THE
STATUTES AT LARGE

OF THE

UNITED STATES OF AMERICA

FROM

DECEMBER, 1925, TO MARCH, 1927

CONCURRENT RESOLUTIONS OF THE TWO HOUSES OF CONGRESS
AND
RECENT TREATIES, CONVENTIONS, AND EXECUTIVE PROCLAMATIONS

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IN THREE PARTS

PART 1—Code of Laws of the United States
PART 2—Public Acts and Resolutions
PART 3—Private Acts and Resolutions, Concurrent Resolutions, Treaties, and Proclamations

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PART 2

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON
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CHAP. 26.—An Act To provide for the inspection of the battle fields and surrender grounds in and around old Appomattox Court House, Virginia.

February 25, 1926.
[S. 1493.]
[Public, No. 19.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a commission is hereby created, to be composed of the following members, who shall be appointed by the Secretary of War:

Appomattox Court House, Va., battlefields.
Commission created.

(1) A commissioned officer of the Corps of Engineers, United States Army;

Army Engineer officer.

(2) A veteran of the Civil War who served honorably in the military forces of the United States; and

United States Civil War veteran.

(3) A veteran of the Civil War who served honorably in the military forces of the Confederate States of America.

Confederate States Civil War veteran.

SEC. 2. In appointing the members of the commission created by section 1 of this Act the Secretary of War shall, as far as practicable, select persons familiar with the terrain of the battle fields and surrender grounds of old Appomattox Court House, Virginia, and the historical events associated therewith.

Qualifications of commission.

SEC. 3. It shall be the duty of the commission, acting under the direction of the Secretary of War, to inspect the battle fields and surrender grounds in and around old Appomattox Court House, Virginia, in order to ascertain the feasibility of preserving and marking for historical and professional military study such fields. The commission shall submit a report of its findings to the Secretary of War not later than December 1, 1926.

Inspection and report on feasibility of preserving, for historical study, etc.

SEC. 4. There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $3,000 in order to carry out the provision of this Act.

Amount authorized for expenses.
Post, p. 878.

Approved, February 25, 1926.

CHAP. 27.—An Act To reduce and equalize taxation, to provide revenue, and for other purposes.

February 26, 1926.
[H. R. 1.]
[Public, No. 20.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Revenue Act of 1926.

TITLE I.—GENERAL DEFINITIONS

Definitions.

SECTION 1. This Act may be cited as the "Revenue Act of 1926."

Title of Act.

SEC. 2. (a) When used in this Act—

Terms construed.

(1) The term "person" means an individual, a trust or estate, a partnership, or a corporation.

"Person."

(2) The term "corporation" includes associations, joint-stock companies, and insurance companies.

"Corporation."

(3) The term "domestic" when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State or Territory.

"Domestic."

(4) The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.

"Foreign."

(5) The term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

"United States."

(6) The term "Secretary" means the Secretary of the Treasury.

"Secretary."

(7) The term "Commissioner" means the Commissioner of Internal Revenue.

"Commissioner."

(8) The term "collector" means collector of internal revenue.

"Collector."

(9) The term "taxpayer" means any person subject to a tax imposed by this Act.

"Taxpayer."

"Military or naval forces of the United States."

(10) The term "military or naval forces of the United States" includes the Marine Corps, the Coast Guard, the Army Nurse Corps, Female, and the Navy Nurse Corps, Female.

"Includes" and "including."

(b) The terms "includes" and "including" when used in a definition contained in this Act shall not be deemed to exclude other things otherwise within the meaning of the term defined.

INCOME TAX.

TITLE II.—INCOME TAX

General provisions.

PART I.—GENERAL PROVISIONS

Definitions.

DEFINITIONS

Meaning of terms.

SEC. 200. When used in this title—

"Taxable year."

(a) The term "taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed under section 212 or 232. The

"Fiscal year."

term "fiscal year" means an accounting period of twelve months ending on the last day of any month other than December. The

Fractions included.

term "taxable year" includes, in the case of a return made for a fractional part of a year under the provisions of this title or under regulations prescribed by the Commissioner with the approval of

First taxable year, 1925.

the Secretary, the period for which such return is made. The first taxable year, to be called the taxable year 1925, shall be the calendar year 1925 or any fiscal year ending during the calendar year 1925.

"Fiduciary."

(b) The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

"Withholding agent."

Post, pp. 35, 43.

(c) The term "withholding agent" means any person required to deduct and withhold any tax under the provisions of section 221 or 237.

"Paid or incurred" and "paid or accrued."

(d) The terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under section 212 or 232. The

Application to deductions and credits.

deductions and credits provided for in this title shall be taken for the taxable year in which "paid or accrued" or "paid or incurred", dependent upon the method of accounting upon the basis

Post, pp. 23, 41.

of which the net income is computed under section 212 or 232, unless in order to clearly reflect the income the deductions or credits should be taken as of a different period.

"Stock."

(e) The term "stock" includes the share in an association, joint-stock company, or insurance company.

"Shareholder."

(f) The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

Distributions by corporations.

DISTRIBUTIONS BY CORPORATIONS

From earnings, etc., after February 28, 1913, deemed dividends.

SEC. 201. (a) The term "dividend" when used in this title (except in paragraph (9) of subdivision (a) of section 234 and paragraph (4) of subdivision (a) of section 245) means any distribution made by a corporation to its shareholders, whether in money or in other property, out of its earnings or profits accumulated after February 28, 1913.

To insurance reserve excepted.

Application.

(b) For the purposes of this Act every distribution is made out of earnings or profits to the extent thereof, and from the most

Accumulations, etc., before March 1, 1913, tax free.

recently accumulated earnings or profits. Any earnings or profits accumulated, or increase in value of property accrued, before March 1, 1913, may be distributed exempt from tax, after the earnings and profits accumulated after February 28, 1913, have been

distributed, but any such tax-free distribution shall be applied against and reduce the basis of the stock provided in section 204.

Condition.

(c) Amounts distributed in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock, and amounts distributed in partial liquidation of a corporation shall be treated as in part or full payment in exchange for the stock. The gain or loss to the distributee resulting from such exchange shall be determined under section 202, but shall be recognized only to the extent provided in section 203. In the case of amounts distributed in partial liquidation (other than a distribution within the provisions of subdivision (g) of section 203 of stock or securities in connection with a reorganization) the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits within the meaning of subdivision (b) of this section for the purpose of determining the taxability of subsequent distributions by the corporation.

Distribution in liquidation.

Determination of gain or loss.

Partial liquidation.

(d) If any distribution (not in partial or complete liquidation) made by a corporation to its shareholders is not out of increase in value of property accrued before March 1, 1913, and is not out of earnings or profits, then the amount of such distribution shall be applied against and reduce the basis of the stock provided in section 204, and if in excess of such basis, such excess shall be taxable in the same manner as a gain from the sale or exchange of property. The provisions of this paragraph shall also apply to distributions from depletion reserves based on the discovery value of mines.

Distributions not from increase of value before March 1, 1913, nor out of earnings or profits.

Depletion reserves.

(e) Any distribution made by a corporation, which was classified as a personal service corporation under the provisions of the Revenue Act of 1918 or the Revenue Act of 1921, out of its earnings or profits which were taxable in accordance with the provisions of section 218 of the Revenue Act of 1918 or section 218 of the Revenue Act of 1921, shall be exempt from tax to the distributees.

Exemption of distributees of previously taxable earnings of personal service corporations.

Vol. 40, p. 1070; Vol. 42, p. 245.

(f) A stock dividend shall not be subject to tax.

Stock dividends not taxable.

(g) If a corporation cancels or redeems its stock (whether or not such stock was issued as a stock dividend) at such time and in such manner as to make the distribution and cancellation or redemption in whole or in part essentially equivalent to the distribution of a taxable dividend, the amount so distributed in redemption or cancellation of the stock, to the extent that it represents a distribution of earnings or profits accumulated after February 28, 1913, shall be treated as a taxable dividend. In the case of the cancellation or redemption of stock not issued as a stock dividend this subdivision shall apply only if the cancellation or redemption is made after January 1, 1926.

Proceeds of redeemed stock treated as taxable dividends.

Stock canceled after January 1, 1926.

(h) As used in this section the term "amounts distributed in partial liquidation" means a distribution by a corporation in complete cancellation or redemption of a part of its stock, or one of a series of distributions in complete cancellation or redemption of all or a portion of its stock.

Meaning of "amounts distributed in partial liquidation."

DETERMINATION OF AMOUNT OF GAIN OR LOSS

Gain or loss.

SEC. 202. (a) Except as hereinafter provided in this section, the gain from the sale or other disposition of property shall be the excess of the amount realized therefrom over the basis provided in subdivision (a) or (b) of section 204, and the loss shall be the excess of such basis over the amount realized.

Basis of determining, on disposal of property.

(b) In computing the amount of gain or loss under subdivision (a)—

Computation.

INCOME TAX.
Adjustment of capital loss.
Deduction for exhaustion, etc., of property.

(1) Proper adjustment shall be made for any expenditure or item of loss properly chargeable to capital account, and

(2) The basis shall be diminished by the amount of the deductions for exhaustion, wear and tear, obsolescence, amortization, and depletion which have since the acquisition of the property been allowable in respect of such property under this Act or prior income tax laws; but in no case shall the amount of the diminution in respect of depletion exceed a depletion deduction computed without reference to discovery value or to paragraph (2) of subdivision (c) of section 204. In addition, if the property was acquired before March 1, 1913, the basis (if other than the fair market value as of March 1, 1913) shall be diminished in the amount of exhaustion, wear and tear, obsolescence, and depletion actually sustained before such date.

Limitation.

If acquired before March 1, 1913.

From sale, etc., of property.

(c) The amount realized from the sale or other disposition of property shall be the sum of any money received plus the fair market value of the property (other than money) received.

On sales or exchange.

(d) In the case of a sale or exchange, the extent to which the gain or loss determined under this section shall be recognized for the purposes of this title, shall be determined under the provisions of section 203.

Infra.

Installment payments taxable.

(e) Nothing in this section shall be construed to prevent (in the case of property sold under contract providing for payment in installments) the taxation of that portion of any installment payment representing gain or profit in the year in which such payment is received.

Gain or loss from sales or exchanges.

RECOGNITION OF GAIN OR LOSS FROM SALES AND EXCHANGES

Entire amount recognized.

SEC. 203. (a) Upon the sale or exchange of property the entire amount of the gain or loss, determined under section 202, shall be recognized, except as hereinafter provided in this section.

No gain or loss.
Exchanges for similar uses, etc.

(b) (1) No gain or loss shall be recognized if property held for productive use in trade or business or for investment (not including stock in trade or other property held primarily for sale, nor stocks, bonds, notes, choses in action, certificates of trust or beneficial interest, or other securities or evidences of indebtedness or interest) is exchanged solely for property of a like kind to be held either for productive use in trade or business or for investment, or if common stock in a corporation is exchanged solely for common stock in the same corporation, or if preferred stock in a corporation is exchanged solely for preferred stock in the same corporation.

