the tax imposed by chapter 1 for such year, reduced by the sum of the credits allowable under—

26 USC 33. "(A) section 33 (relating to foreign tax credit),

26 USC 37. "(B) section 37 (relating to retirement income),

26 USC 38. "(C) section 38 (relating to investment in certain depreciable property),

26 USC 40. "(D) section 40 (relating to expenses of work incentive programs), and





"(E) section 41 (relating to contributions to candidates for public office), plus 26 USC 41.

"(2) the tax on amounts described in section 3102(c) or 3202(c) which are required to be shown on the taxpayer's return of the chapter 1 tax for the taxable year. 26 USC 3102, 3202.

"(e) DATE PAYMENT DEEMED MADE.—The payment provided by this section shall be deemed made on whichever of the following dates is the later:

"(1) the date prescribed by law (determined without extensions) for filing the return of tax under chapter 1 for the taxable year, or

"(2) the date on which the taxpayer files his return of tax under chapter 1 for the taxable year.

"(f) JOINT RETURN.—For purposes of this section, in the case of a joint return under section 6013 both spouses shall be treated as one individual.

"(g) MARITAL STATUS.—The determination of marital status for purposes of this section shall be made under section 143.

"(h) CERTAIN PERSONS NOT ELIGIBLE.—This section shall not apply to any estate or trust, nor shall it apply to any nonresident alien individual."

(b) NO INTEREST ON INDIVIDUAL INCOME TAX REFUNDS FOR 1974 REFUNDED WITHIN 60 DAYS AFTER RETURN IS FILED.—In applying section 6611(e) of the Internal Revenue Code of 1954 (relating to income tax refund within 45 days after return is filed) in the case of any overpayment of tax imposed by subtitle A of such Code by an individual (other than an estate or trust and other than a nonresident alien individual) for a taxable year beginning in 1974, "60 days" shall be substituted for "45 days" each place it appears in such section 6611(e). 26 USC 6611 note. Ante, p. 26.

(c) CLERICAL AMENDMENT.—The table of sections for such subchapter B is amended by adding at the end thereof the following new item:

"Sec. 6428. Refund of 1974 individual income taxes."

SEC. 102. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS. 26 USC 6428 note.

Any payment considered to have been made by any individual by reason of section 6428 of the Internal Revenue Code of 1954 shall not be taken into account as income or receipts for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

# TITLE II—REDUCTIONS IN INDIVIDUAL INCOME TAXES

SEC. 201. INCREASE IN LOW INCOME ALLOWANCE.

(a) IN GENERAL.—Subsection (c) of section 141 (relating to low income allowance) is amended to read as follows: 26 USC 141.

"(c) LOW INCOME ALLOWANCE.—The low income allowance is—

"(1) $1,900 in the case of—

"(A) a joint return under section 6013, or 26 USC 6013.

"(B) a surviving spouse (as defined in section 2(a)), 26 USC 2.

"(2) $1,600 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(3) $950 in the case of a married individual filing a separate return."

(b) CHANGE IN FILING REQUIREMENTS TO REFLECT INCREASE IN LOW INCOME ALLOWANCE.—So much of paragraph (1) of section
26 USC 6012. 6012(a) (relating to persons required to make returns of income) as precedes subparagraph (C) thereof is amended to read as follows:

"(1) (A) Every individual having for the taxable year a gross income of $750 or more, except that a return shall not be required of an individual (other than an individual referred to in section
26 USC 142. 142(b))—

"(i) who is not married (determined by applying section
26 USC 143, 2. 143), is not a surviving spouse (as defined in section 2(a)), and for the taxable year has a gross income of less than $2,350,

"(ii) who is a surviving spouse (as so defined) and for the taxable year has a gross income of less than $2,650, or

"(iii) who is entitled to make a joint return under section
26 USC 6013. 6013 and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than $3,400 but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.

Clause (iii) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an
26 USC 151. exemption for such spouse under section 151(e).

"(B) The amount specified in clause (i) or (ii) of subparagraph (A) shall be increased by $750 in the case of an individual entitled to an additional personal exemption under section 151(c)(1), and the amount specified in clause (iii) of subparagraph (A) shall be increased by $750 for each additional personal exemption to which the individual or his spouse is entitled under section 151(c);".

26 USC 3. (c) CHANGE IN OPTIONAL TAX TABLES.—Section 3 (relating to optional tax tables) is amended by striking out "$10,000" and by inserting in lieu thereof "$15,000".

**SEC. 202. INCREASE IN PERCENTAGE STANDARD DEDUCTION.**

26 USC 141. (a) INCREASE.—Subsection (b) of section 141 (relating to percentage standard deduction) is amended to read as follows:

"(b) PERCENTAGE STANDARD DEDUCTION.—The percentage standard deduction is an amount equal to 16 percent of adjusted gross income but not to exceed—

"(1) $2,600 in the case of—

"(A) a joint return under section 6013, or

"(B) a surviving spouse (as defined in section 2(a)),

"(2) $2,300 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(3) $1,300 in the case of a married individual filing a separate return."

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 3402
26 USC 3402. (m)(1) (relating to withholding allowances based on itemized deductions) is amended to read as follows:

"(B) an amount equal to the lesser of (i) 16 percent of his estimated wages, or (ii) $2,600 ($2,300 in the case of an individual who is not married (within the meaning of section
26 USC 143. 143) and who is not a surviving spouse (as defined in section 2(a)))."

**SEC. 203. TAX CREDIT FOR PERSONAL EXEMPTIONS.**

(a) IN GENERAL.—Subpart A of part VI of subchapter A of chapter 1 (relating to credits allowable against tax) is amended by redesignat-
26 USC 42. ing section 42 as section 43 and by inserting after section 41 the following new section:





**"SEC. 42. CREDIT FOR PERSONAL EXEMPTIONS.** 26 USC 42.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year $30, multiplied by each exemption for which the taxpayer is entitled for the taxable year under subsection (b) or (e) of section 151. 26 USC 151.

"(b) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year. In determining the credits allowed under—

"(1) section 33 (relating to foreign tax credit), 26 USC 33.

"(2) section 37 (relating to retirement income), 26 USC 37.

"(3) section 38 (relating to investment in certain depreciable property), 26 USC 38.

"(4) section 40 (relating to expenses of work incentive programs), and 26 USC 40.

"(5) section 41 (relating to contributions to candidates for public office), 26 USC 41.

the tax imposed by this chapter shall (before any other reductions) be reduced by the credit allowed by this section."

(b) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) The table of sections for such subpart is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 42. Credit for personal exemptions.
"Sec. 43. Overpayments of tax."

(2) Section 56(a)(2) (relating to imposition of minimum tax) is amended by striking out "and" at the end of clause (iv), by striking out "; and" at the end of clause (v) and inserting in lieu thereof ", and", and by inserting after clause (v) the following new clause: 26 USC 56.

"(vi) section 42 (relating to credit for personal exemptions); and". Supra.

(3) Section 56(c)(1) (relating to tax carryovers) is amended by striking out "and" at the end of subparagraph (D), by striking out "exceed" at the end of subparagraph (E) and inserting in lieu thereof "and", and by inserting after subparagraph (E) the following new subparagraph:

"(F) section 42 (relating to credit for personal exemptions), exceed".

(4) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 41" and inserting in lieu thereof "41, and 42". 26 USC 6096.

**SEC. 204. CREDIT FOR CERTAIN EARNED INCOME.**

(a) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by redesignating section 43 as section 44, and by inserting after section 42 the following new section:

**"SEC. 43. EARNED INCOME.** 26 USC 43.

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of so much of the earned income for the taxable year as does not exceed $4,000.

"(b) LIMITATION.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount equal to 10 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $4,000.

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

"(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual who, for the taxable year—

"(A) maintains a household (within the meaning of section 214(b)(3)) in the United States which is the principal place of abode of that individual and of a child of that individual with respect to whom he is entitled to claim a deduction under section 151(e)(1)(B) (relating to additional exemption for dependents), and

26 USC 214.

26 USC 151.

"(B) is not entitled to exclude any amount from gross income under section 911 (relating to earned income from sources without the United States) or section 931 (relating to income from sources within the possessions of the United States).

26 USC 911.
26 USC 931.

"(2) EARNED INCOME.—

"(A) The term 'earned income' means—

"(i) wages, salaries, tips, and other employee compensation, plus

"(ii) the amount of the taxpayer's net earnings from self-employment for the taxable year (within the meaning of section 1402(a)).

26 USC 1402.

"(B) For purposes of subparagraph (A)—

"(i) except as provided in clause (ii), any amount shall be taken into account only if such amount is includible in the gross income of the taxpayer for the taxable year,

"(ii) the earned income of an individual shall be computed without regard to any community property laws,

"(iii) no amount received as a pension or annuity shall be taken into account, and

"(iv) no amount to which section 871(a) applies (relating to income of nonresident alien individuals not connected with United States business) shall be taken into account.

26 USC 871.

"(d) MARRIED INDIVIDUALS.—In the case of an individual who is married (within the meaning of section 143), this section shall apply only if a joint return is filed for the taxable year under section 6013.

26 USC 143.
26 USC 6013.

"(e) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months."

(b) REFUND TO BE MADE WHERE CREDIT EXCEEDS LIABILITY FOR TAX.—

(1) Section 6401(b) (relating to excessive credits) is amended—

26 USC 6401.

(A) by inserting "43 (relating to earned income credit)," before "and 667(b)"; and

Ante, pp. 29, 30.

(B) by striking out "and 39" and inserting in lieu thereof a comma and ", 39, and 43".

26 USC 39.

(2) Section 6201(a)(4) (relating to assessment authority) is amended by—

26 USC 6201.

(A) inserting "or 43" after "section 39" in the caption of such section; and

(B) striking out "oil)," and inserting in lieu thereof "oil) or section 43 (relating to earned income),".





(c) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 43. Credit for certain earned income.
"Sec. 44. Overpayments of tax."

**SEC. 205. WITHHOLDING TAX.**

(a) REQUIREMENT OF WITHHOLDING.—Subsection (a) of section 3402 (relating to income tax collected at source) is amended to read as follows:

26 USC 3402.

"(a) REQUIREMENT OF WITHHOLDING.—Except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with tables prescribed by the Secretary or his delegate. The tables so prescribed shall be the same as the tables contained in this subsection as in effect on January 1, 1975, except that the amounts set forth as amounts of income tax to be withheld with respect to wages paid after April 30, 1975, and before January 1, 1976, shall reflect the full calendar year effect for 1975 of the amendments made by sections 201, 202, 203, and 204 of the Tax Reduction Act of 1975. For purposes of applying such tables, the term 'the amount of wages' means the amount by which the wages exceed the number of withholding exemptions claimed, multiplied by the amount of one such exemption as shown in the table in subsection (b)(1)."

Ante, pp. 28-30.
"The amount of wages."

(b) CONFORMING AMENDMENT.—Section 3402(c)(6) (relating to wage bracket withholding) is amended by striking out "table 7 contained in subsection (a)" and inserting in lieu thereof "the table for an annual payroll period prescribed pursuant to subsection (a)".

**SEC. 206. INCREASE IN INCOME LIMITATION APPLICABLE TO CHILD AND DEPENDENT CARE DEDUCTION.**

Section 214 (relating to expenses for household and dependent care services necessary for gainful employment) is amended by striking out "$18,000" each place it appears in subsection (d) and inserting in lieu thereof "$35,000". 26 USC 214.

**SEC. 207. EXTENSION OF PERIOD FOR REPLACING OLD RESIDENCE FOR PURPOSES OF NONRECOGNITION OF GAIN UNDER SECTION 1034.**

(a) ONE-YEAR PERIOD INCREASED TO 18 MONTHS.—

(1) Subsections (a), (c)(4), (c)(5), (d), and (h) of section 1034 (relating to nonrecognition of gain on sale or exchange of residence) are each amended by striking out "1 year" each place it appears and inserting in lieu thereof "18 months". 26 USC 1034.

(2) Subsection (c)(5) of section 1034 is amended by striking out "one year" and inserting in lieu thereof "18 months".

(b) 18-MONTH PERIOD FOR CONSTRUCTING NEW RESIDENCE INCREASED TO 2 YEARS.—Subsection (c)(5) of section 1034 is amended by striking out "18 months" and inserting in lieu thereof "2 years".

**SEC. 208. CREDIT FOR PURCHASE OF NEW PRINCIPAL RESIDENCE.**

(a) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowed) is amended by redesignating section 44 as section 45 and by inserting after section 43 the following new section:

Ante, p. 30.

**"SEC. 44. PURCHASE OF NEW PRINCIPAL RESIDENCE.** 26 USC 44.

"(a) GENERAL RULE.—In the case of an individual there is allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to 5 percent of the purchase price of a new principal residence purchased or constructed by the taxpayer.