Exception.

For similar stock in same corporation.

Stock received on reorganization.

(2) No gain or loss shall be recognized if stock or securities in a corporation a party to a reorganization are, in pursuance of the plan of reorganization, exchanged solely for stock or securities in such corporation or in another corporation a party to the reorganization.

Property for stock of party to reorganization.

(3) No gain or loss shall be recognized if a corporation a party to a reorganization exchanges property, in pursuance of the plan of reorganization, solely for stock or securities in another corporation a party to the reorganization.

Transfers for stock of corporation under same control.

(4) No gain or loss shall be recognized if property is transferred to a corporation by one or more persons solely in exchange for stock or securities in such corporation, and immediately after the exchange such person or persons are in control of the corporation; but in the case of an exchange by two or more persons this paragraph shall apply only if the amount of the stock and securities received by each is substantially in proportion to his interest in the property prior to the exchange.

Limitation.

If involuntarily, etc., converted into similar property, etc.

(5) If property (as a result of its destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation, or the threat or imminence thereof) is compulsorily or involuntarily converted into property similar or related in service or use to the property so converted, or into money which is forthwith in good faith, under regulations prescribed by the Commissioner with the approval of the Secretary, expended in the acquisition of other property similar or related in service or use to the property so converted, or in the acquisition of control of a corporation owning such other property, or in the establishment of a replacement fund, no gain or loss shall be recognized. If any part of the money is not so expended, the gain, if any, shall be recognized, but in an amount not in excess of the money which is not so expended.

Gain recognized on part not so used.

If additional stock received on reorganization, and holding not surrendered.

(c) If there is distributed, in pursuance of a plan of reorganization, to a shareholder in a corporation a party to the reorganization, stock or securities in such corporation or in another corporation a party to the reorganization, without the surrender by such shareholder of stock or securities in such a corporation, no gain to the distributee from the receipt of such stock or securities shall be recognized.

Gain recognized if property received additional to that on which none recognized.

(d) (1) If an exchange would be within the provisions of paragraph (1), (2), or (4) of subdivision (b) if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property.

Reorganization distribution construed as a taxable dividend.

(2) If a distribution made in pursuance of a plan of reorganization is within the provisions of paragraph (1) but has the effect of the distribution of a taxable dividend, then there shall be taxed as a dividend to each distributee such an amount of the gain recognized under paragraph (1) as is not in excess of his ratable share of the undistributed earnings and profits of the corporation accumulated after February 28, 1913. The remainder, if any, of the gain recognized under paragraph (1) shall be taxed as a gain from the exchange of property.

Reorganization with property and other stock received.

(e) If an exchange would be within the provisions of paragraph (3) of subdivision (b) if it were not for the fact that the property received in exchange consists not only of stock or securities permitted by such paragraph to be received without the recognition of gain, but also of other property or money, then—

No gain if distributed on reorganization.

(1) If the corporation receiving such other property or money distributes it in pursuance of the plan of reorganization, no gain to the corporation shall be recognized from the exchange, but

Gain recognized if not distributed.

(2) If the corporation receiving such other property or money does not distribute it in pursuance of the plan of reorganization, the gain, if any, to the corporation shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property so received, which is not so distributed.

No loss if property, other than that on which gain or loss recognized, etc.

(f) If an exchange would be within the provisions of paragraph (1), (2), (3), or (4) of subdivision (b) if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

Stock distributed on reorganization not construed as earnings, etc.

(g) The distribution, in pursuance of a plan of reorganization, by or on behalf of a corporation a party to the reorganization, of its stock or securities or stock or securities in a corporation a party to

INCOME TAX.

the reorganization, shall not be considered a distribution of earnings or profits within the meaning of subdivision (b) of section 201 for the purpose of determining the taxability of subsequent distributions by the corporation.

Reorganization.

Corporation acts constituting.

(h) As used in this section and sections 201 and 204—

(1) The term "reorganization" means (A) a merger or consolidation (including the acquisition by one corporation of at least a majority of the voting stock and at least a majority of the total number of shares of all other classes of stock of another corporation, or substantially all the properties of another corporation), or (B) a transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor or its stockholders or both are in control of the corporation to which the assets are transferred, or (C) a recapitalization, or (D) a mere change in identity, form, or place of organization, however effected.

Corporation included as "a party to a reorganization."

(2) The term "a party to a reorganization" includes a corporation resulting from a reorganization and includes both corporations in the case of an acquisition by one corporation of at least a majority of the voting stock and at least a majority of the total number of shares of all other classes of stock of another corporation.

Ownership constituting "control."

(i) As used in this section the term "control" means the ownership of at least 80 per centum of the voting stock and at least 80 per centum of the total number of shares of all other classes of stock of the corporation.

Determining gain or loss.

BASIS FOR DETERMINING GAIN OR LOSS, DEPLETION, AND DEPRECIATION

On cost value on sales, etc., of property acquired since February 28, 1913.

Exceptions.

Inventory value.

SEC. 204. (a) The basis for determining the gain or loss from the sale or other disposition of property acquired after February 28, 1913, shall be the cost of such property; except that—

(1) If the property should have been included in the last inventory, the basis shall be the last inventory value thereof;

Gifts, etc., after December 31, 1920, on value in hands of donor.

(2) If the property was acquired by gift after December 31, 1920, the basis shall be the same as it would be in the hands of the donor or the last preceding owner by whom it was not acquired by gift.

Ascertainment.

If the facts necessary to determine such basis are unknown to the donee, the Commissioner shall, if possible, obtain such facts from such donor or last preceding owner, or any other person cognizant

Or on market value when acquired by donor.

thereof. If the Commissioner finds it impossible to obtain such facts, the basis shall be the fair market value of such property as found by the Commissioner as of the date or approximate date at which, according to the best information that the Commissioner is able to obtain, such property was acquired by such donor or last preceding owner;

Trust property acquired after December 31, 1920.

(3) If the property was acquired after December 31, 1920, by a transfer in trust (other than by a transfer in trust by bequest or devise) the basis shall be the same as it would be in the hands of the grantor, increased in the amount of gain or decreased in the amount of loss recognized to the grantor upon such transfer under the law

Estate acquisitions excepted.

applicable to the year in which the transfer was made. The provisions of this paragraph shall not apply to the acquisition of such property interests as are specified in subdivision (c) or (e) of

Vol. 42, p. 278; Vol. 43, p. 304. *Post*, pp. 70, 71.

section 402 of the Revenue Act of 1921, or in subdivision (c) or (f) of section 302 of the Revenue Act of 1924, or in subdivision (c) or (f) of section 302 of this Act;

Gifts before December 31, 1920.

(4) If the property was acquired by gift or transfer in trust on or before December 31, 1920, the basis shall be the fair market value of such property at the time of such acquisition;

Bequests, devises, etc.

(5) If the property was acquired by bequest, devise, or inheritance, the basis shall be the fair market value of such property at the time

of such acquisition. The provisions of this paragraph shall apply to the acquisition of such property interests as are specified in subdivision (c) or (e) of section 402 of the Revenue Act of 1921, or in subdivision (c) or (f) of section 302 of the Revenue Act of 1924, or in subdivision (c) or (f) of section 302 of this Act;

Transfers in contemplation of death.

Vol. 42, p. 278; Vol. 43, p. 304.

(6) If the property was acquired upon an exchange described in subdivision (b), (d), (e), or (f) of section 203, the basis shall be the same as in the case of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognized upon such exchange under the law applicable to the year in which the exchange was made. If the property so acquired consisted in part of the type of property permitted by paragraph (1), (2), (3), or (4) of subdivision (b) of section 203 to be received without the recognition of gain or loss, and in part of other property, the basis provided in this paragraph shall be allocated between the properties (other than money) received, and for the purpose of the allocation there shall be assigned to such other property an amount equivalent to its fair market value at the date of the exchange. This paragraph shall not apply to property acquired by a corporation by the issuance of its stock or securities as the consideration in whole or in part for the transfer of the property to it;

Acquired on exchange, etc.

Partly by exchange, and partly by other property.

Stock issues excepted.

(7) If the property (other than stock or securities in a corporation a party to the reorganization) was acquired after December 31, 1917, by a corporation in connection with a reorganization, and immediately after the transfer an interest or control in such property of 80 per centum or more remained in the same persons or any of them, then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made;

Property other than stock acquired by same corporation after December 31, 1917.

(8) If the property (other than stock or securities in a corporation a party to a reorganization) was acquired after December 31, 1920, by a corporation by the issuance of its stock or securities in connection with a transaction described in paragraph (4) of subdivision (b) of section 203 (including, also, cases where part of the consideration for the transfer of such property to the corporation was property or money in addition to such stock or securities), then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made;

Acquired after December 31, 1920, on reorganization and same party still in control.

(9) If the property consists of stock or securities distributed after December 31, 1923, to a taxpayer in connection with a transaction described in subdivision (c) of section 203, the basis in the case of the stock in respect of which the distribution was made shall be apportioned, under rules and regulations prescribed by the Commissioner with the approval of the Secretary, between such stock and the stock or securities distributed;

Stock, etc., distributed on reorganization, after December 31, 1923.

(10) If the property was acquired as the result of a compulsory or involuntary conversion described in paragraph (5) of subdivision (b) of section 203, the basis shall be the same as in the case of the property so converted, decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon

Acquired by involuntary conversion.

INCOME TAX

such conversion under the law applicable to the year in which such conversion was made;

Acquired for stock, etc., disposed of, on which no loss allowed.

(11) If substantially identical property was acquired after December 31, 1920, in place of stock or securities which were sold or disposed of and in respect of which loss was not allowed as a deduction under paragraph (5) of subdivision (a) of section 214 or paragraph (4) of subdivision (a) of section 234 of this Act, the Revenue Act of 1921, or the Revenue Act of 1924, the basis in the case of the property so acquired shall be the basis in the case of the stock or securities so sold or disposed of, except that if the repurchase price was in excess of the sale price such basis shall be increased in the amount of the difference, or if the repurchase price was less than the sale price such basis shall be decreased in the amount of the difference.

Post, pp. 26, 42.

Sale, etc., of property acquired before March 1, 1913, on cost or market value.

(b) The basis for determining the gain or loss from the sale or other disposition of property acquired before March 1, 1913, shall be (A) the cost of such property (or, in the case of such property as is described in paragraph (1), (4), or (5), of subdivision (a), the basis as therein provided), or (B) the fair market value of such property as of March 1, 1913, whichever is greater. In determining the fair market value of stock in a corporation as of March 1, 1913, due regard shall be given to the fair market value of the assets of the corporation as of that date.

Determination of value.

Depletion, exhaustion, etc., allowed.

(c) The basis upon which depletion, exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the same as is provided in subdivision (a) or (b) for the purpose of determining the gain or loss upon the sale or other disposition of such property, except that—

Mines discovered by taxpayer after February 28, 1913.

(1) In the case of mines discovered by the taxpayer after February 28, 1913, the basis for depletion shall be the fair market value of the property at the date of discovery or within thirty days thereafter, if such mines were not acquired as the result of purchase of a proven tract or lease, and if the fair market value of the property is materially disproportionate to the cost. The depletion allowance based on discovery value provided in this paragraph shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property upon which the discovery was made, except that in no case shall the depletion allowance be less than it would be if computed without reference to discovery value. Discoveries shall include minerals in commercial quantities contained within a vein or deposit discovered in an existing mine or mining tract by the taxpayer after February 28, 1913, if the vein or deposit thus discovered was not merely the uninterrupted extension of a continuing commercial vein or deposit already known to exist, and if the discovered minerals are of sufficient value and quantity that they could be separately mined and marketed at a profit.

Maximum depletion allowance.

Minerals included.

Oil and gas wells allowance.

Maximum.

(2) In the case of oil and gas wells the allowance for depletion shall be 27½ per centum of the gross income from the property during the taxable year. Such allowance shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property, except that in no case shall the depletion allowance be less than it would be if computed without reference to this paragraph.

Inventories.

INVENTORIES

Use of, in determining incomes.

SEC. 205. Whenever in the opinion of the Commissioner the use of inventories is necessary in order clearly to determine the income of any taxpayer, inventories shall be taken by such taxpayer upon

such basis as the Commissioner, with the approval of the Secretary, may prescribe as conforming as nearly as may be to the best accounting practice in the trade or business and as most clearly reflecting the income.

INCOME TAX.

NET LOSSES

Net losses.

SEC. 206. (a) As used in this section the term "net loss" means the excess of the deductions allowed by section 214 or 234 over the gross income, with the following exceptions and limitations:

Determined by excess of deductions over gross income.

Exceptions, etc.

(1) Deductions otherwise allowed by law not attributable to the operation of a trade or business regularly carried on by the taxpayer shall be allowed only to the extent of the amount of the gross income not derived from such trade or business;

Losses, not connected with business.

(2) In the case of a taxpayer other than a corporation, deductions for capital losses otherwise allowed by law shall be allowed only to the extent of the capital gains;

Capital losses, of other than a corporation.

(3) The deduction for depletion shall not exceed the amount which would be allowable if computed without reference to discovery value, or to paragraph (2) of subdivision (c) of section 204;

Depletion.

(4) The deduction provided for in paragraph (6) of subdivision (a) of section 234 of amounts received as dividends shall not be allowed;

On corporation dividends not allowed.

(5) There shall be included in computing gross income the amount of interest received free from tax under this title, decreased by the amount of interest paid or accrued which is not allowed as a deduction by paragraph (2) of subdivision (a) of section 214 or by paragraph (2) of subdivision (a) of section 234.

Interest included in gross income.

(b) If, for any taxable year, it appears upon the production of evidence satisfactory to the Commissioner that any taxpayer has sustained a net loss, the amount thereof shall be allowed as a deduction in computing the net income of the taxpayer for the succeeding taxable year (hereinafter in this section called "second year"), and if such net loss is in excess of such net income (computed without such deduction), the amount of such excess shall be allowed as a deduction in computing the net income for the next succeeding taxable year (hereinafter in this section called "third year"); the deduction in all cases to be made under regulations prescribed by the Commissioner with the approval of the Secretary.

Net loss to be deducted from tax for succeeding taxable year.

(c) (1) If in the second year the taxpayer (other than a corporation) sustains a capital net loss, the deduction allowed by subdivision (b) of this section shall first be applied as a deduction in computing the ordinary net income for such year. If the deduction is in excess of the ordinary net income (computed without such deduction) then the amount of such excess shall be allowed as a deduction in computing net income for the third year.

Application if capital loss sustained in second year.

(2) If in the second year the taxpayer (other than a corporation) has a capital net gain, the deduction allowed by subdivision (b) of this section shall first be applied as a deduction in computing the ordinary net income for such year. If the deduction is in excess of the ordinary net income (computed without such deduction) the amount of such excess shall next be applied against the capital net gain for such year, and if in excess of the capital net gain the amount of that excess shall be allowed as a deduction in computing net income for the third year.

Application to capital gain for second year.

(d) If any portion of a net loss is allowed as a deduction in computing net income for the third year, under the provisions of either subdivision (b) or (c), and the taxpayer (other than a corporation) has in such year a capital net gain or a capital net

Application to third year.

INCOME TAX.

loss, then the method of allowing such deduction in such third year shall be the same as provided in subdivision (c).

Application to incomes for 1923 and 1924, under Acts of 1921, 1924.

(e) If for the taxable year 1923 a taxpayer sustained a net loss within the provisions of the Revenue Act of 1921, or if for the taxable year 1924 a taxpayer sustained a net loss within the provisions of the Revenue Act of 1924, the amount of such net loss shall be allowed as a deduction in computing net income for the two succeeding taxable years to the same extent and in the same manner as a net loss sustained for one taxable year is, under this Act, allowed as a deduction for the two succeeding taxable years.

Application for loss in differing calendar years.

(f) If a taxpayer makes return for a period beginning in one calendar year (hereinafter in this subdivision called "first calendar year") and ending in the following calendar year (hereinafter in this subdivision called "second calendar year") and the law applicable to the second calendar year is different from the law applicable to the first calendar year, then his net loss for the period ending during the second calendar year shall be the sum of: (1) the same proportion of a net loss for the entire period, determined under the law applicable to the first calendar year, which the portion of such period falling within such calendar year is of the entire period; and (2) the same proportion of a net loss for the entire period, determined under the law applicable to the second calendar year, which the portion of such period falling within such calendar year is of the entire period.

Determination of proportion.

Benefits allowed partners, estates or trusts, and insurance companies.

Post, pp. 47, 48.

(g) The benefit of this section shall be allowed to the members of a partnership, to an estate or trust, and to insurance companies subject to the tax imposed by section 243 or 246, under regulations prescribed by the Commissioner with the approval of the Secretary.

Fiscal years.

FISCAL YEARS

Returns, if period begins in first calendar year and ends in second.

SEC. 207. (a) If the taxpayer makes return for a period beginning in one calendar year (hereinafter in this subdivision called "first calendar year") and ending in the following calendar year (hereinafter in this subdivision called "second calendar year") and the law applicable to the second calendar year is different from the law applicable to the first calendar year, then his tax under this title for the period ending during the second calendar year shall be the sum of: (1) the same proportion of a tax for the entire period, determined under the law applicable to the first calendar year and at the rates for such year, which the portion of such period falling within the first calendar year is of the entire period; and (2) the same proportion of a tax for the entire period, determined under the law applicable to the second calendar year and at the rates for such year, which the portion of such period falling within the second calendar year is of the entire period.

Proportion for different rates.

Application to partnerships.

(b) If a fiscal year of a partnership begins in one calendar year and ends in another calendar year, and the law applicable to the second calendar year is different from the law applicable to the first calendar year, then (1) the rates for the calendar year during which such fiscal year begins shall apply to an amount of each partner's share of such partnership net income (determined under the law applicable to such calendar year) equal to the proportion which the part of such fiscal year falling within such calendar year bears to the full fiscal year, and (2) the rates for the calendar year during which such fiscal year ends shall apply to an amount of each partner's share of such partnership net income (determined under the law applicable to such calendar year) equal to the proportion which the part of such fiscal year falling within such calendar year bears to the full fiscal year. In such cases the part

of such income subject to the rates in effect for the most recent calendar year shall be added to the other income of the taxpayer subject to such rates and the resulting amount shall be placed in the lower brackets of the rate schedule applicable to such year, and the part of such income subject to the rates in effect for the next preceding calendar year shall be placed in the next higher brackets of the rate schedule applicable to such year.

Added to other income of taxpayer.

(c) Any amount paid before or after the enactment of this Act on account of the tax imposed for a fiscal year beginning in 1924 and ending in 1925 by Title II of the Revenue Act of 1924 shall be credited toward the payment of the tax imposed for such fiscal year by this Act, and if the amount so paid exceeds the amount of such tax imposed by this Act, the excess shall be credited or refunded in accordance with the provisions of section 284.

Credit or refund for tax paid under former law.

Post, 266.

CAPITAL GAINS AND LOSSES

Capital gains and losses.

Meaning of terms.

SEC. 208. (a) For the purposes of this title—

(1) The term "capital gain" means taxable gain from the sale or exchange of capital assets consummated after December 31, 1921;

"Capital gain."

(2) The term "capital loss" means deductible loss resulting from the sale or exchange of capital assets;

"Capital loss."

(3) The term "capital deductions" means such deductions as are allowed by section 214 for the purpose of computing net income, and are properly allocable to or chargeable against capital assets sold or exchanged during the taxable year;

"Capital deductions."

(4) The term "ordinary deductions" means the deductions allowed by section 214 other than capital losses and capital deductions;

"Ordinary deductions."

(5) The term "capital net gain" means the excess of the total amount of capital gain over the sum of (A) the capital deductions and capital losses, plus (B) the amount, if any, by which the ordinary deductions exceed the gross income computed without including capital gain;

"Capital net gain."

(6) The term "capital net loss" means the excess of the sum of the capital losses plus the capital deductions over the total amount of capital gain;

"Capital net loss."

(7) The term "ordinary net income" means the net income, computed in accordance with the provisions of this title, after excluding all items of capital gain, capital loss, and capital deductions; and

"Ordinary net income."

(8) The term "capital assets" means property held by the taxpayer for more than two years (whether or not connected with his trade or business), but does not include stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale in the course of his trade or business. In determining the period for which the taxpayer has held property received on an exchange there shall be included the period for which he held the property exchanged, if under the provisions of section 204 the property received has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as the property exchanged. In determining the period for which the taxpayer has held property however acquired there shall be included the period for which such property was held by any other person, if under the provisions of section 204 such property has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as it

"Capital assets."

Property not included.

Property received in exchange.

Period of property holding.

INCOME TAX.

Stock received on reorganization distribution.

Ante, p. 13.

would have in the hands of such other person. In determining the period for which the taxpayer has held stock or securities received upon a distribution where no gain is recognized to the distributee under the provisions of subdivision (c) of section 203 of this Act or of the Revenue Act of 1924, there shall be included the period for which he held the stock or securities in the distributing corporation prior to the receipt of the stock or securities upon such distribution.

Tax on capital net gain in lieu of normal and surtax.

(b) In the case of any taxpayer (other than a corporation) who for any taxable year derives a capital net gain, there shall (at the election of the taxpayer) be levied, collected and paid, in lieu of the taxes imposed by sections 210 and 211 of this title, a tax determined as follows:

Computation to determine.

A partial tax shall first be computed upon the basis of the ordinary net income at the rates and in the manner provided in sections 210 and 211, and the total tax shall be this amount plus 12½ per centum of the capital net gain.

On capital net loss.