"(b) Limitations.—

"(1) Maximum credit.—The credit allowed under subsection (a) may not exceed $2,000.

"(2) Limitation to one residence.—The credit under this section shall be allowed with respect to only one residence of the taxpayer.

"(3) Married individuals.—In the case of a husband and wife
26 USC 6013. who file a joint return under section 6013, the amount specified under paragraph (1) shall apply to the joint return. In the case of a married individual filing a separate return, paragraph (1) shall be applied by substituting '$1,000' for '$2,000'.

"(4) Certain other taxpayers.—In the case of individuals to whom paragraph (3) does not apply who together purchase the same new principal residence for use as their principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals as prescribed by the Secretary or his delegate, but the sum of the amounts allowed to such individuals shall not exceed $2,000 with respect to that residence.

"(5) Application with other credits.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year, reduced by the sum of the
26 USC 33, 37, 38, 40, 41, 42. credits allowable under sections 33, 37, 38, 40, 41, and 42.

"(c) Definitions.—For purposes of this section—

"(1) New principal residence.—The term 'new principal residence' means a principal residence (within the meaning of section
26 USC 1034. 1034), the original use of which commences with the taxpayer, and includes, without being limited to, a single family structure, a residential unit in a condominium or cooperative housing project, and a mobile home.

"(2) Purchase price.—The term 'purchase price' means the adjusted basis of the new principal residence on the date of the acquisition thereof.

"(3) Purchase.—The term 'purchase' means any acquisition of property, but only if—

"(A) the property is not acquired from a person whose relationship to the person acquiring it would result in the
26 USC 267, 707. disallowance of losses under section 267 or 707(b) (but, in applying section 267 (b) and (c) for purposes of this section, paragraph (4) of section 267(c) shall be treated as providing that the family of an individual shall include only his spouse, ancestors, and lineal descendants), and

"(B) the basis of the property in the hands of the person acquiring it is not determined—

"(i) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

26 USC 1014. "(ii) under section 1014(a) (relating to property acquired from a decedent).

"(d) Recapture for Certain Dispositions.—

"(1) In general.—Except as provided in paragraphs (2) and (3), if the taxpayer disposes of property with respect to the purchase of which a credit was allowed under subsection (a) at any time within 36 months after the date on which he acquired it (or, in the case of construction by the taxpayer, on the day on which he first occupied it) as his principal residence, then the tax imposed under this chapter for the taxable year in which termi-





nates the replacement period under paragraph (2) with respect to the disposition is increased by an amount equal to the amount allowed as a credit for the purchase of such property.

"(2) Acquisition of new residence.—If, in connection with a disposition described in paragraph (1) and within the applicable period prescribed in section 1034, the taxpayer purchases or con- Ante, p. 32.
structs a new principal residence, then the provisions of paragraph (1) shall not apply and the tax imposed by this chapter for the taxable year following the taxable year during which disposition occurs is increased by an amount which bears the same ratio to the amount allowed as a credit for the purchase of the old residence as (A) the adjusted sales price of the old residence (within the meaning of section 1034), reduced (but not below zero) by the 26 USC 1034.
taxpayer's cost of purchasing the new residence (within the meaning of such section) bears to (B) the adjusted sales price of the old residence.

"(3) Death of owner; casualty loss; involuntary conversion; etc.—The provisions of paragraph (1) do not apply to—

"(A) a disposition of a residence made on account of the death of any individual having a legal or equitable interest therein occurring during the 36 month period to which reference is made under such paragraph,

"(B) a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily and involuntarily converted 26 USC 165.
(within the meaning of section 1033(a)), or 26 USC 1033.

"(C) a disposition pursuant to a settlement in a divorce or legal separation proceeding where the other spouse retains the residence as principal residence.

"(e) Property to Which Section Applies.—

"(1) In general.—The provisions of this section apply to a new principal residence—

"(A) the construction of which began before March 26, 1975,

"(B) which is acquired and occupied by the taxpayer after March 12, 1975, and before January 1, 1977, and

"(C) if not constructed by the taxpayer, which was acquired by the taxpayer under a binding contract entered into by the taxpayer before January 1, 1976.

"(2) Self-constructed property begun before March 13, 1975.—In the case of property the construction of which was begun by the taxpayer before March 13, 1975, only that portion of the basis of such property properly allocable to construction after March 12, 1975, shall be taken into account in determining the amount of the credit allowable under subsection (a).

"(3) Binding contract.—For purposes of this subsection, a contract for the purchase of a residence which is conditioned upon the purchaser's obtaining a loan for the purchase of the residence (including conditions as to the amount or interest rate of such loan) is not considered non-binding on account of that condition.

"(4) Certification must be attached to return.—This section shall not apply to any residence (other than a residence constructed by the taxpayer) unless there is attached to the return of tax on which the credit is claimed a certification by the seller, in accordance with regulations prescribed by the Secretary or his delegate, that the purchase price is the lowest price at which the residence was ever offered for sale."



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(b) SUITS TO RECOVER AMOUNTS OF PRICE INCREASES.—If—

Ante, p. 32.

(1) any person certifies under section 44(e)(4) of the Internal Revenue Code of 1954 that the price for which a residence was sold is the lowest price at which the residence was ever offered for sale, and

(2) the price for which the residence was sold exceeded the lowest price at which the residence was ever offered for sale,

such person shall be liable to the purchaser of such residence in an amount equal to three times the amount of such excess. The United States district courts shall have jurisdiction of suits to recover such amounts without regard to any other provision of law. In any suit brought under this subsection in which judgment is entered for the purchaser, he shall also be entitled to recover a reasonable attorney's fee.

26 USC 162, 212.

(c) DENIAL OF DEDUCTION.—Notwithstanding the provisions of section 162 or 212 of the Internal Revenue Code of 1954, no deduction shall be allowed in computing taxable income for two-thirds of any amount paid or incurred on a judgment entered against any person in a suit brought under subsection (b).

(d) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) The table of sections for such subpart is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 44. Credit for purchase of new principal residence.
"Sec. 45. Overpayments of tax."

26 USC 56.

(2) Section 56(a)(2) (relating to imposition of minimum tax) is amended by striking out "and" at the end of clause (v), by striking out "; and" at the end of clause (vi) and inserting in lieu thereof ", and", and by inserting after clause (vi) the following new clause:

"(vii) section 44 (relating to credit for purchase of new principal residence); and".

(3) Section 56(c)(1) (relating to tax carryovers) is amended by striking out "and" at the end of subparagraph (E), by striking out "exceed" at the end of subparagraph (F) and inserting in lieu thereof "and", and by inserting after subparagraph (F) the following new subparagraph:

"(G) section 44 (relating to credit for purchase of new principal residence), exceed".

26 USC 6096.

(4) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 42" and inserting in lieu thereof "42, and 44".

**SEC. 209. EFFECTIVE DATES.**

26 USC 42 note.

(a) SECTIONS 201, 202(a), AND 203.—The amendments made by sections 201, 202(a), and 203 shall apply to taxable years ending after December 31, 1974. Such amendments shall cease to apply to taxable years ending after December 31, 1975.

26 USC 43 note.

(b) SECTION 204.—The amendments made by section 204 shall apply to taxable years beginning after December 31, 1974, and before January 1, 1976.

26 USC 3402 note.

(c) SECTIONS 202(b) AND 205.—The amendments made by sections 202(b) and 205 shall apply to wages paid after April 30, 1975, and before January 1, 1976.

26 USC 214 note.

(d) SECTION 206.—The amendments made by section 206 apply to taxable years beginning after the date of enactment of this Act.

26 USC 1034 note.
26 USC 1034.

(e) SECTION 207.—The amendments made by section 207 shall apply to old residences (within the meaning of section 1034 of the Internal Revenue Code of 1954) sold or exchanged after December 31, 1974, in taxable years ending after such date.





# TITLE III—CERTAIN CHANGES IN BUSINESS TAXES

**SEC. 301. INCREASE IN INVESTMENT CREDIT.**

(a) INCREASE OF INVESTMENT CREDIT.—Paragraph (1) of section 46(a) (determining the amount of the investment credit) is amended to read as follows: 26 USC 46.

"(1) GENERAL RULE.—

"(A) TEN PERCENT CREDIT.—Except as otherwise provided in this paragraph, in the case of a property described in subparagraph (D), the amount of the credit allowed by section 38 for the taxable year shall be an amount equal to 10 percent of the qualified investment (as determined under subsections (c) and (d)).

"(B) ELEVEN PERCENT CREDIT.—Except as otherwise provided in this paragraph, in the case of a corporation which elects to have the provisions of this subparagraph apply, the amount of the credit allowed by section 38 for the taxable year with respect to property described in subparagraph (D) shall be an amount equal to 11 percent of the qualified investment (as determined under subsections (c) and (d)). An election may not be made to have the provisions of this subparagraph apply for the taxable year unless the corporation meets the requirements of section 301(d) of the Tax Reduction Act of 1975. An election by a corporation to have the provisions of this subparagraph apply shall be made at such time, in such form, and in such manner as the Secretary or his delegate may prescribe. 26 USC 38. Supra.

"(C) SEVEN PERCENT CREDIT.—Except as otherwise provided in this paragraph, the amount of credit allowed by section 38 for the taxable year shall be an amount equal to 7 percent of the qualified investment (as determined under subsections (c) and (d)).

"(D) TRANSITIONAL RULES.—The provisions of subparagraphs (A) and (B) shall apply only to—

"(i) property to which subsection (d) does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer after January 21, 1975, but only to the extent of the basis thereof attributable to the construction, reconstruction, or erection after January 21, 1975, and before January 1, 1977.

"(ii) property to which subsection (d) does not apply, acquired by the taxpayer after January 21, 1975, and before January 1, 1977, and placed in service by the taxpayer before January 1, 1977, and

"(iii) property to which subsection (d) applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d)) with respect to qualified progress expenditures made after January 21, 1975, and before January 1, 1977."

(b) PUBLIC UTILITY PROPERTY.—

(1) DETERMINATION OF QUALIFIED INVESTMENT.—Subparagraph (A) of section 46(c)(3) (relating to determination of qualified investment in the case of public utility property) is amended to read as follows: 26 USC 46.

"(A) To the extent that subsection (a)(1)(C) applies to property which is public utility property, the amount of the qualified investment shall be 4/7 of the amount determined under paragraph (1).".

26 USC 46. (2) INCREASE IN 50-PERCENT LIMITATION.—Section 46(a) (relating to determination of amount of credit) is amended by adding at the end thereof the following new paragraph:

"(6) ALTERNATIVE LIMITATION IN THE CASE OF CERTAIN UTILITIES.—

"(A) IN GENERAL.—If, for a taxable year ending after calendar year 1974 and before calendar year 1981, the amount of the qualified investment of the taxpayer which is attributable to public utility property is 25 percent or more of his aggregate qualified investment, then subparagraph (C) of paragraph (2) of this subsection shall be applied by substituting for 50 percent his applicable percentage for such year.

"(B) APPLICABLE PERCENTAGE.—The applicable percentage of any taxpayer for any taxable year is—

"(i) 50 percent, plus

"(ii) that portion of the tentative percentage for the taxable year which the taxpayer's amount of qualified investment which is public utility property bears to his aggregate qualified investment.

If the proportion referred to in clause (ii) is 75 percent or more, the applicable percentage of the taxpayer for the year shall be 50 percent plus the tentative percentage for such year.

"(C) TENTATIVE PERCENTAGE.—For purposes of subparagraph (B), the tentative percentage shall be determined under the following table:

| "If the taxable year ends in: | The tentative percentage is: |
|---|---|
| 1975 or 1976 | 50 |
| 1977 | 40 |
| 1978 | 30 |
| 1979 | 20 |
| 1980 | 10 |

"(D) PUBLIC UTILITY PROPERTY DEFINED.—For purposes of this paragraph, the term 'public utility property' has the meaning given to such term by the first sentence of subsection (c)(3)(B)."