(c) In the case of any taxpayer (other than a corporation) who for any taxable year sustains a capital net loss, there shall be levied, collected, and paid, in lieu of the taxes imposed by sections 210 and 211 of this title, a tax determined as follows:

Computation to determine.

A partial tax shall first be computed upon the basis of the ordinary net income at the rates and in the manner provided in sections 210 and 211, and the total tax shall be this amount minus 12½ per centum of the capital net loss; but in no case shall the tax under this subdivision be less than the taxes imposed by sections 210 and 211 computed without regard to the provisions of this section.

Collection and payment.

(d) The total tax determined under subdivision (b) or (c) shall be collected and paid in the same manner, at the same time, and subject to the same provisions of law, including penalties, as other taxes under this title.

Application to partnerships, estates or trusts, etc.

(e) In the case of the members of a partnership, of an estate or trust, or of the beneficiary of an estate or trust, the proper part of each share of the net income which consists, respectively, of ordinary net income, capital net gain, or capital net loss, shall be determined under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary, and shall be separately shown in the return of the partnership or estate or trust, and shall be taxed to the member or beneficiary or to the estate or trust as provided in sections 218 and 219, but at the rates and in the manner provided in subdivision (b) or (c) of this section.

Returns and rates.

Earned income.

EARNED INCOME

Meaning of terms.

"Earned income."

SEC. 209. (a) For the purposes of this section—

(1) The term "earned income" means wages, salaries, professional fees, and other amounts received as compensation for personal services actually rendered, but does not include that part of the compensation derived by the taxpayer for personal services rendered by him to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered. In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income producing factors, a reasonable allowance as compensation for the personal services actually rendered by the taxpayer, not in excess of 20 per centum of his share of the net profits of such trade or business, shall be considered as earned income.

Allowance for personal service if combined with capital in business.

(2) The term "earned income deductions" means such deductions as are allowed by section 214 for the purpose of computing net income, and are properly allocable to or chargeable against earned income. INCOME TAX. "Earned income deductions."

(3) The term "earned net income" means the excess of the amount of the earned income over the sum of the earned income deductions. If the taxpayer's net income is not more than $5,000, his entire net income shall be considered to be earned net income, and if his net income is more than $5,000, his earned net income shall not be considered to be less than $5,000. In no case shall the earned net income be considered to be more than $20,000. "Earned net income." Maximum.

(b) In the case of an individual the tax shall, in addition to the credits provided in section 222, be credited with 25 per centum of the amount of tax which would be payable if his earned net income constituted his entire net income; but in no case shall the credit allowed under this subdivision exceed 25 per centum of his tax under section 210 plus 25 per centum of the tax which would be payable under section 211 if his earned net income constituted his entire net income. Individual allowed credit on normal tax for earned income. Limitations.

(c) In the case of the members of a partnership the proper part of each share of the net income which consists of earned income shall be determined under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary and shall be separately shown in the return of the partnership and shall be taxed to the member as provided in section 218. Application to partnerships.

PART II.—INDIVIDUALS

Individuals.

NORMAL TAX

Normal tax.

SEC. 210. (a) In lieu of the tax imposed by section 210 of the Revenue Act of 1924, there shall be levied, collected, and paid for each taxable year upon the net income of every individual (except as provided in subdivision (b) of this section) a normal tax of 5 per centum of the amount of the net income in excess of the credits provided in section 216, except that in the case of a citizen or resident of the United States the rate upon the first $4,000 of such excess amount shall be 1½ per centum, and upon the next $4,000 of such excess amount shall be 3 per centum; In lieu of former rates. Vol. 43, p. 264. Exception for citizens or residents.

(b) In lieu of the tax imposed by subdivision (a), there shall be levied, collected, and paid for each taxable year upon the net income of every nonresident alien individual, a resident of a contiguous country, a normal tax equal to the sum of the following: Aliens, residents of contiguous countries.

(1) 1½ per centum of the amount by which the part of the net income attributable to wages, salaries, professional fees, or other amounts received as compensation for personal services actually performed in the United States, exceeds the credits provided in subdivisions (d) and (e) of section 216; but the amount taxable at such 1½ per centum rate shall not exceed $4,000; On compensation for personal services in United States. Maximum.

(2) 3 per centum of the amount by which such part of the net income exceeds the sum of (A) the credits provided in subdivisions (d) and (e) of section 216, plus (B) $4,000; but the amount taxable at such 3 per centum rate shall not exceed $4,000; and Additional if exceeding family credits and $4,000.

(3) 5 per centum of the amount of the net income in excess of the sum of (A) the amount taxed under paragraphs (1) and (2), plus (B) the credits provided in section 216. If in excess thereof.

SURTAX

Surtax.

SEC. 211. (a) In lieu of the tax imposed by section 211 of the Revenue Act of 1924, but in addition to the normal tax imposed Additional to normal tax on incomes exceeding $10,000.

INCOME TAX.

by section 210 of this Act, there shall be levied, collected, and paid for each taxable year upon the net income of every individual a surtax as follows:

Rates.
Vol. 43, p. 265.

Upon a net income of $10,000 there shall be no surtax; upon net incomes in excess of $10,000 and not in excess of $14,000, 1 per centum of such excess.

$40 upon net incomes of $14,000; and upon net incomes in excess of $14,000 and not in excess of $16,000, 2 per centum in addition of such excess.

$80 upon net incomes of $16,000; and upon net incomes in excess of $16,000 and not in excess of $18,000, 3 per centum in addition of such excess.

$140 upon net incomes of $18,000; and upon net incomes in excess of $18,000 and not in excess of $20,000, 4 per centum in addition of such excess.

$220 upon net incomes of $20,000; and upon net incomes in excess of $20,000 and not in excess of $22,000, 5 per centum in addition of such excess.

$320 upon net incomes of $22,000; and upon net incomes in excess of $22,000 and not in excess of $24,000, 6 per centum in addition of such excess.

$440 upon net incomes of $24,000; and upon net incomes in excess of $24,000 and not in excess of $28,000, 7 per centum in addition of such excess.

$720 upon net incomes of $28,000; and upon net incomes in excess of $28,000 and not in excess of $32,000, 8 per centum in addition of such excess.

$1,040 upon net incomes of $32,000; and upon net incomes in excess of $32,000 and not in excess of $36,000, 9 per centum in addition of such excess.

$1,400 upon net incomes of $36,000; and upon net incomes in excess of $36,000 and not in excess of $40,000, 10 per centum in addition of such excess.

$1,800 upon net incomes of $40,000; and upon net incomes in excess of $40,000 and not in excess of $44,000, 11 per centum in addition of such excess.

$2,240 upon net incomes of $44,000; and upon net incomes in excess of $44,000 and not in excess of $48,000, 12 per centum in addition of such excess.

$2,720 upon net incomes of $48,000; and upon net incomes in excess of $48,000 and not in excess of $52,000, 13 per centum in addition of such excess.

$3,240 upon net incomes of $52,000; and upon net incomes in excess of $52,000 and not in excess of $56,000, 14 per centum in addition of such excess.

$3,800 upon net incomes of $56,000; and upon net incomes in excess of $56,000 and not in excess of $60,000, 15 per centum in addition of such excess.

$4,400 upon net incomes of $60,000; and upon net incomes in excess of $60,000 and not in excess of $64,000, 16 per centum in addition of such excess.

$5,040 upon net incomes of $64,000; and upon net incomes in excess of $64,000 and not in excess of $70,000, 17 per centum in addition of such excess.

$6,060 upon net incomes of $70,000; and upon net incomes in excess of $70,000 and not in excess of $80,000, 18 per centum in addition of such excess.

$7,860 upon net incomes of $80,000; and upon net incomes in excess of $80,000 and not in excess of $100,000, 19 per centum in addition of such excess.

$11,660 upon net incomes of $100,000; and upon net incomes in excess of $100,000, in addition 20 per centum of such excess.

Mines, oil or gas wells.

(b) In the case of a bona fide sale of mines, oil or gas wells, or any interest therein, where the principal value of the property has been demonstrated by prospecting or exploration and discovery work done by the taxpayer, the portion of the tax imposed by this section attributable to such sale shall not exceed 16 per centum of the selling price of such property or interest.

Maximum tax on sales of, developed by taxpayer.

NET INCOME OF INDIVIDUALS DEFINED

Individual net income.

SEC. 212. (a) In the case of an individual the term "net income" means the gross income as defined in section 213, less the deductions allowed by sections 214 and 206.

Deductions from gross income constituting.

(b) The net income shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer; but if no such method of accounting has been so employed, or if the method employed does not clearly reflect the income, the computation shall be made in accordance with such method as in the opinion of the Commissioner does clearly reflect the income. If the taxpayer's annual accounting period is other than a fiscal year as defined in section 200 or if the taxpayer has no annual accounting period or does not keep books, the net income shall be computed on the basis of the calendar year.

Basis of computing. Vol. 43, p. 267.

(c) If a taxpayer changes his accounting period from fiscal year to calendar year, from calendar year to fiscal year, or from one fiscal year to another, the net income shall, with the approval of the Commissioner, be computed on the basis of such new accounting period, subject to the provisions of section 226.

If taxpayer changes accounting period.

(d) Under regulations prescribed by the Commissioner with the approval of the Secretary, a person who regularly sells or otherwise disposes of personal property on the installment plan may return as income therefrom in any taxable year that proportion of the installment payments actually received in that year which the total profit realized or to be realized when the payment is completed, bears to the total contract price. In the case (1) of a casual sale or other casual disposition of personal property for a price exceeding $1,000, or (2) of a sale or other disposition of real property, if in either case the initial payments do not exceed one-fourth of the purchase price, the income may, under regulations prescribed by the Commissioner with the approval of the Secretary, be returned on the basis and in the manner above prescribed in this subdivision. As used in this subdivision the term "initial payments" means the payments received in cash or property other than evidences of indebtedness of the purchaser during the taxable period in which the sale or other disposition is made.

From sales of personal property on installment plan.

Casual sales of personal, or real property.

GROSS INCOME DEFINED

Gross income. Vol. 43, p. 267.

SEC. 213. For the purposes of this title, except as otherwise provided in section 233—

Sources included in.

(a) The term "gross income" includes gains, profits, and income derived from salaries, wages, or compensation for personal service (including in the case of the President of the United States, the judges of the Supreme and inferior courts of the United States, and all other officers and employees, whether elected or appointed, of the United States, Alaska, Hawaii, or any political subdivision

From personal salaries, etc.

Federal officials included.

INCOME TAX.
Professions, trades, businesses, etc.

thereof, or the District of Columbia, the compensation received as such), of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales, or dealings in property, whether real or personal, growing out of the

Interest, rents, dividends, etc.

ownership or use of or interest in such property; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from

Included in taxable year when received.

any source whatever. The amount of all such items shall be included in the gross income for the taxable year in which received by the taxpayer, unless, under methods of accounting permitted under subdivision (b) of section 212, any such amounts are to be properly accounted for as of a different period.

Exempted items.

(b) The term "gross income" does not include the following items, which shall be exempt from taxation under this title:

Life insurance policies.