Post, p. 40. (3) LIMITATION IN CASE OF CERTAIN REGULATED COMPANIES.—Section 46(f), as redesignated by section 302(a) of this Act (relating to limitation in case of certain regulated companies), is amended by adding at the end thereof the following new paragraph:

26 USC 38. "(8) PROHIBITION OF IMMEDIATE FLOWTHROUGH.—An election made under paragraph (3) shall apply only to the amount of the credit allowable under section 38 with respect to public utility property (within the meaning of subsection (a)(6)(D)) determined as if the Tax Reduction Act of 1975 had not been enacted. Any taxpayer who had timely made an election under paragraph (3) may, at his own option and without regard to any requirement imposed by an agency described in subsection (c)(3)(B), elect within 90 days after the date of the enactment of the Tax Reduction Act of 1975 (in such manner as the Secretary or his delegate shall prescribe) to have the provisions of paragraph (3) apply with respect to the amount of the credit allowable under section 38 with respect to such property which is in excess of the amount determined under the preceding sentence. If such taxpayer does not make such an election, paragraph (1) or (2) (whichever paragraph is applicable without regard to this paragraph) shall apply to such excess credit, except that if neither paragraph (1) nor (2)

Ante, p. 26.





is applicable (without regard to this paragraph), paragraph (1) shall apply unless the taxpayer elects (in such manner as the Secretary or his delegate shall prescribe) within 90 days after the date of the enactment of the Tax Reduction Act of 1975 to have the provisions of paragraph (2) apply. The provisions of this paragraph shall not be applied to disallow such excess credit before the first final determination which is inconsistent with such requirements is made, determined in the same manner as under paragraph (4)." Ante, p. 26.

(4) EFFECTIVE DATES.—The amendment made by paragraph (1) of this subsection shall apply to property placed in service after January 21, 1975, in taxable years ending after January 21, 1975. The amendments made by paragraphs (2) and (3) shall apply to taxable years ending after December 31, 1974. 26 USC 46 note.

(c) INCREASE FROM $50,000 TO $100,000 OF DOLLAR LIMITATION ON USED PROPERTY.—

(1) IN GENERAL.—Paragraph (2) of subsection 48(c) (relating to dollar limitation in case of used section 38 property) is amended— 26 USC 48. 26 USC 38.

(A) by striking out "$50,000" each place it appears and inserting in lieu thereof "$100,000", and

(B) by striking out "$25,000" and inserting in lieu thereof "$50,000".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply only to taxable years beginning after December 31, 1974, and before January 1, 1977. 26 USC 48 note.

(d) PLAN REQUIREMENTS FOR TAXPAYERS ELECTING 11-PERCENT CREDIT.—In order to meet the requirements of this subsection— 26 USC 46 note.

(1) A corporation (hereinafter in this subsection referred to as the "employer") must establish an employee stock ownership plan (described in paragraph (2)) which is funded by transfers of employer securities in accordance with the provisions of paragraph (6) and which meets all other requirements of this subsection. Employee stock ownership plan.

(2) The plan referred to in paragraph (1) must be a defined contribution plan established in writing which—

(A) is a stock bonus plan, a stock bonus and a money purchase pension plan, or a profit-sharing plan,

(B) is designed to invest primarily in employer securities, and

(C) meets such other requirements (similar to requirements applicable to employee stock ownership plans as defined in section 4975(e)(7) of the Internal Revenue Code of 1954) as the Secretary of the Treasury or his delegate may prescribe. 26 USC 4975.

(3) The plan must provide for the allocation of all employer securities transferred to it or purchased by it (because of the requirements of section 46(a)(1)(B) of the Internal Revenue Code of 1954) to the account of each participant (who was a participant at any time during the plan year, whether or not he is a participant at the close of the plan year) as of the close of each plan year in an amount which bears substantially the same proportion to the amount of all such securities allocated to all participants in the plan for that plan year as the amount of compensation paid to such participant (disregarding any compensation in excess of the first $100,000 per year) bears to the compensation paid to all such participants during that year (disregarding any compensation in excess of the first $100,000 with respect to any participant). 26 USC 46.

Notwithstanding the first sentence of this paragraph, the allocation to participants' accounts may be extended over whatever period may be necessary to comply with the requirements of section 415 of the Internal Revenue Code of 1954.

26 USC 415.

(4) The plan must provide that each participant has a nonforfeitable right to any stock allocated to his account under paragraph (3), and that no stock allocated to a participant's account may be distributed from that account before the end of the eighty-fourth month beginning after the month in which the stock is allocated to the account except in the case of separation from the service, death, or disability.

(5) The plan must provide that each participant is entitled to direct the plan as to the manner in which any employer securities allocated to the account of the participant are to be voted.

(6) On making a claim for credit, adjustment, or refund under section 38 of the Internal Revenue Code of 1954, the employer states in such claim that it agrees, as a condition of receiving any such credit, adjustment, or refund, to transfer employer securities forthwith to the plan having an aggregate value at the time of the claim of 1 percent of the amount of the qualified investment (as determined under section 46 (c) and (d) of such Code) of the taxpayer for the taxable year. For purposes of meeting the requirements of this paragraph, a transfer of cash shall be treated as a transfer of employer securities if the cash is, under the plan, used to purchase employer securities.

26 USC 38.

Post, p. 40.

(7) Notwithstanding any other provision of law to the contrary, if the plan does not meet the requirements of section 401 of the Internal Revenue Code of 1954—

26 USC 401.

(A) stock transferred under paragraph (6) and allocated to the account of any participant under paragraph (3) and dividends thereon shall not be considered income of the participant or his beneficiary under the Internal Revenue Code of 1954 until actually distributed or made available to the participant or his beneficiary and, at such time, shall be taxable under section 72 of such Code (treating the participant or his beneficiary as having a basis of zero in the contract),

26 USC 1 et seq.
26 USC 72.

(B) no amount shall be allocated to any participant in excess of the amount which might be allocated if the plan met the requirements of section 401 of such Code, and

(C) the plan must meet the requirements of sections 410 and 415 of such Code.

26 USC 410, 415.

(8) If the amount of the credit determined under section 46(a)(1)(B) of the Internal Revenue Code of 1954, is recaptured in accordance with the provisions of such Code, the amounts transferred to the plan under this subsection and allocated under the plan shall remain in the plan or in participant accounts, as the case may be and continue to be allocated in accordance with the original plan agreement.

26 USC 46.

(9) For purposes of this subsection, the term—

(A) "employer securities" means common stock issued by the employer or a corporation which is in control of the employer (within the meaning of section 368(c) of the Internal Revenue Code of 1954) with voting power and dividend rights no less favorable than the voting power and dividend rights of other common stock issued by the employer or such controlling corporation, or securities issued by the employer or such controlling corporation, convertible into such stock, and

"Employer secutities."
26 USC 368.





(B) "value" means the average of closing prices of the employer's securities, as reported by a national exchange on which securities are listed, for the 20 consecutive trading days immediately preceding the date of transfer or allocation of such securities or, in the case of securities not listed on a national exchange, the fair market value as determined in good faith and in accordance with regulations issued by the Secretary of the Treasury or his delegate.

"Value."

(10) The Secretary of the Treasury or his delegate shall prescribe such regulations and require such reports as may be necessary to carry out the provisions of this subsection.

Regulations and reports.

(11) If the employer fails to meet any requirement imposed under this subsection or under any obligation undertaken to comply with the requirement of this subsection, he is liable to the United States for a civil penalty of an amount equal to the amount involved in such failure. The preceding sentence shall not apply if the taxpayer corrects such failure (as determined by the Secretary of the Treasury or his delegate) within 90 days after notice thereof. For purposes of this paragraph, the term "amount involved" means an amount determined by the Secretary or his delegate, but not in excess of 1 percent of the qualified investment of the taxpayer for the taxable year under section 46(a)(1)(B) and not less than the product of one-half of one percent of such amount multiplied by the number of months (or parts thereof) during which such failure continues. The amount of such penalty may be collected by the Secretary of the Treasury in the same manner in which a deficiency in the payment of Federal income tax may be collected.

Penalty.
"Amount involved."
26 USC 46.

(12) Notwithstanding any provision of the Internal Revenue Code of 1954 to the contrary, no deductions shall be allowed under section 162, 212, or 404 of such Code for amounts transferred to an employee stock ownership plan and taken into account under this subsection.

26 USC 1 et seq.
26 USC 162, 212, 404.

**SEC. 302. ALLOWANCE OF INVESTMENT CREDIT WHERE CONSTRUCTION OF PROPERTY WILL TAKE MORE THAN 2 YEARS.**

(a) General Rule.—Section 46 (relating to amount of credit) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

26 USC 46.

"(d) Qualified Progress Expenditures.—

"(1) In general.—In the case of any taxpayer who has made an election under paragraph (6), the amount of his qualified investment for the taxable year (determined under subsection (c) without regard to this subsection) shall be increased by an amount equal to his aggregate qualified progress expenditures for the taxable year with respect to progress expenditure property.

"(2) Progress expenditure property defined.—

"(A) In general.—For purposes of this subsection, the term 'progress expenditure property' means any property which is being constructed by or for the taxpayer and which—

"(i) has a normal construction period of two years or more, and

"(ii) it is reasonable to believe will be new section 38 property having a useful life of 7 years or more in the hands of the taxpayer when it is placed in service.

26 USC 38.

Clauses (i) and (ii) of the preceding sentence shall be applied on the basis of facts known at the close of the taxable year of the taxpayer in which construction begins (or, if later, at the close of the first taxable year to which an election under this subsection applies).

"(B) NORMAL CONSTRUCTION PERIOD.—For purposes of subparagraph (A), the term 'normal construction period' means the period reasonably expected to be required for the construction of the property—

"(i) beginning with the date on which physical work on the construction begins (or, if later, the first day of the first taxable year to which an election under this subsection applies), and

"(ii) ending on the date on which it is expected that the property will be available for placing in service.

"(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term 'qualified progress expenditures' means the amount which, for purposes of this subpart, is, properly chargeable (during such taxable year) to capital account with respect to such property.

"(B) NON-SELF-CONSTRUCTED PROPERTY.—In the case of non-self-constructed property, the term 'qualified progress expenditures' means the lesser of—

"(i) the amount paid during the taxable year to another person for the construction of such property, or

"(ii) the amount which represents that proportion of the overall cost to the taxpayer of the construction by such other person which is properly attributable to that portion of such construction which is completed during such taxable year.

"(4) SPECIAL RULES FOR APPLYING PARAGRAPH (3).—For purposes of paragraph (3)—

"(A) COMPONENT PARTS, ETC.—Property which is to be a component part of, or is otherwise to be included in, any progress expenditure property shall be taken into account—

"(i) at a time not earlier than the time at which it becomes irrevocably devoted to use in the progress expenditure property, and

"(ii) as if (at the time referred to in clause (i)) the taxpayer had expended an amount equal to that portion of the cost to the taxpayer of such component or other property which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

"(B) CERTAIN BORROWINGS DISREGARDED.—Any amount borrowed directly or indirectly by the taxpayer from the person constructing the property for him shall not be treated as an amount expended for such construction.

"(C) CERTAIN UNUSED EXPENDITURES CARRIED OVER.—In the case of non-self-constructed property, if for the taxable year—

"(i) the amount under clause (i) of paragraph (3)(B) exceeds the amount under clause (ii) of paragraph (3)(B), then the amount of such excess shall be taken into account under such clause (i) for the succeeding taxable year, or

"(ii) the amount under clause (ii) of paragraph (3)(B) exceeds the amount under clause (i) of paragraph





(3)(B), then the amount of such excess shall be taken into account under such clause (ii) for the succeeding taxable year.

"(D) DETERMINATION OF PERCENTAGE OF COMPLETION.—In the case of non-self-constructed property, the determination under paragraph (3)(B)(ii) of the proportion of the overall cost to the taxpayer of the construction of any property which is properly attributable to construction completed during any taxable year shall be made, under regulations prescribed by the Secretary or his delegate, on the basis of engineering or architectural estimates or on the basis of cost accounting records. Unless the taxpayer establishes otherwise by clear and convincing evidence, the construction shall be deemed to be completed not more rapidly than ratably over the normal construction period.

"(E) NO QUALIFIED PROGRESS EXPENDITURES FOR CERTAIN PRIOR PERIODS.—In the case of any property, no qualified progress expenditures shall be taken into account under this subsection for any period before January 22, 1975 (or, if later, before the first day of the first taxable year to which an election under this subsection applies).

"(F) NO QUALIFIED PROGRESS EXPENDITURES FOR PROPERTY FOR YEAR IT IS PLACED IN SERVICE, ETC.—In the case of any property, no qualified progress expenditures shall be taken into account under this subsection for the earlier of—

"(i) the taxable year in which the property is placed in service, or

"(ii) the first taxable year for which recapture is required under section 47(a)(3) with respect to such property, Post, p. 43.

or for any taxable year thereafter.

"(5) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY.—The term 'self-constructed property' means property more than half of the construction expenditures for which it is reasonable to believe will be made directly by the taxpayer.

"(B) NON-SELF-CONSTRUCTED PROPERTY.—The term 'non-self-constructed property' means property which is not self-constructed property.

"(C) CONSTRUCTION, ETC.—The term 'construction' includes reconstruction and erection, and the term 'constructed' includes reconstructed and erected.

"(D) ONLY CONSTRUCTION OF SECTION 38 PROPERTY TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

"(6) ELECTION.—A election under this subsection may be made at such time and in such manner as the Secretary or his delegate may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary or his delegate.

"(7) TRANSITIONAL RULES.—The qualified investment taken into account under this subsection for any taxable year beginning before January 1, 1980, with respect to any property shall be (in lieu of the full amount) an amount equal to the sum of—



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"(A) the applicable percentage of the full amount determined under the following table:

| "For a taxable year beginning in: | The applicable percentage is: |
|---|---|
| 1974 or 1975 | 20 |
| 1976 | 40 |
| 1977 | 60 |
| 1978 | 80 |
| 1979 | 100; |

plus

"(B) in the case of any property to which this subsection applied for one or more preceding taxable years, 20 percent of the full amount for each such preceding taxable year.

"Full amount." For purposes of this paragraph, the term 'full amount', when used with respect to any property for any taxable year, means the amount of the qualified investment for such property for such year determined under this subsection without regard to this paragraph."

(b) Conforming Amendments.—

26 USC 46. (1) Amendment of section 46(c).—Section 46(c) (relating to qualified investment) is amended by adding at the end thereof the following new paragraph:

"(4) Coordination with subsection (d).—The amount which would (but for this paragraph) be treated as qualified investment under this subsection with respect to any property shall be reduced (but not below zero) by any amount treated by the taxpayer or a predecessor of the taxpayer (or, in the case of a sale and leaseback Infra. described in section 47(a)(3)(C), by the lessee) as qualified Ante, p. 40. investment with respect to such property under subsection (d), to the extent the amount so treated has not been required to be recaptured by reason of section 47(a)(3)."

(2) Disposition, etc.—

26 USC 38. (A) Subsection (a) of section 47 (relating to certain dispositions, etc., of section 38 property) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Property ceases to be progress expenditure property.—

"(A) In general.—If during any taxable year any property taken into account in determining qualified investment Ante, p. 40. under section 46(d) ceases (by reason of sale or other disposition, cancellation or abandonment of contract, or otherwise) to be, with respect to the taxpayer, property which, when placed in service, will be new section 38 property, then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero the qualified investment taken into account with respect to such property.

"(B) Certain excess credit recaptured.—Any amount which would have been applied as a reduction of the qualified investment in property by reason of paragraph (4) of section 46(c) but for the fact that a reduction under such paragraph cannot reduce qualified investment below zero shall be treated as an amount required to be recaptured under subparagraph (A) for the taxable year in which the property is placed in service.

"(C) Certain sales and leasebacks.—Under regulations prescribed by the Secretary or his delegate, a sale by, and





leaseback to, a taxpayer who, when the property is placed in service, will be a lessee to whom section 48(d) applies shall 26 USC 48.
not be treated as a cessation described in subparagraph (A) to the extent that the qualified investment which will be passed through to the lessee under section 48(d) with respect to such property is not less than the qualified progress expenditures properly taken into account by the lessee with respect to such property.

"(D) Coordination with paragraph (1).—If, after property is placed in service, there is a disposition or other cessation described in paragraph (1), paragraph (1) shall be applied as if any credit which was allowable by reason of section 46(d) and which has not been required to be recap- Ante, p. 40.
tured before such cessation were allowable for the taxable year the property was placed in service."

(c) Clerical Amendments.—

(1) Paragraph (4) of section 47(a) (as redesignated by sub- Ante, p. 43.
section (b)(2)(A) of this section) is amended by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1) or (3)".

(2) Paragraphs (5) and (6)(B) of section 47(a) are each amended by striking out "paragraph (3)" and inserting in lieu thereof "paragraph (4)".

(3) Paragraphs (1) and (2) of section 48(d) are each amended 26 USC 48.
by striking out "section 46(d)(1)" and inserting in lieu thereof "section 46(e)(1)".

(4) Subsection (f) of section 50B is amended by striking out 26 USC 50B.
"section 46(d)" and inserting in lieu thereof "section 46(e)".

**SEC. 303. CHANGE IN CORPORATE TAX RATES AND INCREASE IN SURTAX EXEMPTION.**

(a) Tax Rates.—Section 11(b) (relating to corporate normal tax) 26 USC 11.
is amended to read as follows:

"(b) Normal Tax.—The normal tax is equal to—

"(1) in the case of a taxable year ending before January 1, 1975, or after December 31, 1975, 22 percent of the taxable income, and

"(2) in the case of a taxable year ending after December 31, 1974, and before January 1, 1976, the sum of—

"(A) 20 percent of so much of the taxable income as does not exceed $25,000, plus

"(B) 22 percent of so much of the taxable income as exceeds $25,000.".

(b) Surtax Exemption.—Section 11(d) (relating to surtax exemption) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".

(c) Technical and Conforming Amendments.—

(1) Paragraph (1) of section 1561(a) (as in effect for taxable 26 USC 1561.
years beginning after December 31, 1974) (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000". In applying subsection (b)(2) of sec- 26 USC 11 note.
tion 11, the first $25,000 of taxable income and the second $25,000 of taxable income shall each be allocated among the component members of a controlled group of corporations in the same manner as the surtax exemption is allocated.

(2) Paragraph (7) of section 12 (relating to cross references 26 USC 12.
for tax on corporations) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".

26 USC 962. (3) Section 962(c) (relating to surtax exemption for individuals electing to be subject to tax at corporate rates) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".

**SEC. 304. INCREASE IN MINIMUM ACCUMULATED EARNINGS CREDIT FROM $100,000 TO $150,000.**

26 USC 535. (a) INCREASE.—Paragraphs (2) and (3) of section 535(c) (relating to accumulated earnings credit) are each amended by striking out "$100,000" and inserting in lieu thereof "$150,000".

26 USC 243. (b) CONFORMING AMENDMENTS.—Sections 243(b)(3)(C)(i) (relating to qualifying dividends for purposes of the dividends received
26 USC 1551. deduction), 1551(a) (relating to disallowance of surtax exemption and
26 USC 1561. accumulated earnings credit) and 1561(a)(2) (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) are each amended by striking out "$100,000" and inserting in lieu thereof "$150,000".

**SEC. 305. EFFECTIVE DATES.**

26 USC 42 note. (a) SECTION 302.—The amendments made by section 302 shall apply to taxable years ending after December 31, 1974.

(b) SECTION 303.—

26 USC 11 note. (1) IN GENERAL.—The amendments made by section 303 shall apply to taxable years ending after December 31, 1974. The amendments made by subsections (b) and (c) of such section shall cease to apply for taxable years ending after December 31, 1975.

26 USC 21. (2) CHANGES TREATED AS CHANGES IN TAX RATE.—Section 21 (relating to change in rates during taxable year) is amended by adding at the end thereof the following new subsection:

"(f) INCREASE IN SURTAX EXEMPTION.—In applying subsection (a) to a taxable year of a taxpayer which is not a calendar year, the change made by section 303(b) of the Tax Reduction Act of 1975 in section
Ante, p. 44. 11(d) (relating to corporate surtax exemption) shall be treated as a change in a rate of tax."

26 USC 535 note. (c) SECTION 304.—The amendments made by section 304 apply to taxable years beginning after December 31, 1974.

# TITLE IV—CHANGES AFFECTING INDIVIDUALS AND BUSINESSES

**SEC. 401. FEDERAL WELFARE RECIPIENT EMPLOYMENT INCENTIVE TAX CREDIT.**

(a) IN GENERAL.—

26 USC 50A. (1) Section 50A(a) (relating to determination of amount of credit) is amended by adding at the end thereof the following new paragraph:

"(6) LIMITATION WITH RESPECT TO NONBUSINESS ELIGIBLE EMPLOYEES.—Notwithstanding paragraph (1), the credit allowed
26 USC 40. by section 40 with respect to Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer during the taxable year to an eligible employee whose services are not performed in connection with a trade or business of the taxpayer shall not exceed $1,000."

(2) Section 50A(c)(2)(A) (relating to amount of credit) is amended—

(A) by striking out "or" at the end of clause (ii),

(B) by striking out the period at the end of clause (iii) and inserting in lieu thereof a comma and "or", and





(C) by inserting at the end thereof the following new clause:

"(iv) a termination of employment of an individual with respect to whom Federal welfare recipient employment incentive expenses (as described in section 50B (a)(2)) are taken into account under subsection (a)." Infra.

(3) Section 50B(a) (relating to definitions; special rules) is amended to read as follows: 26 USC 50B.

"(a) WORK INCENTIVE PROGRAM EXPENSES.—

"(1) IN GENERAL.—For purposes of this subpart, the term 'work incentive program expenses' means the sum of—

"(A) the amount of wages paid or incurred by the taxpayer for services rendered during the first 12 months of employment (whether or not consecutive) of employees who are certified by the Secretary of Labor as—

"(i) having been placed in employment under a work incentive program established under section 432(b)(1) of the Social Security Act, and 42 USC 632.

"(ii) not having displaced any individual from employment, plus

"(B) the amount of Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer during the taxable year.

"(2) DEFINITION.—For purposes of this section, the term 'Federal welfare recipient employment incentive expenses' means the amount of wages paid or incurred by the taxpayer for services rendered to the taxpayer before July 1, 1976, by an eligible employee.

"(3) EXCLUSION.—No item taken into account under paragraph (1)(A) shall be taken into account under paragraph (1)(B). No item taken into account under paragraph (1)(B) shall be taken into account under paragraph 1(A)."

(4) Section 50B(c) is amended—

(A) by striking out "subsection (a)" in paragraph (1) and inserting in lieu thereof "subsection (a)(1)(A)", and

(B) by striking out "subsection (a)" in paragraph (4) and inserting in lieu thereof "subsection (a)(1)(A)".

(5) Section 50B is amended by redesignating subsection (g) as (h) and by inserting immediately after subsection (f) the following new subsection:

"(g) ELIGIBLE EMPLOYEE.—

"(1) ELIGIBLE EMPLOYEE.—For purposes of subsection (a)(1) (B), the term 'eligible employee' means an individual—

"(A) who has been certified by the appropriate agency of State or local government as being eligible for financial assistance under part A of title IV of the Social Security Act 42 USC 601. and as having continuously received such financial assistance during the 90 day period which immediately precedes the date on which such individual is hired by the taxpayer,

"(B) who has been employed by the taxpayer for a period in excess of 30 consecutive days on a substantially full-time basis,

"(C) who has not displaced any other individual from employment by the taxpayer, and

"(D) who is not a migrant worker.

The term 'eligible employee' includes an employee of the taxpayer whose services are not performed in connection with a trade or business of the taxpayer.

"(2) MIGRANT WORKER.—For purposes of paragraph (1), the term 'migrant worker' means an individual who is employed for services for which the customary period of employment by one employer is less than 30 days if the nature of such services requires that such individual travel from place to place over a short period of time."

26 USC 50A note.

(b) EFFECTIVE DATE.—The amendments made by this section with respect to federal welfare recipient employment incentive expenses shall apply to such expenses paid or incurred by a taxpayer to an eligible employee whom such taxpayer hires after the date of the enactment of this Act.

**SEC. 402. TIME WHEN CONTRIBUTIONS DEEMED MADE TO CERTAIN PENSION PLANS.**

26 USC 410 note.

Section 1017 of the Employee Retirement Income Security Act of 1974 (relating to effective dates for funding, etc., provisions of that Act) is amended—

(1) in subsection (b) by striking out "(c) through (h)," and inserting in lieu thereof "(c) through (i),"; and

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

"(i) CONTRIBUTIONS TO H.R. 10 PLANS.—Notwithstanding subsections (b) and (c)(2), in the case of a plan in existence on January 1, 1974, the amendment made by section 1013(c)(2) of this Act shall apply, with respect to a plan which provides contributions or benefits for employees some or all of whom are employees within the meaning of section 401(c)(1) of the Internal Revenue Code of 1954, for plan years beginning after December 31, 1974, but only if the employer (within the meaning of section 401(c)(4) of such Code) elects in such manner and at such time as the Secretary of the Treasury or his delegate shall by regulations prescribe, to have such amendment so apply. Any election made under this subsection, once made, shall be irrevocable."

88 Stat. 914.
26 USC 412.
26 USC 401.

# TITLE V—PERCENTAGE DEPLETION

**SEC. 501. LIMITATIONS ON PERCENTAGE DEPLETION FOR OIL AND GAS.**

(a) IN GENERAL.—Part I of subchapter I of chapter 1 (relating to natural resources) is amended by inserting after section 613 the following new section:

26 USC 613A.

**"SEC. 613A. LIMITATIONS ON PERCENTAGE DEPLETION IN CASE OF OIL AND GAS WELLS.**

"(a) GENERAL RULE.—Except as otherwise provided in this section, the allowance for depletion under section 611 with respect to any oil or gas well shall be computed without regard to section 613.