(1) Amounts received under a life insurance contract paid by reason of the death of the insured, whether in a single sum or in installments (but if such amounts are held by the insurer under an agreement to pay interest thereon, the interest payments shall be included in gross income);

Amounts under life, etc., insurance contracts.

(2) Amounts received (other than amounts paid by reason of the death of the insured and interest payments on such amounts) under a life insurance, endowment, or annuity contract, but if such amounts (when added to amounts received before the taxable year under such contract) exceed the aggregate premiums or consideration paid (whether or not paid during the taxable year)

Transfers for value.

then the excess shall be included in gross income. In the case of a transfer for a valuable consideration, by assignment or otherwise, of a life insurance, endowment, or annuity contract, or any interest therein, only the actual value of such consideration and the amount of the premiums and other sums subsequently paid by the transferee shall be exempt from taxation under paragraph (1) or this paragraph;

Value of gifts, etc.

(3) The value of property acquired by gift, bequest, devise, or inheritance (but the income from such property shall be included in gross income);

Interest on State, etc., obligations.

(4) Interest upon (A) the obligations of a State, Territory, or any political subdivision thereof, or the District of Columbia; or

Farm loan bonds.
Vol. 39, p. 375.

(B) securities issued under the provisions of the Federal Farm Loan Act, or under the provisions of such Act as amended; or (C)

Federal, etc., obligations.

the obligations of the United States or its possessions. Every person owning any of the obligations or securities enumerated in clause (A), (B), or (C) shall, in the return required by this title, submit

Statement required in returns.

a statement showing the number and amount of such obligations and securities owned by him and the income received therefrom, in such form and with such information as the Commissioner may

Limitation on Liberty bonds, etc.

require. In the case of obligations of the United States issued after September 1, 1917 (other than postal savings certificates of deposit), the interest shall be exempt only if and to the extent provided in the respective Acts authorizing the issue thereof as amended and supplemented, and shall be excluded from gross income only if and to the extent it is wholly exempt to the taxpayer from income taxes;

Income from domestic securities owned by foreign governments.

(5) The income of foreign governments received from investments in the United States in stocks, bonds, or other domestic securities, owned by such foreign governments, or from interest on deposits in banks in the United States of moneys belonging to such foreign governments, or from any other source within the United States;

Payments for personal injuries.

(6) Amounts received, through accident or health insurance or under workmen's compensation acts, as compensation for personal

injuries or sickness, plus the amount of any damages received whether by suit or agreement on account of such injuries or sickness;

States, etc., on receipts from public utilities.

(7) Income derived from any public utility or the exercise of any essential governmental function and accruing to any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, or income accruing to the Government of any possession of the United States, or any political subdivision thereof.

If under prior contracts for operation thereof.

Whenever any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, prior to September 8, 1916, entered in good faith into a contract with any person, the object and purpose of which is to acquire, construct, operate, or maintain a public utility—

Tax levied on proceeds prior to division thereof with State, etc.

(A) If by the terms of such contract the tax imposed by this title is to be paid out of the proceeds from the operation of such public utility, prior to any division of such proceeds between the person and the State, Territory, political subdivision, or the District of Columbia, and if, but for the imposition of the tax imposed by this title, a part of such proceeds for the taxable year would accrue directly to or for the use of such State, Territory, political subdivision, or the District of Columbia, then a tax upon the net income from the operation of such public utility shall be levied, assessed, collected, and paid in the manner and at the rates prescribed in this title, but there shall be refunded to such State, Territory, political subdivision, or the District of Columbia (under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary) an amount which bears the same relation to the amount of the tax as the amount which (but for the imposition of the tax imposed by this title) would have accrued directly to or for the use of such State, Territory, political subdivision, or the District of Columbia, bears to the amount of the net income from the operation of such public utility for such taxable year.

Refund to States, etc.

If no part accruing to State, etc., the net income of persons taxable.

(B) If by the terms of such contract no part of the proceeds from the operation of the public utility for the taxable year would, irrespective of the tax imposed by this title, accrue directly to or for the use of such State, Territory, political subdivision, or the District of Columbia, then the tax upon the net income of such person from the operation of such public utility shall be levied, assessed, collected, and paid in the manner and at the rates prescribed in this title;

Earnings from foreign ships by nonresident alien, etc.

(8) The income of a nonresident alien or foreign corporation which consists exclusively of earnings derived from the operation of a ship or ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States;

Condition.

War risk and rehabilitation allowances, and pensions.

(9) Amounts received as compensation, family allotments and allowances under the provisions of the War Risk Insurance and the Vocational Rehabilitation Acts or the World War Veterans' Act, 1924, or as pensions from the United States for service of the beneficiary or another in the military or naval forces of the United States in time of war, or as a State pension for services rendered by the beneficiary or another for which the State is paying a pension;

Dividends from domestic building associations.

Limit.

(10) The amount received by an individual as dividends or interest from domestic building and loan associations, substantially all the business of which is confined to making loans to members, but the amount excluded from gross income under this paragraph in any taxable year shall not exceed $300;

Rent of minister's dwelling.

(11) The rental value of a dwelling house and appurtenances thereof furnished to a minister of the gospel as part of his compensation;

INCOME TAX.
Receipts of shipowners' mutual associations.

(12) The receipts of shipowners' mutual protection and indemnity associations, not organized for profit, and no part of the net earnings of which inures to the benefit of any private shareholder; but such corporations shall be subject as other persons to the tax upon their net income from interest, dividends, and rents;

Special dividends to Chinese residents from China trade corporations.
Vol. 42, p. 856.

(13) In the case of a person, amounts distributed as dividends to or for his benefit by a corporation organized under the China Trade Act, 1922, if, at the time of such distribution, he is a resident of China, and the equitable right to the income of the shares of stock of the corporation is in good faith vested in him;

Receipts by citizen, a nonresident, from sources outside United States.

(14) In the case of an individual citizen of the United States, a bona fide nonresident of the United States for more than six months during the taxable year, amounts received from sources without the United States if such amounts constitute earned income as defined in section 209; but such individual shall not be allowed as a deduction from his gross income any deductions properly allocable to or chargeable against amounts excluded from gross income under this paragraph.

Nonresident aliens.
Gross income of, only from United States sources.

(c) In the case of a nonresident alien individual, gross income means only the gross income from sources within the United States, determined under the provisions of section 217.

Deductions allowed.

DEDUCTIONS ALLOWED INDIVIDUALS

Items specified.

SEC. 214. (a) In computing net income there shall be allowed as deductions:

Business expenses.

(1) All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; traveling expenses (including the entire amount expended for meals and lodging) while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity;

Travel, etc., included.

Interest on debts.
Exception.

(2) All interest paid or accrued within the taxable year on indebtedness, except on indebtedness incurred or continued to purchase or carry obligations or securities (other than obligations of the United States issued after September 24, 1917, and originally subscribed for by the taxpayer) the interest upon which is wholly exempt from taxation under this title;

Taxes paid.
Exceptions.

(3) Taxes paid or accrued within the taxable year except (A) income, war-profits, and excess-profits taxes imposed by the authority of the United States, (B) so much of the income, war-profits, and excess-profits taxes, imposed by the authority of any foreign country or possession of the United States, as is allowed as a credit under section 222, (C) taxes assessed against local benefits of a kind tending to increase the value of the property assessed, and (D) taxes imposed upon the taxpayer upon his interest as shareholder of a corporation, which are paid by the corporation without reimbursement from the taxpayer. For the purpose of this paragraph, estate, inheritance, legacy, and succession taxes accrue on the due date thereof except as otherwise provided by the law of the jurisdiction imposing such taxes;

Accrual of estate, etc., taxes.

Business losses.

(4) Losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in trade or business;

Losses not connected with trade or business.

(5) Losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in any transaction

entered into for profit, though not connected with the trade or business; but in the case of a nonresident alien individual only if the profit, if such transaction had resulted in a profit, would be taxable under this title. No deduction shall be allowed under this paragraph for any loss claimed to have been sustained in any sale or other disposition of shares of stock or securities where it appears that within thirty days before or after the date of such sale or other disposition the taxpayer has acquired (otherwise than by bequest or inheritance) or has entered into a contract or option to acquire substantially identical property, and the property so acquired is held by the taxpayer for any period after such sale or other disposition. If such acquisition or the contract or option to acquire is to the extent of part only of substantially identical property, then only a proportionate part of the loss shall be disallowed;

Restriction as to sales of stock, etc.

Allowance for part of a loss.

(6) Losses sustained during the taxable year of property not connected with the trade or business (but in the case of a nonresident alien individual only property within the United States) if arising from fires, storms, shipwreck, or other casualty, or from theft, and if not compensated for by insurance or otherwise. The basis for determining the amount of the deduction under this paragraph, or paragraph (4) or (5), shall be the same as is provided in section 204 for determining the gain or loss from the sale or other disposition of property;

Casualty losses not connected with business.

Basis for determining.
Ante, p. 26.

(7) Debts ascertained to be worthless and charged off within the taxable year (or, in the discretion of the Commissioner, a reasonable addition to a reserve for bad debts); and when satisfied that a debt is recoverable only in part, the Commissioner may allow such debt to be charged off in part;

Worthless debts.

(8) A reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence. In the case of improved real estate held by one person for life with remainder to another person, the deduction provided for in this paragraph shall be equitably apportioned between the life tenant and the remainderman under rules and regulations prescribed by the Commissioner with the approval of the Secretary;

Exhaustion, etc., of business property.

Real estate held under life tenancy.

(9) In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case; such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the Commissioner, with the approval of the Secretary. In the case of leases the deduction allowed by this paragraph shall be equitably apportioned between the lessor and lessee;

Mines, oil and gas wells, timber, etc.

Reasonable allowance for depletion, etc.

(10) Contributions or gifts made within the taxable year to or for the use of: (A) The United States, any State, Territory, or any political subdivision thereof, or the District of Columbia, for exclusively public purposes; (B) any corporation, or trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual; (C) the special fund for vocational rehabilitation authorized by section 7 of the Vocational Rehabilitation Act; (D) posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the

Gifts, etc.
For public uses.

Corporations, *community chests*, religious, scientific, etc., organizations.

Vocational rehabilitation.
Vol. 41, p. 737.

War veterans' organizations, etc.

INCOME TAX. Fraternal lodges, etc. Conditions.

benefit of any private shareholder or individual; or (E) a fraternal society, order, or association, operating under the lodge system, but only if such contributions or gifts are to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals; to an amount which in all the above cases combined does not exceed 15 per centum of the taxpayer's net income as computed without the benefit of this paragraph, except that if in the taxable year and in each of the ten preceding taxable years the amount in all the above cases combined exceeds 90 per centum of the taxpayer's net income for each such year, as computed without the benefit of this paragraph, then to the full amount of such contributions and gifts made within the taxable year. In case of a nonresident alien individual this deduction shall be allowed only as to contributions or gifts made to domestic corporations, or to community chests, funds, or foundations, created in the United States, or to such vocational rehabilitation fund. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the Commissioner, with the approval of the Secretary;

Limit.