26 USC 611.
26 USC 613.

"(b) EXEMPTION FOR CERTAIN DOMESTIC GAS WELLS.—

"(1) IN GENERAL.—The allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to—

"(A) regulated natural gas,

"(B) natural gas sold under a fixed contract, and

"(C) any geothermal deposit in the United States or in a possession of the United States which is determined to be a gas well within the meaning of section 613(b)(1)(A),

and 22 percent shall be deemed to be specified in subsection (b) of section 613 for purposes of subsection (a) of that section.





"(2) DEFINITIONS.—For purposes of this subsection—

"(A) NATURAL GAS SOLD UNDER A FIXED CONTRACT.—The term 'natural gas sold under a fixed contract' means domestic natural gas sold by the producer under a contract, in effect on February 1, 1975, and at all times thereafter before such sale, under which the price for such gas cannot be adjusted to reflect to any extent the increase in liabilities of the seller for tax under this chapter by reason of the repeal of percentage depletion for gas. Price increases after February 1, 1975, shall be presumed to take increases in tax liabilities into account unless the taxpayer demonstrates to the contrary by clear and convincing evidence.

"(B) REGULATED NATURAL GAS.—The term 'regulated natural gas' means domestic natural gas produced and sold by the producer, before July 1, 1976, subject to the jurisdiction of the Federal Power Commission, the price for which has not been adjusted to reflect to any extent the increase in liability of the seller for tax under this chapter by reason of the repeal of percentage depletion for gas. Price increases after February 1, 1975, shall be presumed to take increases in tax liabilities into account unless the taxpayer demonstrates the contrary by clear and convincing evidence.

"(c) EXEMPTION FOR INDEPENDENT PRODUCERS AND ROYALTY OWNERS.—

"(1) IN GENERAL.—Except as provided in subsection (d), the allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to— 26 USC 611. 26 USC 613.

"(A) so much of the taxpayer's average daily production of domestic crude oil as does not exceed the taxpayer's depletable oil quantity; and

"(B) so much of the taxpayer's average daily production of domestic natural gas as does not exceed the taxpayer's depletable natural gas quantity;

and the applicable percentage (determined in accordance with the table contained in paragraph (5)) shall be deemed to be specified in subsection (b) of section 613 for purposes of subsection (a) of that section.

"(2) AVERAGE DAILY PRODUCTION.—For purposes of paragraph (1)—

"(A) the taxpayer's average daily production of domestic crude oil or natural gas for any taxable year, shall be determined by dividing his aggregate production of domestic crude oil or natural gas, as the case may be, during the taxable year by the number of days in such taxable year, and

"(B) in the case of a taxpayer holding a partial interest in the production from any property (including an interest held in a partnership) such taxpayer's production shall be considered to be that amount of such production determined by multiplying the total production of such property by the taxpayer's percentage participation in the revenues from such property.

In applying this paragraph, there shall not be taken into account any production of crude oil or natural gas resulting from secondary or tertiary processes (as defined in regulations prescribed by the Secretary or his delegate).

"(3) DEPLETABLE OIL QUANTITY.—

"(A) IN GENERAL.—For purposes of paragraph (1), the taxpayer's depletable oil quantity shall be equal to—

"(i) the tentative quantity determined under the table contained in subparagraph (B), reduced (but not below zero) by

"(ii) the taxpayer's average daily secondary or tertiary production for the taxable year.

"(B) PHASE-OUT TABLE.—For purposes of subparagraph (A)—

| "In the case of production during the calendar year: | The tentative quantity in barrels is: |
|---|---|
| 1975 | 2,000 |
| 1976 | 1,800 |
| 1977 | 1,600 |
| 1978 | 1,400 |
| 1979 | 1,200 |
| 1980 and thereafter | 1,000 |

"(4) DAILY DEPLETABLE NATURAL GAS QUANTITY.—For purposes of paragraph (1), the depletable natural gas quantity of any taxpayer for any taxable year shall be equal to 6,000 cubic feet multiplied by the number of barrels of the taxpayer's depletable oil quantity to which the taxpayer elects to have this paragraph apply. The taxpayer's depletable oil quantity for any taxable year shall be reduced by the number of barrels with respect to which an election under this paragraph applies. Such election shall be made at such time and in such manner as the Secretary or his delegate shall by regulations prescribe.

"(5) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)—

| "In the case of production during the calendar year: | The applicable percentage is: |
|---|---|
| 1975 | 22 |
| 1976 | 22 |
| 1977 | 22 |
| 1978 | 22 |
| 1979 | 22 |
| 1980 | 22 |
| 1981 | 20 |
| 1982 | 18 |
| 1983 | 16 |
| 1984 and thereafter | 15 |

"(6) OIL AND NATURAL GAS RESULTING FROM SECONDARY OR TERTIARY PROCESSES.—

"(A) IN GENERAL.—Except as provided in subsection (d),
26 USC 611. the allowance for depletion under section 611 shall be com-
26 USC 613. puted in accordance with section 613 with respect to—

"(i) so much of the taxpayer's average daily secondary or tertiary production of domestic crude oil as does not exceed the taxpayer's depletable oil quantity (determined with regard to paragraph (3)(A)(ii)); and

"(ii) so much of the taxpayer's average daily secondary or tertiary production of domestic natural gas as does not exceed the taxpayer's depletable natural gas quantity (determined without regard to paragraph (3)(A)(ii));

and 22 percent shall be deemed to be specified in subsection (b) of section 613 for purposes of subsection (a) of that section.

"(B) AVERAGE DAILY SECONDARY OR TERTIARY PRODUCTION.—For purposes of this subsection—

"(i) the taxpayer's average daily secondary or tertiary production of domestic crude oil or natural gas for any taxable year shall be determined by dividing his aggregate production of domestic crude oil or natural gas, as





the case may be, resulting from secondary or tertiary processes during the taxable year by the number of days in such taxable year, and

"(ii) in the case of a taxpayer holding a partial interest in the production from any property (including any interest held in any partnership) such taxpayer's production shall be considered to be that amount of such production determined by multiplying the total production of such property by the taxpayer's percentage participation in the revenues from such property.

"(C) TERMINATION.—This paragraph shall not apply after December 31, 1983.

"(7) SPECIAL RULES.—

"(A) PRODUCTION OF CRUDE OIL IN EXCESS OF DEPLETABLE OIL QUANTITY.—If the taxpayer's average daily production of domestic crude oil exceeds his depletable oil quantity, the allowance under paragraph (1)(A) with respect to oil produced during the taxable year from each property in the United States shall be that amount which bears the same ratio to the amount of depletion which would have been allowable under section 613(a) for all of the taxpayer's oil produced 26 USC 613. from such property during the taxable year (computed as if section 613 applied to all of such production at the rate specified in paragraph (5) or (6), as the case may be) as his depletable oil quantity bears to the aggregate number of barrels representing the average daily production of domestic crude oil of the taxpayer for such year.

"(B) PRODUCTION OF NATURAL GAS IN EXCESS OF DEPLETABLE NATURAL GAS QUANTITY.—If the taxpayer's average daily production of domestic natural gas exceeds his depletable natural gas quantity, the allowance under paragraph (1)(B) with respect to natural gas produced during the taxable year from each property in the United States shall be that amount which bears the same ratio to the amount of depletion which would have been allowable under section 613(a) for all of the taxpayers natural gas produced from such property during the taxable year (computed as if section 613 applied to all of such production at the rate specified in paragraph (5) or (6), as the case may be) as the amount of his depletable natural gas quantity in cubic feet bears to the aggregate number of cubic feet representing the average daily production of domestic natural gas of the taxpayer for such year.

"(C) TAXABLE INCOME FROM THE PROPERTY.—If both oil and gas are produced from the property during the taxable year, for purposes of subparagraphs (A) and (B) the taxable income from the property, in applying the 50-percent limitation in section 613(a), shall be allocated between the oil production and the gas production in proportion to the gross income during the taxable year from each.

"(D) PARTNERSHIPS.—In the case of a partnership, the depletion allowance in the case of oil and gas wells to which this subsection applies shall be computed separately by the partners and not by the partnership.

"(E) SECONDARY OR TERTIARY PRODUCTION.—If the taxpayer has production from secondary or tertiary recovery processes during the taxable year, this paragraph (under regulations prescribed by the Secretary or his delegate) shall be applied separately with respect to such production.

"(8) BUSINESSES UNDER COMMON CONTROL; MEMBERS OF THE SAME FAMILY.—

"(A) COMPONENT MEMBERS OF CONTROLLED GROUP TREATED AS ONE TAXPAYER.—For purposes of this subsection, persons who are members of the same controlled group of corporations shall be treated as one taxpayer.

"(B) AGGREGATION OF BUSINESS ENTITIES UNDER COMMON CONTROL.—If 50 percent or more of the beneficial interest in two or more corporations, trusts, or estates is owned by the same or related persons (taking into account only persons who own at least 5 percent of such beneficial interest), the tentative quantity determined under the table in paragraph (3)(B) shall be allocated among all such entities in proportion to the respective production of domestic crude oil during the period in question by such entities.

"(C) ALLOCATION AMONG MEMBERS OF THE SAME FAMILY.—In the case of individuals who are members of the same family, the tentative quantity determined under the table in paragraph (3)(B) shall be allocated among such individuals in proportion to the respective production of domestic crude oil during the period in question by such individuals.

"(D) DEFINITION AND SPECIAL RULES.—For purposes of this paragraph—

26 USC 1563. "(i) the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that section 1563(b)(2) shall not apply and except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a),

"(ii) a person is a related person to another person if such persons are members of the same controlled group of corporations or if the relationship between such persons would result in a disallowance of losses under section

26 USC 267, 707. 267 or 707(b), except that for this purpose the family of an individual includes only his spouse and minor children,

"(iii) the family of an individual includes only his spouse and minor children, and

"(iv) each 6,000 cubic feet of domestic natural gas shall be treated as 1 barrel of domestic crude oil.

"(9) TRANSFER OF OIL OR GAS PROPERTY.—

"(A) In the case of a transfer (including the subleasing of a lease) after December 31, 1974 of an interest (including an interest in a partnership or trust) in any proven oil or gas property, paragraph (1) shall not apply to the transferee (or sublessee) with respect to production of crude oil or natural gas attributable to such interest, and such production shall not be taken into account for any computation by the transferee (or sublessee) under this subsection. A property shall be treated as a proven oil or gas property if at the time of the transfer the principal value of the property has been demonstrated by prospecting or exploration or discovery work.

"(B) Subparagraph (A) shall not apply in the case of—

"(i) a transfer of property at death, or

26 USC 351. "(ii) the transfer in an exchange to which section 351 applies if following the exchange the tentative quantity determined under the table contained in paragraph (3)(B) is allocated under paragraph (8) between the transferor and transferee.

"(10) SPECIAL RULE FOR FISCAL YEAR TAXPAYERS.—In applying this subsection to a taxable year which is not a calendar year, each portion of such taxable year which occurs during a single calendar year shall be treated as if it were a short taxable year.

"(11) CERTAIN PRODUCTION NOT TAKEN INTO ACCOUNT.—In applying this subsection, there shall not be taken into account the production of natural gas with respect to which subsection (b) applies.

"(d) LIMITATIONS ON APPLICATION OF SUBSECTION (c).—

"(1) LIMITATION BASED ON TAXABLE INCOME.—The deduction for the taxable year attributable to the application of subsection (c) shall not exceed 65 percent of the taxpayer's taxable income for the year computed without regard to—

"(A) depletion with respect to production of oil and gas subject to the provisions of subsection (c),

"(B) any net operating loss carryback to the taxable year under section 172, and 26 USC 172.

"(C) any capital loss carryback to the taxable year under section 1212. 26 USC 1212.

If an amount is disallowed as a deduction for the taxable year by reason of application of the preceding sentence, the disallowed amount shall be treated as an amount allowable as a deduction under subsection (c) for the following taxable year, subject to the application of the preceding sentence to such taxable year. For purposes of basis adjustments and determining whether cost depletion exceeds percentage depletion with respect to the production from a property, any amount disallowed as a deduction on the application of this paragraph shall be allocated to the respective properties from which the oil or gas was produced in proportion to the percentage depletion otherwise allowable to such properties under subsection (c).

"(2) RETAILERS EXCLUDED.—Subsection (c) shall not apply in the case of any taxpayer who directly, or through a related person, sells oil or natural gas, or any product derived from oil or natural gas—

"(A) through any retail outlet operated by the taxpayer or a related person, or

"(B) to any person—

"(i) obligated under an agreement or contract with the taxpayer or a related person to use a trademark, trade name, or service mark or name owned by such taxpayer or a related person, in marketing or distributing oil or natural gas or any product derived from oil or natural gas, or

"(ii) given authority, pursuant to an agreement or contract with the taxpayer or a related person, to occupy any retail outlet owned, leased, or in any way controlled by the taxpayer or a related person.

"(3) RELATED PERSON.—For purposes of this subsection, a person is a related person with respect to the taxpayer if a significant ownership interest in either the taxpayer or such person is held by the other, or if a third person has a significant ownership interest in both the taxpayer and such person. For purposes of the

"Significant ownership interest." preceding sentence, the term 'significant ownership interest' means—

"(A) with respect to any corporation, 5 percent or more in value of the outstanding stock of such corporation,

"(B) with respect to a partnership, 5 percent or more interest in the profits or capital of such partnership, and

"(C) with respect to an estate or trust, 5 percent or more of the beneficial interests in such estate or trust.

"(4) CERTAIN REFINERS EXCLUDED.—If the taxpayer or a related person engages in the refining of crude oil, subsection (c) shall not apply to such taxpayer if on any day during the taxable year the refinery runs of the taxpayer and such person exceed 50,000 barrels.

"(e) DEFINITIONS.—For purposes of this section—

"(1) CRUDE OIL.—The term 'crude oil' includes a natural gas liquid recovered from a gas well in lease separators or field facilities.

"(2) NATURAL GAS.—The term 'natural gas' means any product (other than crude oil) of an oil or gas well if a deduction for
26 USC 611. depletion is allowable under section 611 with respect to such product.

"(3) DOMESTIC.—The term 'domestic' refers to production from an oil or gas well located in the United States or in a possession of the United States.

"(4) BARREL.—The term 'barrel' means 42 United States gallons."

(b) TECHNICAL AMENDMENTS.—

26 USC 613. (1) Section 613(d) (relating to percentage depletion) is amended to read as follows:

"(d) DENIAL OF PERCENTAGE DEPLETION IN CASE OF OIL AND GAS
Ante, p. 47. WELLS.—Except as provided in section 613A, in the case of any oil or gas well, the allowance for depletion shall be computed without reference to this section."

(2) Section 613(b) is amended—

(A) by striking out subparagraph (A) of paragraph (1) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively,

(B) by striking out "(1)(C)" each place it appears in paragraphs (3), (4), and (7) and inserting in lieu thereof "(1)(B)", and

(C) by amending the last sentence of paragraph (7)—

(i) by striking out "or" at the end of clause (A),

(ii) by striking out the period at the end of clause (B) and inserting in lieu thereof "; or", and

(iii) by adding at the end thereof the following new clause:

"(C) oil and gas wells."

26 USC 703. (3) Section 703(a)(2) (relating to deductions not allowable to a partnership) is amended by striking out "and" at the end of subparagraph (E), by striking out the period at the end of subparagraph (F) and inserting in lieu ", and", and by adding at the end thereof the following new subparagraph:

"(G) the deduction for depletion under section 611 with respect to oil and gas production subject to the provisions of section 613A(c)."

26 USC 613A note. (c) EFFECTIVE DATES.—The amendments made by this section shall take effect on January 1, 1975, and shall apply to taxable years ending after December 31, 1974.





# TITLE VI—TAXATION OF FOREIGN OIL AND GAS AND OTHER FOREIGN INCOME

**SEC. 601. LIMITATIONS ON FOREIGN TAX CREDIT FOR TAXES PAID IN CONNECTION WITH FOREIGN OIL AND GAS INCOME.**

(a) IN GENERAL.—Subpart A of part III of subchapter N of chapter 1 (relating to foreign tax credit) is amended by adding at the end thereof the following new section:

**"SEC. 907. SPECIAL RULES IN CASE OF FOREIGN OIL AND GAS INCOME.** 26 USC 907.

"(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN TAX UNDER SECTION 901.—In applying section 901, the amount of any income, war 26 USC 901.
profits, and excess profits taxes paid or accrued (or deemed to have been paid) during the taxable year with respect to foreign oil and gas extraction income which would (but for this subsection) be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which the amount of such taxes exceeds the product of—

"(1) the amount of the foreign oil and gas extraction income for the taxable year, multiplied by

"(2) the percentage which is—

"(A) in taxable years ending in 1975, 110 percent of,

"(B) in taxable years ending in 1976, 105 percent of, and

"(C) in taxable years ending after 1976, 2 percentage points above,

the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11. 26 USC 11.

"(b) APPLICATION OF SECTION 904 LIMITATION.—The provisions 26 USC 904.
of section 904 shall be applied separately with respect to—

"(1) foreign oil related income, and

"(2) other taxable income.

With respect to foreign oil related income, the overall limitation provided by section 904(a)(2) shall apply and the per-country limitation provided by section 904(a)(1) shall not apply.

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

"(1) FOREIGN OIL AND GAS EXTRACTION INCOME.—The term 'foreign oil and gas extraction income' means the taxable income derived from sources without the United States and its possessions from—

"(A) the extraction (by the taxpayer or any other person) of minerals from oil or gas wells, or

"(B) the sale or exchange of assets used by the taxpayer in the trade or business described in subparagraph (A).

"(2) FOREIGN OIL RELATED INCOME.—The term 'foreign oil related income' means the taxable income derived from sources outside the United States and its possessions from—

"(A) the extraction (by the taxpayer or any other person) of minerals from oil or gas wells,

"(B) the processing of such minerals into their primary products,

"(C) the transportation of such minerals or primary products,

"(D) the distribution or sale of such minerals or primary products, or

"(E) the sale or exchange of assets used by the taxpayer in the trade or business described in subparagraph (A), (B), (C), or (D).

"(3) Dividends, interest, partnership distribution, etc.—The term 'foreign oil and gas extraction income' and the term 'foreign oil related income' include—

"(A) dividends and interest from a foreign corporation in respect of which taxes are deemed paid by the taxpayer under section 902, 26 USC 902.

"(B) dividends from a domestic corporation which are treated under section 861(a)(2)(A) as income from sources without the United States, 26 USC 861.

"(C) amounts with respect to which taxes are deemed paid under section 960(a), and 26 USC 960.

"(D) the taxpayer's distributive share of the income of partnerships.

to the extent such dividends, interest, amounts, or distributive share is attributable to foreign oil and gas extraction income, or to foreign oil related income, as the case may be; except that interest described in subparagraph (A) and dividends described in subparagraph (B) shall not be taken into account in computing foreign oil and gas extraction income but shall be taken into account in computing foreign oil-related income.

"(4) Certain losses.—If for any foreign country for any taxable year the taxpayer would have a net operating loss if only items from sources within such country (including deductions properly apportioned or allocated thereto) which relate to the extraction of minerals from oil or gas wells were taken into account, such items—

"(A) shall not be taken into account in computing foreign oil and gas extraction income for such year, but

"(B) shall be taken into account in computing foreign oil related income for such year.

"(d) Disregard of Certain Posted Prices, Etc.—For purposes of this chapter, in determining the amount of taxable income in the case of foreign oil and gas extraction income, if the oil or gas is disposed of, or is acquired other than from the government of a foreign country, at a posted price (or other pricing arrangement) which differs from the fair market value for such oil or gas, such fair market value shall be used in lieu of such posted price (or other pricing arrangement).

"(e) Transitional Rules.—

"(1) Taxable years ending after December 31, 1974.—In applying subsections (d) and (e) of section 904 for purposes of determining the amount which may be carried over from a taxable year ending before January 1, 1975, to any taxable year ending after December 31, 1974— 26 USC 904.

"(A) subsection (a) of this section shall be deemed to have been in effect for such prior taxable year and for all taxable years thereafter, and

"(B) the carryover from such prior year shall be divided (effective as of the first day of the first taxable year ending after December 31, 1974) into—

"(i) a foreign oil related carryover, and

"(ii) another carryover,

on the basis of the proportionate share of the foreign oil related income, or the other taxable income, as the case may be, of the total taxable income taken into account in computing the amount of such carryover.

"(2) Taxable years ending after December 31, 1975.—In applying subsections (d) and (e) of section 904 for purposes of determining the amount which may be carried over from a taxable year ending before January 1, 1976, to any taxable year ending after December 31, 1975, if the per-country limitation provided by section 904(a)(1) applied to such prior taxable year and to the taxpayer's last taxable year ending before January 1, 1976, then in the case of any foreign oil related carryover— 26 USC 904.

"(A) the first sentence of section 904(e)(2) shall not apply, but

"(B) such amount may not exceed the amount which could have been used in such succeeding taxable year if the per-country limitation continued to apply.





"(f) Recapture of Foreign Oil Related Loss.—

"(1) General rule.—For purposes of this subpart, in the case of any taxpayer who sustains a foreign oil related loss for any taxable year—

"(A) that portion of the foreign oil related income for each succeeding taxable year which is equal to the lesser of—

"(i) the amount of such loss (to the extent not used under this paragraph in prior years), or

"(ii) 50 percent of the foreign oil related income for such succeeding taxable year,

shall be treated as income from sources within the United States (and not as income from sources without the United States), and

"(B) the amount of the income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid) to a foreign country for such succeeding taxable year with respect to foreign oil related income shall be reduced by an amount which bears the same proportion to the total amount of such foreign taxes as the amount treated as income from sources within the United States under subparagraph (A) bears to the total foreign oil related income for such succeeding taxable year.

For purposes of this chapter, the amount of any foreign taxes for which credit is denied under subparagraph (B) of the preceding sentence shall not be allowed as a deduction for any taxable year. For purposes of this subsection, foreign oil related income shall be determined without regard to this subsection.

"(2) Foreign oil related loss defined.—For purposes of this subsection, the term 'foreign oil related loss' means the amount by which the gross income for the taxable year from sources without the United States and its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in determining the foreign oil related income for such year is exceeded by the sum of the deductions properly apportioned or allocated thereto, except that there shall not be taken into account—

"(A) any net operating loss deduction allowable for such year under section 172(a) or any capital loss carrybacks and carryovers to such year under section 1212, and 26 USC 172. 26 USC 1212.

"(B) any—

"(i) foreign expropriation loss for such year, as defined in section 172(k)(1), or

"(ii) loss for such year which arises from fire, storm, shipwreck, or other casualty, or from theft,

to the extent such loss is not compensated for by insurance or otherwise.

"(3) Dispositions.—

"(A) In general.—For purposes of this chapter, if property used in a trade or business described in subparagraph

(A), (B), (C), or (D) of subsection (c)(2) is disposed of during any taxable year—

"(i) the taxpayer notwithstanding any other provision of this chapter (other than paragraph (1)) shall be deemed to have received and recognized foreign oil related income in the taxable year of the disposition, by reason of such disposition, in an amount equal to the lesser of the excess of the fair market value of such property over the taxpayer's adjusted basis in such property or the remaining amount of the foreign oil related losses which were not used under paragraph (1) for such taxable year or any prior taxable year, and

"(ii) paragraph (1) shall be applied with respect to such income by substituting '100 percent' for '50 percent'.

"(B) DISPOSITION DEFINED.—For purposes of this subsection, the term 'disposition' includes a sale, exchange, distribution, or gift of property, whether or not gain or loss is recognized on the transfer.

"(C) EXCEPTIONS.—Notwithstanding subparagraph (B), the term 'disposition' does not include—

"(i) a disposition of property which is not a material factor in the realization of income by the taxpayer, or

"(ii) a disposition of property to a domestic corporation in a distribution or transfer described in section 381(a). 26 USC 381.

"(g) WESTERN HEMISPHERE TRADE CORPORATIONS WHICH ARE MEMBERS OF AN AFFILIATED GROUP.—If a Western Hemisphere trade corporation is a member of an affiliated group for the taxable year, then in applying section 901, the amount of any income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid) during the taxable year with respect to foreign oil and gas extraction income which would (but for this section and section 1503(b)) be taken into account for purposes of section 901 shall be reduced by the greater of—

26 USC 901.
26 USC 1503.

"(1) the reduction with respect to such taxes provided by subsection (a) of this section, or

"(2) the reduction determined under section 1503(b) by applying section 1503(b) separately with respect to such taxes, but not by both such reductions."