Allowance of full amount in special cases.

By nonresident aliens.

Verification required.

On casual sale of real property, reserve for future liabilities under contract, allowed.

(11) In the case of a casual sale or other casual disposition of real property, a reasonable allowance for future expense liabilities, incurred under the provisions of the contract under which such sale or other dispositon was made, under such regulations as the Commissioner, with the approval of the Secretary, may prescribe, including the giving of a bond, with such sureties and in such sum (not less than the estimated tax liability computed without the benefit of this paragraph) as the Commissioner may require, conditioned upon the payment (notwithstanding any statute of limitations) of the tax, computed without the benefit of this paragraph, in respect of any amounts allowed as a deduction under this paragraph and not actually expended in carrying out the provisions of such contract.

Nonresident aliens. Allowances connected with income from United States sources.

(b) In the case of a nonresident alien individual, the deductions allowed in subdivision (a), except those allowed in paragraphs (5), (6), and (10), shall be allowed only if and to the extent that they are connected with income from sources within the United States; and the proper apportionment and allocation of the deductions with respect to sources of income within and without the United States shall be determined as provided in section 217 under rules and regulations prescribed by the Commissioner with the approval of the Secretary. In the case of a citizen entitled to the benefits of section 262 the deductions shall be the same and shall be determined in the same manner as in the case of a nonresident alien individual.

Post, p. 30.

Application to citizens from sources in United States possessions.

Items not deductible.

ITEMS NOT DEDUCTIBLE

Objects specified.

SEC. 215. (a) In computing net income no deduction shall in any case be allowed in respect of—

Personal, etc., expenses.

(1) Personal, living, or family expenses;

Property improvements.

(2) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate;

Restoring, etc., property.

(3) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made; or

Life insurance for employees.

(4) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy.

INCOME TAX. Deductions on income from life interests, etc., by gifts, bequests, or inheritance.

(b) Amounts paid under the laws of any State, Territory, District of Columbia, possession of the United States, or foreign country as income to the holder of a life or terminable interest acquired by gift, bequest, or inheritance shall not be reduced or diminished by any deduction for shrinkage (by whatever name called) in the value of such interest due to the lapse of time, nor by any deduction allowed by this Act for the purpose of computing the net income of an estate or trust but not allowed under the laws of such State, Territory, District of Columbia, possession of the United States, or foreign country for the purpose of computing the income to which such holder is entitled.

CREDITS ALLOWED INDIVIDUALS

Credits allowed. Vol. 43, p. 272.

SEC. 216. For the purpose of the normal tax only there shall be allowed the following credits:

Items for normal tax specified.

Dividends from corporations. Domestic.

(a) The amount received as dividends (1) from a domestic corporation other than a corporation entitled to the benefits of section 262, and other than a corporation organized under the China Trade Act, 1922, or (2) from a foreign corporation when it is shown to the satisfaction of the Commissioner that more than 50 per centum of the gross income of such foreign corporation for the three-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence) was derived from sources within the United States as determined under the provisions of section 217;

Foreign, from United States sources.

Interest on Federal securities.

(b) The amount received as interest upon obligations of the United States which is included in gross income under section 213;

Personal exemption.

Husband and wife living together.

(c) In the case of a single person, a personal exemption of $1,500; or in the case of the head of a family or a married person living with husband or wife, a personal exemption of $3,500. A husband and wife living together shall receive but one personal exemption. The amount of such personal exemption shall be $3,500. If such husband and wife make separate returns, the personal exemption may be taken by either or divided between them.

For separate returns.

Allowance for dependents.

(d) $400 for each person (other than husband or wife) dependent upon and receiving his chief support from the taxpayer if such dependent person is under eighteen years of age or is incapable of self-support because mentally or physically defective.

Nonresident aliens.

Dependent allowance limited to residents of contiguous countries.

(e) In the case of a nonresident alien individual or of a citizen entitled to the benefits of section 262, the personal exemption shall be only $1,500. The credit provided in subdivision (d) shall not be allowed in the case of a nonresident alien individual unless he is a resident of a contiguous country, nor in the case of a citizen entitled to the benefits of section 262.

Status of taxpayer for personal credits.

(f) (1) The credits allowed by subdivisions (d) and (e) of this section shall be determined by the status of the taxpayer on the last day of his taxable year.

Personal exemptions on change of taxable year.

(2) The credit allowed by subdivision (c) of this section shall, in case the status of the taxpayer changes during his taxable year, be the sum of (A) an amount which bears the same ratio to $1,500 as the number of months during which the taxpayer was single bears to twelve months, plus (B) an amount which bears the same ratio to $3,500 as the number of months during which the taxpayer was a married person living with husband or wife or was the head of a family bears to twelve months. For the purposes of this paragraph a fractional part of a month shall be disregarded unless it amounts to more than half a month, in which case it shall be considered as a month.

INCOME TAX.
Allowance in case of death in taxable year.

(3) In the case of an individual who dies during the taxable year, the credits allowed by subdivisions (c), (d), and (e) shall be determined by his status at the time of his death, and in such case full credits shall be allowed to the surviving spouse, if any, according to his or her status at the close of the taxable year.

Nonresident aliens.

NET INCOME OF NONRESIDENT ALIEN INDIVIDUALS

Items deemed gross income from United States sources.

SEC. 217. (a) In the case of a nonresident alien individual or of a citizen entitled to the benefits of section 262, the following items of gross income shall be treated as income from sources within the United States:

Interest on bonds, etc., of residents. Exceptions.

(1) Interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise, not including (A) interest on deposits with persons carrying on the banking business paid to persons not engaged in business within the United States and not having an office or place of business therein, or (B) interest received from a resident alien individual, a resident foreign corporation, or a domestic corporation, when it is shown to the satisfaction of the Commissioner that less than 20 per centum of the gross income of such resident payor or domestic corporation has been derived from sources within the United States, as determined under the provisions of this section, for the three-year period ending with the close of the taxable year of such payor preceding the payment of such interest, or for such part of such period as may be applicable;

Dividends from corporations. Domestic, etc. Exceptions.

(2) The amount received as dividends (A) from a domestic corporation other than a corporation entitled to the benefits of section 262, and other than a corporation less than 20 per centum of whose gross income is shown to the satisfaction of the Commissioner to have been derived from sources within the United States, as determined under the provisions of this section, for the three-year period ending with the close of the taxable year of such corporation preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence), or (B) from a foreign corporation unless less than 50 per centum of the gross income of such foreign corporation for the three-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence) was derived from sources within the United States as determined under the provisions of this section;

Foreign. Limitation.

Personal services in United States.

(3) Compensation for labor or personal services performed in the United States;

Rents, royalties, etc., from United States sources.

(4) Rentals or royalties from property located in the United States or from any interest in such property, including rentals or royalties for the use of or for the privilege of using in the United States, patents, copyrights, secret processes and formulas, good will, trade-marks, trade brands, franchises, and other like property; and

Real estate sales.

(5) Gains, profits, and income from the sale of real property located in the United States.

Deductions of designated expenses, etc., to constitute net income from United States sources.

(b) From the items of gross income specified in subdivision (a) there shall be deducted the expenses, losses, and other deductions properly apportioned or allocated thereto and a ratable part of any expenses, losses, or other deductions which can not definitely be allocated to some item or class of gross income. The remainder, if any, shall be included in full as net income from sources within the United States.

Income from without United States.

(c) The following items of gross income shall be treated as income from sources without the United States:

(1) Interest other than that derived from sources within the United States as provided in paragraph (1) of subdivision (a); Other interest.

(2) Dividends other than those derived from sources within the United States as provided in paragraph (2) of subdivision (a); Other dividends.

(3) Compensation for labor or personal services performed without the United States; Labor, etc., without United States.

(4) Rentals or royalties from property located without the United States or from any interest in such property, including rentals or royalties for the use of or for the privilege of using without the United States, patents, copyrights, secret processes and formulas, good will, trade-marks, trade brands, franchises, and other like properties; and Rents, royalties, etc., without United States.

(5) Gains, profits, and income from the sale of real property located without the United States. Real estate sales without United States.

(d) From the items of gross income specified in subdivision (c) there shall be deducted the expenses, losses, and other deductions properly apportioned or allocated thereto, and a ratable part of any expenses, losses, or other deductions which can not definitely be allocated to some item or class of gross income. The remainder, if any, shall be treated in full as net income from sources without the United States. Expenses connected with excepted items to be deducted. Remainder treated as net income.

(e) Items of gross income, expenses, losses and deductions, other than those specified in subdivisions (a) and (c), shall be allocated or apportioned to sources within or without the United States under rules and regulations prescribed by the Commissioner with the approval of the Secretary. Where items of gross income are separately allocated to sources within the United States, there shall be deducted (for the purpose of computing the net income therefrom) the expenses, losses and other deductions properly apportioned or allocated thereto and a ratable part of other expenses, losses or other deductions which can not definitely be allocated to some item or class of gross income. The remainder, if any, shall be included in full as net income from sources within the United States. In the case of gross income derived from sources partly within and partly without the United States, the net income may first be computed by deducting the expenses, losses or other deductions apportioned or allocated thereto and a ratable part of any expenses, losses or other deductions which can not definitely be allocated to some items or class of gross income; and the portion of such net income attributable to sources within the United States may be determined by processes or formulas of general apportionment prescribed by the Commissioner with the approval of the Secretary. Gains, profits and income from (1) transportation or other services rendered partly within and partly without the United States, or (2) from the sale of personal property produced (in whole or in part) by the taxpayer within and sold without the United States, or produced (in whole or in part) by the taxpayer without and sold within the United States, shall be treated as derived partly from sources within and partly from sources without the United States. Gains, profits and income derived from the purchase of personal property within and its sale without the United States or from the purchase of personal property without and its sale within the United States, shall be treated as derived entirely from sources within the country in which sold, except that gains, profits and income derived from the purchase of personal property within the United States and its sale within a possession of the United States or from the purchase of personal property within a possession of the United States and its sale within the United States shall be treated as derived partly from sources within and partly from sources without the United States. Apportionment of items within and without United States. From United States sources. Derived partly within and partly without. Determination of United States income. From transportation and other services. Sales of personal property within and without. Purchase and sale of personal property. Exceptions.

INCOME TAX. Synonymous meaning of words.

(f) As used in this section the words "sale" or "sold" include "exchange" or "exchanged"; and the word "produced" includes "created," "fabricated," "manufactured," "extracted," "processed," "cured," or "aged."

Returns to be made of total income from United States sources.

(g) (1) Except as provided in paragraph (2) a nonresident alien individual or a citizen entitled to the benefits of section 262 shall receive the benefit of the deductions and credits allowed in this title only by filing or causing to be filed with the collector a true and accurate return of his total income received from all sources in the United States, in the manner prescribed in this title; including therein all the information which the Commissioner may deem necessary for the calculation of such deductions and credits.