(b) CERTAIN PAYMENTS NOT TO BE CONSIDERED AS TAXES.—Section 901 is amended by redesignating subsection (f) as subsection (g), and by adding after subsection (e) the following new subsection:

"(f) CERTAIN PAYMENTS FOR OIL OR GAS NOT CONSIDERED AS TAXES.—Notwithstanding subsection (b) and sections 902 and 960, the amount of any income, or profits, and excess profits taxes paid or accrued during the taxable year to any foreign country in connection with the purchase and sale of oil or gas extracted in such country is not to be considered as tax for purposes of section 275(a) and this section if—

26 USC 902, 960.
26 USC 275.

"(1) the taxpayer has no economic interest in the oil or gas to which section 611(a) applies, and 26 USC 611.

"(2) either such purchase or sale is at a price which differs from the fair market value for such oil or gas at the time of such purchase or sale."

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:

**"Sec. 907. Special rules in case of foreign oil and gas income."**





(d) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years ending after December 31, 1974; except that— 26 USC 907 note.

(1) the second sentence of section 907(b) shall apply to taxable years ending after December 31, 1975, and

(2) the provisions of section 907(f) shall apply to losses sustained in taxable years ending after December 31, 1975. Ante, p. 54.

**SEC. 602. TAXATION OF EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS AND THEIR SHAREHOLDERS.**

(a) REPEAL OF MINIMUM DISTRIBUTION EXCEPTION TO REQUIREMENT OF CURRENT TAXATION OF SUBPART F INCOME.—

(1) REPEAL OF MINIMUM DISTRIBUTION PROVISIONS.—Section 963 (relating to receipt of minimum distributions by domestic corporations) is hereby repealed. 26 USC 963.

(2) CERTAIN DISTRIBUTIONS BY CONTROLLED FOREIGN CORPORATIONS TO REGULATED INVESTMENT COMPANIES TREATED AS DIVIDENDS.—Subsection (b) of section 851 (relating to limitations on definition of regulated investment company) is amended by adding at the end thereof the following new sentence: 26 USC 851.

"For purposes of paragraph (2), there shall be treated as dividends amounts included in gross income under section 951(a)(1)(A)(i) for the taxable year to the extent that, under section 959(a)(1), there is a distribution out of the earnings and profits of the taxable year which are attributable to the amounts so included."

26 USC 951.
26 USC 959.

(3) CONFORMING AMENDMENTS.—

(A) The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 963.

(B) Subparagraph (A)(i) of section 951(a)(1) (relating to general rule for amounts included in gross income of United States shareholders) is amended by striking out "except as provided in section 963.".

(b) LIMITATION ON DEFINITION OF FOREIGN BASE COMPANY SALES INCOME.—Paragraph (1) of section 954(d) (relating to definition of foreign base company sales income) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, personal property does not include agricultural commodities which are not grown in the United States in commercially marketable quantities." 26 USC 954.

(c) REPEAL OF EXCEPTION TO REQUIREMENT OF CURRENT TAXATION OF SUBPART F INCOME FOR REINVESTMENT IN LESS DEVELOPED COUNTRIES.—

(1) REPEAL OF SECTION 954(b)(1).—Paragraph (1) of subsection (b) of section 954 (relating to exclusions and special rules regarding foreign base company income) is hereby repealed.

(2) REPEAL OF SECTION 954(f).—Subsection (f) of section 954 (relating to increase in qualified investments in less developed countries) is hereby repealed.

(3) AMENDMENT OF SECTION 951(a)(1)(A)(ii).—Clause (ii) of section 951(a)(1)(A) is amended by striking out "(determined under section 955(a)(3))" and inserting in lieu thereof "(determined under section 955(a)(3) as in effect before the enactment of the Tax Reduction Act of 1975)". 26 USC 955.

(4) REPEAL OF SECTION 951(a)(3).—Paragraph (3) of section 951(a) (relating to limitation on pro rata share of previously excluded subpart F income withdrawn from investment) is hereby repealed.

26 USC 955. (5) Repeal of section 955.—Section 955 (relating to withdrawal of previously excluded subpart F income from qualified investment) is hereby repealed.

(6) Less developed country corporation defined.—Subsection (d) of section 902 is amended to read as follows: 26 USC 902.

"(d) Less Developed Country Corporation Defined.—For purposes of this section, the term 'less developed country corporation' means—

"(1) a foreign corporation which, for its taxable year, is a less developed country corporation within the meaning of paragraph (3) or (4), and

"(2) a foreign corporation which owns 10 percent or more of the total combined voting power of all classes of stock entitled to vote of a foreign corporation which is a less developed country corporation within the meaning of paragraph (3), and—

"(A) 80 percent or more of the gross income of which for its taxable year meets the requirement of paragraph (3)(A), and

"(B) 80 percent or more in value of the assets of which on each day of such year consists of property described in paragraph (3)(B).

A foreign corporation which is a less developed country corporation for its first taxable year beginning after December 31, 1962, shall, for purposes of this section, be treated as having been a less developed country corporation for each of its taxable years beginning before January 1, 1963.

"(3) The term 'less developed country corporation' means a foreign corporation which during the taxable year is engaged in the active conduct of one or more trades or businesses and—

"(A) 80 percent or more of the gross income of which for the taxable year is derived from sources within less developed countries; and

"(B) 80 percent or more in value of the assets of which on each day of the taxable year consists of—

"(i) property used in such trades or businesses and located in less developed countries,

"(ii) money, and deposits with persons carrying on the banking business,

"(iii) stock, and obligations which, at the time of their acquisition, have a maturity of one year or more, of any other less developed country corporation,

"(iv) an obligation of a less developed country,

"(v) an investment which is required because of restrictions imposed by a less developed country, and

26 USC 956. "(vi) property described in section 956(b)(2).

For purposes of subparagraph (A), the determination as to whether income is derived from sources within less developed countries shall be made under regulations prescribed by the Secretary or his delegate.

"(4) The term 'less developed country corporation' also means a foreign corporation—

"(A) 80 percent or more of the gross income of which for the taxable year consists of—

"(i) gross income derived from, or in connection with, the using (or hiring or leasing for use) in foreign commerce of aircraft or vessels registered under the laws of a less developed country, or from, or in connection with, the performance of services directly related to use of such aircraft or vessels, or from the sale or exchange of such aircraft or vessels, and





"(ii) dividends and interest received from foreign corporations which are less developed country corporations within the meaning of this paragraph and 10 percent or more of the total combined voting power of all classes of stock of which are owned by the foreign corporation, and gain from the sale or exchange of stock or obligations of foreign corporations which are such less developed country corporations, and

"(B) 80 percent or more of the assets of which on each day of the taxable year consists of (i) assets used, or held for use, for or in connection with the production of income described in subparagraph (A), and (ii) property described in section 956(b)(2). 26 USC 956.

"(5) The term 'less developed country' means (in respect to any foreign corporation) any foreign country (other than an area within the Sino-Soviet bloc) or any possession of the United States with respect to which, on the first day of the taxable year, there is in effect an Executive order by the President of the United States designating such country or possession as an economically less developed country for purposes of this section. For purposes of the preceding sentence, an overseas territory, department, province, or possession may be treated as a separate country. No designation shall be made under this paragraph with respect to— "Less developed country."

| | |
|---|---|
| Australia | Luxembourg |
| Austria | Monaco |
| Belgium | Netherlands |
| Canada | New Zealand |
| Denmark | Norway |
| France | Union of South Africa |
| Germany (Federal Republic) | San Marino |
| | Sweden |
| Hong Kong | Switzerland |
| Italy | United Kingdom |
| Japan | |
| Liechtenstein | |

After the President has designated any foreign country or any possession of the United States as an economically less developed country for purposes of this section, he shall not terminate such designation (either by issuing an Executive order for that purpose or by issuing an Executive order under the first sentence of this paragraph which has the effect of terminating such designation) unless, at least 30 days prior to such termination, he has notified the Senate and the House of Representatives of his intention to terminate such designation. Any designation in effect on March 26, 1975, under section 955(c)(3) (as in effect before the enactment of the Tax Reduction Act of 1975) shall be treated as made under this paragraph."

(7) Clerical amendment.—The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 955.

(d) Shipping Profits of Controlled Foreign Corporation To Be Taxed Currently Except to Extent Reinvested in Shipping Operations.—

(1) Shipping profits included in gross income of united states shareholders.—

(A) Section 954(a) (relating to foreign base company income) is amended by striking out "and" at the end of para- 26 USC 954.

graph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(4) the foreign base company shipping income for the taxable year (determined under subsection (f) and reduced as provided in subsection (b) (5))."

26 USC 954. (B) Paragraph (2) of section 954(b) is amended to read as follows:

"(2) EXCLUSION FOR REINVESTED SHIPPING INCOME.—For purposes of subsection (a), foreign base company income does not include foreign base company shipping income to the extent that the amount of such income does not exceed the increase for the taxable year in qualified investments in foreign base company shipping operations of the controlled foreign corporation (as determined under subsection (g))."

(C) Subparagraphs (A) and (B) of section 954(b)(3) are each amended by striking out "paragraphs (1) and (5)" and inserting in lieu thereof "paragraphs (2) and (5)".

(D) Subparagraph (B) of section 954(b)(3) is amended by striking out "paragraphs (1), (2)," and inserting in lieu thereof "paragraph (2),".

(E) Paragraph (5) of section 954(b) is amended by striking out "and the foreign base company services income" and inserting in lieu thereof "the foreign base company services income, and the foreign base company shipping income".

(F) Section 954(b) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULES FOR FOREIGN BASE COMPANY SHIPPING INCOME.—Income of a corporation which is foreign base company shipping income under paragraph (4) of subsection (a) (determined without regard to the exclusion under paragraph (2) of this subsection)—

"(A) shall not be considered foreign base company income of such corporation under any other paragraph of subsection (a) and

26 USC 958. "(B) if distributed through a chain of ownership described under section 958(a), shall not be included in foreign base company income of another controlled foreign corporation in such chain."

(G) Section 954 is amended by adding at the end thereof the following new subsections:

"(f) FOREIGN BASE COMPANY SHIPPING INCOME.—For purposes of subsection (a)(4), the term 'foreign base company shipping income' means income derived from, or in connection with, the use (or hiring or leasing for use) of any aircraft or vessel in foreign commerce, or from, or in connection with, the performance of services directly related to the use of any such aircraft, or vessel, or from the sale, exchange, or other disposition of any such aircraft or vessel. Such term includes, but is not limited to—

26 USC 902. "(1) dividends and interest received from a foreign corporation in respect of which taxes are deemed paid under section 902, and gain from the sale, exchange, or other disposition of stock or obligations of such a foreign corporation to the extent that such dividends, interest, and gains are attributable to foreign base company shipping income, and

"(2) that portion of the distributive share of the income of a partnership attributable to foreign base company shipping income.





"(g) INCREASE IN QUALIFIED INVESTMENTS IN FOREIGN BASE COMPANY SHIPPING OPERATIONS.—For purposes of subsection (b)(2), the increase for any taxable year in qualified investments in foreign base company shipping operations of any controlled foreign corporation is the amount by which—

"(1) the qualified investments in foreign base company shipping operations (as defined in section 955(b)) of the controlled foreign corporation at the close of the taxable year, exceed Infra.

"(2) the qualified investments in foreign base company shipping operations (as so defined) of the controlled foreign corporation at the close of the preceding taxable year."

(2) AMOUNTS INCLUDED IN GROSS INCOME OF UNITED STATES SHAREHOLDERS.—

(A) Subparagraph (A) of section 951(a)(1) is amended by striking out "and" at the end of clause (i), by striking out the semicolon at the end of clause (ii) and inserting in lieu thereof a comma, and by adding at the end thereof the following new clause: Ante, p. 58.

"(iii) his pro rata share (determined under section 955(a)(3)) of the corporation's previously excluded subpart F income withdrawn from foreign base company shipping operations for such year; and".

(B) Section 951(a) is amended by inserting after paragraph (2) the following new paragraph:

"(3) LIMITATION ON PRO RATA SHARE OF PREVIOUSLY EXCLUDED SUBPART F INCOME WITHDRAWN FROM INVESTMENT.—For purposes of paragraph (1)(A)(iii), the pro rata share of any United States shareholder of the previously excluded subpart F income of a controlled foreign corporation withdrawn from investment in foreign base company shipping operations shall not exceed an amount—

"(A) which bears the same ratio to his pro rata share of such income withdrawn (as determined under section 955(a)(3)) for the taxable year, as

"(B) the part of such year during which the corporation is a controlled foreign corporation bears to the entire year."

(3) WITHDRAWAL OF PREVIOUSLY EXCLUDED SUBPART F INCOME FROM QUALIFIED INVESTMENT.—

(A) Subpart F of part III of subchapter N of chapter 1 is amended by inserting after section 954 the following new section:

"SEC. 955. WITHDRAWAL OF PREVIOUSLY EXCLUDED SUBPART F INCOME FROM QUALIFIED INVESTMENT. 26 USC 955.

"(a) GENERAL RULES.—

"(1) AMOUNT WITHDRAWN.—For purposes of this subpart, the amount of previously excluded subpart F income of any controlled foreign corporation withdrawn from investment in foreign base company shipping operations for any taxable year is an amount equal to the decrease in the amount of qualified investments in foreign base company shipping operations of the controlled foreign corporation for such year, but only to the extent that the amount of such decrease does not exceed an amount equal to—

"(A) the sum of the amounts excluded under section 954(b)(2) from the foreign base company income of such corporation for all prior taxable years, reduced by Ante, p. 61.

"(B) the sum of the amounts of previously excluded subpart F income withdrawn from investment in foreign base company shipping operations of such corporation determined under this subsection for all prior taxable years.

"(2) Decrease in qualified investments.—For purposes of paragraph (1), the amount of the decrease in qualified investments in foreign base company shipping operations of any controlled foreign corporation for any taxable year is the amount by which—

"(A) the amount of qualified investments in foreign base company shipping operations of the controlled foreign corporation at the close of the preceding taxable year, exceeds

"(B) the amount of qualified investments in foreign base company shipping operations of the controlled foreign corporation at the close of the taxable year,

to the extent that the amount of such decrease does not exceed the sum of the earnings and profits for the taxable year and the earnings and profits accumulated for prior taxable years beginning after December 31, 1975, and the amount of previously excluded subpart F income invested in less developed country corporations described in section 955(c)(2) (as in effect before the
Ante, p. 59. enactment of the Tax Reduction Act of 1975) to the extent attributable to earnings and profits accumulated for taxable years beginning after December 31, 1962. For purposes of this paragraph, if qualified investments in foreign base company shipping operations are disposed of by the controlled foreign corporation during the taxable year, the amount of the decrease in qualified investments in foreign base company shipping operations of such controlled foreign corporation for such year shall be reduced by an amount equal to the amount (if any) by which the losses on such dispositions during such year exceed the gains on such dispositions during such year.

"(3) Pro rata share of amount withdrawn.—In the case of any United States shareholder, the pro rata share of the amount of previously excluded subpart F income of any controlled foreign corporation withdrawn from investment in foreign base company shipping operations for any taxable year is his pro rata share of the amount determined under paragraph (1).

"(b) Qualified Investments in Foreign Base Company Shipping Operations.—

"(1) In general.—For purposes of this subpart, the term 'qualified investments in foreign base company shipping operations' means investments in—

"(A) any aircraft or vessel used in foreign commerce, and

"(B) other assets which are used in connection with the performance of services directly related to the use of any such aircraft or vessel.

Such term includes, but is not limited to, investments by a controlled foreign corporation in stock or obligations of another controlled foreign corporation which is a related person (within
26 USC 954. the meaning of section 954(d)(3)) and which holds assets described in the preceding sentence, but only to the extent that such assets are so used.

"(2) Qualified investments by related persons.—For purposes of determining the amount of qualified investments in foreign base company shipping operations, an investment (or a decrease in investment) in such operations by one or more controlled foreign corporations may, under regulations prescribed by the Secretary or his delegate, be treated as an investment (or a decrease in investment) by another corporation which is a controlled foreign corporation and is a related person (as defined





in section 954(d)(3)) with respect to the corporation actually making or withdrawing the investment. 26 USC 954.

"(3) Special rule.—For purposes of this subpart, a United States shareholder of a controlled foreign corporation may, under regulations prescribed by the Secretary or his delegate, elect to make the determinations under subsection (a)(2) of this section and under subsection (g) of section 954 as of the close of the years Ante, p. 62. following the years referred to in such subsections, or as of the close of such longer period of time as such regulations may permit, in lieu of on the last day of such years. Any election under this paragraph made with respect to any taxable year shall apply to such year and to all succeeding taxable years unless the Secretary or his delegate consents to the revocation of such election.

"(4) Amount attributable to property.—The amount taken into account under this subpart with respect to any property described in paragraph (1) shall be its adjusted basis, reduced by any liability to which such property is subject.

"(5) Income excluded under prior law.—Amounts invested in less developed country corporations described in section 955 (c)(2) (as in effect before the enactment of the Tax Reduction Act of 1975) shall be treated as qualified investments in foreign 26 USC 955. base company shipping operations and shall not be treated as investments in less developed countries for purposes of section 951 (a)(1)(A)(ii)." Ante, p. 58.

(B) The table of sections of subpart F of part III of subchapter N of chapter 1 is amended by inserting after the item relating to section 954 the following new item:

"Sec. 955. Withdrawal of previously excluded subpart F income from qualified investment."

(e) Exclusion From Foreign Base Company Income Where Foreign Base Company Income Is Less Than 10 Percent of Gross Income.—Paragraph (3) of section 954(b) is amended by striking out "30 percent" each place it appears and inserting in lieu thereof "10 percent".

(f) Effective Date.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of United States shareholders (within the meaning of 951(b) of the Internal Revenue Code of 1954) within which or with which such taxable years of such foreign corporations end. 26 USC 955 note.

**SEC. 603. DENIAL OF DISC BENEFITS WITH RESPECT TO ENERGY RESOURCES AND OTHER PRODUCTS.**

(a) Amendment of Section 993(c)(2).—Section 993(c)(2) (relating to property excluded from export property) is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or", and by adding at the end thereof the following: 26 USC 993.

"(C) products of a character with respect to which a deduction for depletion is allowable (including oil, gas, coal, or uranium products) under section 611, or 26 USC 611.

"(D) products the export of which is prohibited or curtailed under section 4(b) of the Export Administration Act of 1969 (50 U.S.C. App. 2403(b)) to effectuate the policy set forth in paragraph (2)(A) of section 3 of such Act (relating to the protection of the domestic economy). 50 USC app. 2402.

Subparagraph (C) shall not apply to any commodity or product at least 50 percent of the fair market value of which is attributable to manufacturing or processing, except that subparagraph (C) shall apply to any primary product from oil, gas, coal, or uranium. For purposes of the preceding sentence, the term 'processing' does not include extracting or handling, packing, packaging, grading, storing, or transporting."

26 USC 993 note.

(b) Effective Date.—The amendments made by subsection (a) shall apply to sales, exchanges, and other dispositions made after March 18, 1975, in taxable years ending after such date.

**SEC. 604. TREATMENT FOR PURPOSES OF THE INVESTMENT CREDIT OF CERTAIN PROPERTY USED IN INTERNATIONAL OR TERRITORIAL WATERS.**

26 USC 1 et seq. 26 USC 48.

(a) Amendment to 1954 Code.—

(1) In general.—Clause (x) of section 48(a)(2)(B) (relating to property used outside the United States) is amended by striking out "territorial waters" and inserting in lieu thereof "territorial waters within the northern portion of the Western Hemisphere".

(2) Definition.—Subparagraph (B) of section 48(a)(2) is amended by adding at the end thereof the following new sentence: "For purposes of clause (x), the term 'northern portion of the Western Hemisphere' means the area lying west of the 30th meridian west of Greenwich, east of the international dateline, and north of the Equator, but not including any foreign country which is a country of South America.".

26 USC 48 note.

(b) Effective Date.—

(1) In general.—The amendments made by subsection (a) shall apply to property, the construction, reconstruction, or erection of which was completed after March 18, 1975, or the acquisition of which by the taxpayer occurred after such date.

(2) Binding contract.—The amendments made by subsection (a) shall not apply to property constructed, reconstructed, erected, or acquired pursuant to a contract which was on April 1, 1974, and at all times thereafter, binding on the taxpayer.

(3) Certain lease-back transactions, etc.—Where a person who is a party to a binding contract described in paragraph (2) transfers rights in such contract (or in the property to which such contract relates) to another person but a party to such contract retains a right to use the property under a lease with such other person, then to the extent of the transferred rights such other person shall, for purposes of paragraph (2), succeed to the position of the transferor with respect to such binding contract and such property. The preceding sentence shall apply, in any case in which the lessor does not make an election under section 48(d) of the Internal Revenue Code of 1954, only if a party to such contract retains a right to use the property under a long-term lease.

# TITLE VII—MISCELLANEOUS PROVISIONS

**SEC. 701. CERTAIN UNEMPLOYMENT COMPENSATION.**

26 USC 3304 note.

(a) Amendment of Emergency Unemployment Compensation Act of 1974.—Section 102(e) of the Emergency Unemployment Compensation Act of 1974 is amended—

(1) in paragraph (2) thereof, by striking out "The amount" and inserting in lieu thereof "Except as provided in paragraph (3), the amount"; and





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

"(3) Effective only with respect to benefits for weeks of unemployment ending before July 1, 1975, the amount established in such account for any individual shall be equal to the lesser of—

"(A) 100 per centum of the total amount of regular compensation (including dependents' allowances) payable to him with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation; or

"(B) twenty-six times his average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year." 26 USC 3304 note.

(b) Modification of Agreements.—The Secretary of Labor shall, at the earliest practicable date after the enactment of this Act, propose to each State with which he has in effect an agreement entered into pursuant to section 102 of the Emergency Unemployment Compensation Act of 1974 a modification of such agreement designed to cause payments of emergency compensation thereunder to be made in the manner prescribed by such Act, as amended by subsection (a) of this section. Notwithstanding any provision of the Emergency Unemployment Compensation Act of 1974, if any such State shall fail or refuse, within a reasonable time after the date of the enactment of this Act, to enter into such a modification of such agreement, the Secretary of Labor shall terminate such agreement.

26 USC 3304 note. 26 USC 3304 note. 26 USC 3304 note.

**SEC. 702. SPECIAL PAYMENT TO RECIPIENTS OF BENEFITS UNDER CERTAIN RETIREMENT AND SURVIVOR BENEFIT PROGRAMS.** 42 USC 402 note.

(a) Payment.—The Secretary of the Treasury shall, at the earliest practicable date after the enactment of this Act, make a $50 payment to each individual, who for the month of March, 1975, was entitled (without regard to sections 202(j)(1) and 223(b) of title II of the Social Security Act and without the application of section 5(a)(ii) of the Railroad Retirement Act of 1974) to— 42 USC 402, 423.

(1) a monthly insurance benefit payable under title II of the Social Security Act, 45 USC 231d. 42 USC 401.

(2) a monthly annuity or pension payment under the Railroad Retirement Act of 1935, the Railroad Retirement Act of 1937, or the Railroad Retirement Act of 1974, or 45 USC 215 note.

(3) a benefit under the supplemental security income benefits program established by title XVI of the Social Security Act; 45 USC 228a, 231. 42 USC 1381.

except that, (A) such $50 payment shall be made only to individuals who were paid a benefit for March 1975 in a check issued no later than August 31, 1975; (B) no such $50 payment shall be made to any individual who is not a resident of the United States (as defined in section 210(i) of the Social Security Act); and (C) if an individual is entitled under two or more of the programs referred to in clauses (1), (2), and (3), such individual shall be entitled to receive only one such $50 payment. For purposes of this subsection, the term "resident" means an individual whose address of record for check payment purposes is located within the United States. 42 USC 410. "Resident."

(b) Recipient Identification.—The Secretary of Health, Education, and Welfare and the Railroad Retirement Board shall provide the Secretary of the Treasury with such information and data as may be needed to enable the Secretary of the Treasury to ascertain which individuals are entitled to the payment authorized under subsection (a).

(c) COORDINATION WITH OTHER FEDERAL PROGRAMS.—Any payment made by the Secretary of the Treasury under this section to any individual shall not be regarded as income (or, in the calendar year 1975, as a resource) of such individual (or of the family of which he is a member) for purposes of any Federal or State program which undertakes to furnish aid or assistance to individuals or families, where eligibility to receive such aid or assistance (or the amount of such aid or assistance) under such program is based on the need therefor of the individual or family involved. The requirement imposed by the preceding sentence shall be treated as a condition for Federal financial participation in any State (or local) welfare program for any calendar quarter commencing after the date of enactment of this Act.

(d) APPROPRIATIONS AUTHORIZATION.—There are hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this section.

(e) PAYMENT NOT TO BE CONSIDERED INCOME.—Payments made under this section shall not be considered as gross income for purposes of the Internal Revenue Code of 1954.

26 USC 1 et seq.

Approved March 29, 1975.

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LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-19 (Comm. on Ways and Means).
SENATE REPORT No. 94-36 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 121 (1975):
Feb. 27, considered and passed House.
Mar. 18-21, considered and passed Senate, amended.
Mar. 26, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 11, No. 14:
Mar. 29, Presidential statement.

March 27, 1975

Dear Mr. Director:

The following bills were received at the White House on March 27th:

H.R. 2166
H.R. 2783
H.R. 3260
H.R. 4075

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C.