Additional information.

Personal exemption credits, etc., allowed by filing claim with withholding agent.

(2) The benefit of the credits allowed in subdivisions (d) and (e) of section 216, and of the reduced rate of tax provided for in subdivision (b) of section 210, may, in the discretion of the Commissioner and under regulatons prescribed by him with the approval of the Secretary, be received by a nonresident alien individual entitled thereto, by filing a claim therefor with the withholding agent.

Partnerships.

PARTNERSHIPS

Partners taxed as individuals.

SEC. 218. (a) Individuals carrying on business in partnership shall be liable for income tax only in their individual capacity.

Computation of income.

There shall be included in computing the net income of each partner his distributive share, whether distributed or not, of the net income of the partnership for the taxable year, or, if his net income for such taxable year is computed upon the basis of a period different from that upon the basis of which the net income of the partnership is computed, then his distributive share of the net income of the partnership for any accounting period of the partnership ending within the taxable year upon the basis of which the partner's net income is computed.

Additional credits from partnership exemptions.

(b) The partner shall, for the purpose of the normal tax, be allowed as credits, in addition to the credits allowed to him under section 216, his proportionate share of such amounts specified in subdivisions (a) and (b) of section 216 as are received by the partnership.

Computation of net income.

(c) The net income of the partnership shall be computed in the same manner and on the same basis as provided in section 212 except that the deduction provided in paragraph (10) of subdivision (a) of section 214 shall not be allowed.

Estates and trusts.

ESTATES AND TRUSTS

Income of, taxed.

SEC. 219. (a) The tax imposed by Parts I and II of this title shall apply to the income of estates or of any kind of property held in trust, including—

Trust accumulations.

(1) Income accumulated in trust for the benefit of unborn or unascertained persons or persons with contingent interests, and income accumulated or held for future distribution under the terms of the will or trust;

Periodically distributed.

(2) Income which is to be distributed currently by the fiduciary to the beneficiaries, and income collected by a guardian of an infant which is to be held or distributed as the court may direct;

Received during administration.

(3) Income received by estates of deceased persons during the period of administration or settlement of the estate; and

Discretionary distribution.

(4) Income which, in the discretion of the fiduciary, may be either distributed to the beneficiaries or accumulated.

Payments by fiduciary.

(b) Except as otherwise provided in subdivisions (g) and (h), the tax shall be computed upon the net income of the estate or trust,

and shall be paid by the fiduciary. The net income of the estate or trust shall be computed in the same manner and on the same basis as provided in section 212, except that—

INCOME TAX. Computation of net income.

(1) There shall be allowed as a deduction (in lieu of the deduction authorized by paragraph (10) of subdivision (a) of section 214) any part of the gross income, without limitation, which pursuant to the terms of the will or deed creating the trust, is during the taxable year paid or permanently set aside for the purposes and in the manner specified in paragraph (10) of subdivision (a) of section 214, or is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the establishment, acquisition, maintenance or operation of a public cemetery not operated for profit;

Deductions of gifts, etc., under will or trust without limitation.

Ante, p. 27.

(2) There shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year which is to be distributed currently by the fiduciary to the beneficiaries, and the amount of the income collected by a guardian of an infant which is to be held or distributed as the court may direct, but the amount so allowed as a deduction shall be included in computing the net income of the beneficiaries whether distributed to them or not. Any amount allowed as a deduction under this paragraph shall not be allowed as a deduction under paragraph (3) in the same or any succeeding taxable year;

Additional deductions for current distributions by fiduciary.

Limitation.

(3) In the case of income received by estates of deceased persons during the period of administration or settlement of the estate, and in the case of income which, in the discretion of the fiduciary, may be either distributed to the beneficiary or accumulated, there shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year which is properly paid or credited during such year to any legatee, heir, or beneficiary, but the amount so allowed as a deduction shall be included in computing the net income of the legatee, heir, or beneficiary.

Additional deduction for payments made or credited to beneficiaries.

Included in income of beneficiary.

(c) For the purpose of the normal tax the estate or trust shall be allowed the same credit as is allowed to a single person under subdivision (c) of section 216, and, if no part of the income of the estate or trust is included in computing the net income of any legatee, heir, or beneficiary, then in addition the same credits as are allowed by subdivisions (a) and (b) of section 216.

Normal tax personal exemptions allowed, heirs, etc.

(d) If any part of the income of an estate or trust is included in computing the net income of any legatee, heir, or beneficiary, such legatee, heir, or beneficiary shall, for the purpose of the normal tax, be allowed as credits, in addition to the credits allowed to him under section 216, his proportionate share of such amounts specified in subdivisions (a) and (b) of section 216 as are, under this section, required to be included in computing his net income. Any remaining portion of such amounts specified in subdivisions (a) and (b) of section 216 shall, for the purpose of the normal tax, be allowed as credits to the estate or trust.

Credits allowed beneficiaries in computing income.

(e) If the taxable year of a beneficiary is different from that of the estate or trust, the amount which he is required, under paragraph (2) of subdivision (b) of this section, to include in computing his net income, shall be based upon the income of the estate or trust for its taxable year ending within his taxable year.

Computation if taxable year of estate and beneficiary differ.

(f) A trust created by an employer as a part of a stock bonus, pension, or profit-sharing plan for the exclusive benefit of some or all of his employees, to which contributions are made by such em-

Profit sharing trust, etc., for employees not taxed.

INCOME TAX.

ployer, or employees, or both, for the purpose of distributing to such employees the earnings and principal of the fund accumulated by the trust in accordance with such plan, shall not be taxable under this section, but the amount actually distributed or made available to any distributee shall be taxable to him in the year in which so distributed or made available to the extent that it exceeds the amounts paid in by him. Such distributees shall for the purpose of the normal tax be allowed as credits such part of the amount so distributed or made available as represents the items specified in subdivisions (a) and (b) of section 216.

Distributee taxed on amount received.

Credits allowed.

Income from revocable trust included in that of grantor.

(g) Where the grantor of a trust has, at any time during the taxable year, either alone or in conjunction with any person not a beneficiary of the trust, the power to revest in himself title to any part of the corpus of the trust, then the income of such part of the trust for such taxable year shall be included in computing the net income of the grantor.

Distribution from trust income to grantor, etc., included in his income.

(h) Where any part of the income of a trust may, in the discretion of the grantor of the trust, either alone or in conjunction with any person not a beneficiary of the trust, be distributed to the grantor or be held or accumulated for future distribution to him, or where any part of the income of a trust is or may be applied to the payment of premiums upon policies of insurance on the life of the grantor (except policies of insurance irrevocably payable for the purposes and in the manner specified in paragraph (10) of subdivision (a) of section 214), such part of the income of the trust shall be included in computing the net income of the grantor.

Evasion of surtaxes by incorporation.

EVASION OF SURTAXES BY INCORPORATION

Tax on income of corporations accumulating gains, etc., to avoid surtax on its shareholders.

SEC. 220. (a) If any corporation, however created or organized, is formed or availed of for the purpose of preventing the imposition of the surtax upon its shareholders through the medium of permitting its gains and profits to accumulate instead of being divided or distributed, there shall be levied, collected, and paid for each taxable year upon the net income of such corporation a tax equal to 50 per centum of the amount thereof, which shall be in addition to the tax imposed by section 230 of this title and shall (except as provided in subdivision (d) of this section) be computed, collected, and paid upon the same basis and in the same manner and subject to the same provisions of law, including penalties, as that tax.

Additional to the corporation tax.
Post, p. 39.

Evidence of purpose of evasion.

(b) The fact that any corporation is a mere holding or investment company, or that the gains or profits are permitted to accumulate beyond the reasonable needs of the business, shall be prima facie evidence of a purpose to escape the surtax.

Statement of gains, names, etc., to be made.

(c) When requested by the Commissioner, or any collector, every corporation shall forward to him a correct statement of such gains and profits and the names and addresses of the individuals or shareholders who would be entitled to the same if divided or distributed, and of the amounts that would be payable to each.

Meaning of "net income" as used.

(d) As used in this section the term "net income" means the net income as defined in section 232, increased by the sum of the amount of the deduction allowed under paragraph (6) of subdivision (a) of section 234, and the amount of the interest on obligations of the United States issued after September 1, 1917, which would be subject to tax in whole or in part in the hands of an individual owner.

Additional tax not applicable if distributive share included in income of shareholders.

(e) The tax imposed by subdivision (a) of this section shall not apply in respect of any taxable year if all the shareholders of the corporation include (at the time of filing their returns) in their gross income their entire distributive share, whether distributed or not, of the net income of the corporation for such year. Any amount

Exemption on distribution.

so included in the gross income of a shareholder shall be treated as a dividend received. Any subsequent distribution made by the corporation out of the earnings or profits for such taxable year shall, if distributed to any shareholder who has so included in his gross income his distributive share, be exempt from tax in the amount of the share so included.

PAYMENT OF INDIVIDUAL'S TAX AT SOURCE

Payment of tax at source.

Normal tax of nonresident aliens payable thereat.

SEC. 221. (a) All persons, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the United States, having the control, receipt, custody, disposal, or payment of interest (except interest on deposits with persons carrying on the banking business paid to persons not engaged in business in the United States and not having an office or place of business therein), rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income, of any nonresident alien individual, or of any partnership not engaged in trade or business within the United States and not having any office or place of business therein and composed in whole or in part of nonresident aliens, (other than income received as dividends of the class allowed as a credit by subdivision (a) of section 216) shall (except in the cases provided for in subdivision (b) and except as otherwise provided in regulations prescribed by the Commissioner under section 217) deduct and withhold from such annual or periodical gains, profits, and income a tax equal to 5 per centum thereof: *Provided*, That the Commissioner may authorize such tax to be deducted and withheld from the interest upon any securities the owners of which are not known to the withholding agent.

Exception.

Proviso.
Interest of unknown owners included.

By corporation agreeing to pay interest free from tax, etc.

(b) In any case where bonds, mortgages, or deeds of trust, or other similar obligations of a corporation contain a contract or provision by which the obligor agrees to pay any portion of the tax imposed by this title upon the obligee, or to reimburse the obligee for any portion of the tax, or to pay the interest without deduction for any tax which the obligor may be required or permitted to pay thereon, or to retain therefrom under any law of the United States, the obligor shall deduct and withhold a tax equal to 2 per centum of the interest upon such bonds, mortgages, deeds of trust, or other obligations, whether such interest is payable annually or at shorter or longer periods and whether payable to a nonresident alien individual or to an individual citizen or resident of the United States or to a partnership: *Provided*, That the Commissioner may authorize such tax to be deducted and withheld in the case of interest upon any such bonds, mortgages, deeds of trust, or other obligations, the owners of which are not known to the withholding agent. Such deduction and withholding shall not be required in the case of a citizen or resident entitled to receive such interest, if he files with the withholding agent on or before February 1 a signed notice in writing claiming the benefit of the credits provided in subdivisions (c) and (d) of section 216; nor in the case of a nonresident alien individual if so provided for in regulations prescribed by the Commissioner under subdivision (g) of section 217. Such deduction and withholding shall be at the rate of 1½ per centum instead of at the rate of 2 per centum in the case of a citizen or resident entitled to receive such interest if he files with the withholding agent on or before February 1 a signed notice in writing that his net income in excess of the credits provided in section 216 does not exceed $4,000.

Tax to be withheld.

Proviso.
Of unknown owners.

Exception on notice of credit withheld by individual.

Nonresident alien.

Rate of tax.

INCOME TAX.
Returns, etc., by withholding agent required.

(c) Every person required to deduct and withhold any tax under this section shall make return thereof on or before March 15 of each year and shall on or before June 15 pay the tax to the official of the United States Government authorized to receive it. Every such person is hereby made liable for such tax and is hereby indemnified against the claims and demands of any person for the amount of any payments made in accordance with the provisions of this section.

Returns by recipient of tax withheld.

(d) Income upon which any tax is required to be withheld at the source under this section shall be included in the return of the recipient of such income, but any amount of tax so withheld shall be credited against the amount of income tax as computed in such return.

Tax paid by recipient not recollectible, etc.

(e) If any tax required under this section to be deducted and withheld is paid by the recipient of the income, it shall not be recollected from the withholding agent; nor in cases in which the tax is so paid shall any penalty be imposed upon or collected from the recipient of the income or the withholding agent for failure to return or pay the same, unless such failure was fraudulent and for the purpose of evading payment.

Credit for taxes paid.

CREDIT FOR TAXES IN CASE OF INDIVIDUALS

Allowances.
Vol. 43, p. 279.

SEC. 222. (a) The tax computed under Parts I and II of this title shall be credited with:

To citizens, of taxes to foreign countries.

(1) In the case of a citizen of the United States the amount of any income, war-profits, and excess-profits taxes paid or accrued during the taxable year to any foreign country or to any possession of the United States; and

Residents, to United States possessions.

(2) In the case of a resident of the United States, the amount of any such taxes paid or accrued during the taxable year to any possession of the United States; and

Alien residents, to foreign countries allowing similar credit.

(3) In the case of an alien resident of the United States, the amount of any such taxes paid or accrued during the taxable year to any foreign country, if the foreign country of which such alien resident is a citizen or subject, in imposing such taxes, allows a similar credit to citizens of the United States residing in such country; and

Partners, or trust beneficiaries, to foreign countries.

(4) In the case of any such individual who is a member of a partnership or a beneficiary of an estate or trust, his proportionate share of such taxes of the partnership or the estate or trust paid or accrued during the taxable year to a foreign country or to any possession of the United States, as the case may be.

Exceptions.

Amounts of credits limited.
Post, p. 53.

(5) The above credits shall not be allowed in the case of a citizen entitled to the benefits of section 262; and in no other case shall the amount of credit taken under this subdivision exceed the same proportion of the tax (computed on the basis of the taxpayer's net income without the deduction of any income, war-profits, or excess-profits tax any part of which may be allowed to him as a credit by this section), against which such credit is taken, which the taxpayer's net income (computed without the deduction of any such income, war-profits, or excess-profits tax) from sources without the United States bears to his entire net income (computed without such deduction) for the same taxable year.

Redetermination if tax paid differ from credits claimed.

(b) If accrued taxes when paid differ from the amounts claimed as credits by the taxpayer, or if any tax paid is refunded in whole or in part, the taxpayer shall notify the Commissioner, who shall redetermine the amount of the tax due under Parts I and II of this title for the year or years affected, and the amount of tax due upon such redetermination, if any, shall be paid by the taxpayer upon notice and demand by the collector, or the amount of tax overpaid,

if any, shall be credited or refunded to the taxpayer in accordance with the provisions of section 284. In the case of such a tax accrued but not paid, the Commissioner as a condition precedent to the allowance of this credit may require the taxpayer to give a bond with sureties satisfactory to and to be approved by the Commissioner in such sum as the Commissioner may require, conditioned upon the payment by the taxpayer of any amount of tax found due upon any such redetermination; and the bond herein prescribed shall contain such further conditions as the Commissioner may require.

If accrued but not paid.

Bond required.

(c) The credits provided for in subdivision (a) of this section may, at the option of the taxpayer and irrespective of the method of accounting employed in keeping his books, be taken in the year in which the taxes of the foreign country or the possession of the United States accrued, subject, however, to the conditions prescribed in subdivision (b) of this section. If the taxpayer elects to take such credits in the year in which the taxes of the foreign country or the possession of the United States accrued, the credits for all subsequent years shall be taken upon the same basis.

Credits for foreign taxes may be taken in the year accrued.

On same basis for subsequent years.

(d) These credits shall be allowed only if the taxpayer furnishes evidence satisfactory to the Commissioner showing the amount of income derived from sources without the United States, and all other information necessary for the verification and computation of such credits.

Evidence required of foreign income.

INDIVIDUAL RETURNS

Individual returns.

SEC. 223. (a) The following individuals shall each make under oath a return stating specifically the items of his gross income and the deductions and credits allowed under this title—

Sworn statement of gross income, credits, etc.

(1) Every individual having a net income for the taxable year of $1,500 or over, if single, or if married and not living with husband or wife;

If net income $1,500 or over, if single, etc.

(2) Every individual having a net income for the taxable year of $3,500 or over, if married and living with husband or wife; and

Married, with $3,500 or over, and living with wife.

(3) Every individual having a gross income for the taxable year of $5,000 or over, regardless of the amount of his net income.

Gross income $5,000 or over.

(b) If a husband and wife living together have an aggregate net income for the taxable year of $3,500 or over, or an aggregate gross income for such year of $5,000 or over—

Husband and wife living together.

(1) Each shall make such a return, or

Separate.

(2) The income of each shall be included in a single joint return, in which case the tax shall be computed on the aggregate income.

Joint.

(c) If the taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer.

By agent, etc.

PARTNERSHIP RETURNS

Partnership returns.

SEC. 224. Every partnership shall make a return for each taxable year, stating specifically the items of its gross income and the deductions allowed by this title, and shall include in the return the names and addresses of the individuals who would be entitled to share in the net income if distributed and the amount of the distributive share of each individual. The return shall be sworn to by any one of the partners.

Sworn statement of gross income, etc.

FIDUCIARY RETURNS

Fiduciary returns.

SEC. 225. (a) Every fiduciary (except a receiver appointed by authority of law in possession of part only of the property of an individual) shall make under oath a return for any of the following

Sworn statement of income, etc., of beneficiaries.

INCOME TAX.

individuals, estates, or trusts for which he acts, stating specifically the items of gross income thereof and the deductions and credits allowed under this title—

With net income of $1,500 or over, and single, etc.

(1) Every individual having a net income for the taxable year of $1,500 or over, if single, or if married and not living with husband or wife;

Married, etc., with $3,500 or over.

(2) Every individual having a net income for the taxable year of $3,500 or over, if married and living with husband or wife;

Gross income $5,000 or over.

(3) Every individual having a gross income for the taxable year of $5,000 or over, regardless of the amount of his net income;

Estates or trusts of $1,500 net income.

(4) Every estate or trust the net income of which for the taxable year is $1,500 or over;

Gross income of $5,000.

(5) Every estate or trust the gross income of which for the taxable year is $5,000 or over, regardless of the amount of the net income; and

Nonresident alien beneficiaries.

(6) Every estate or trust of which any beneficiary is a nonresident alien.

By joint fiduciaries.

(b) Under such regulations as the Commissioner with the approval of the Secretary may prescribe a return made by one of two or more joint fiduciaries and filed in the office of the collector of the district where such fiduciary resides shall be sufficient compliance with the above requirement. Such fiduciary shall make oath (1) that he has sufficient knowledge of the affairs of the individual, estate or trust for which the return is made, to enable him to make the return, and (2) that the return is, to the best of his knowledge and belief, true and correct. Any fiduciary required to make a return under this Act shall be subject to all the provisions of this Act which apply to individuals.

Oath, etc., required.

Returns for less than a year.

RETURNS FOR A PERIOD OF LESS THAN TWELVE MONTHS

Basis for determining, when accounting periods changed.

SEC. 226. (a) If a taxpayer, with the approval of the Commissioner, changes the basis of computing net income from fiscal year to calendar year a separate return shall be made for the period between the close of the last fiscal year for which return was made and the following December 31. If the change is from calendar year to fiscal year, a separate return shall be made for the period between the close of the last calendar year for which return was made and the date designated as the close of the fiscal year. If the change is from one fiscal year to another fiscal year a separate return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year.

Income to be based on period of return.

(b) Where a separate return is so made, and in all other cases where a separate return is required or permitted, by regulations prescribed by the Commissioner with the approval of the Secretary, to be made for a fractional part of a year, then the income shall be computed on the basis of the period for which separate return is made.

Computation of taxable income.

(c) If a separate return is made under subdivision (a) the net income, computed in accordance with the provisions of subdivision (b), shall be placed on an annual basis by multiplying the amount thereof by twelve and dividing by the number of months included in the period for which the separate return is made. The tax shall be such part of the tax computed on such annual basis as the number of months in such period is of twelve months.

Application of capital gain or loss or earned income.

(d) The Commissioner with the approval of the Secretary shall by regulations prescribe the method of applying the provisions of subdivisions (b) and (c) to cases where the taxpayer makes a separate return under subdivision (a) and it appears that for the

period for which the return is so made he has derived a capital net gain, or sustained a capital net loss, or received earned income.

Reduction of personal credits for fractions of a year.

(e) In the case of a return made for a fractional part of a year, except a return made under subdivision (a), the credits provided in subdivisions (c), (d), and (e) of section 216 shall be reduced respectively to amounts which bear the same ratio to the full credits provided in such subdivisions as the number of months in the period for which return is made bears to twelve months.

TIME AND PLACE FOR FILING INDIVIDUAL, PARTNERSHIP, AND FIDUCIARY RETURNS

Filing returns.

Time designated for citizens.

SEC. 227. (a) Returns (except in the case of nonresident aliens) shall be made on or before the fifteenth day of the third month following the close of the fiscal year, or, if the return is made on the basis of the calendar year, then the return shall be made on or before the 15th day of March.

Nonresident aliens.

In the case of a nonresident alien individual returns shall be made on or before the fifteenth day of the sixth month following the close of the fiscal year, or, if the return is made on the basis of the calendar year, then the return shall be made on or before the 15th day of June.

Extension granted on application.

The Commissioner may grant a reasonable extension of time for filing returns, under such rules and regulations as he shall prescribe with the approval of the Secretary.

Limit.

Except in the case of taxpayers who are abroad, no such extension shall be for more than six months.

To collector for the district.

(b) Returns shall be made to the collector for the district in which is located the legal residence or principal place of business of the person making the return, or, if he has no legal residence or principal place of business in the United States, then to the collector at Baltimore, Maryland.

At Baltimore, Md.

PART III.—CORPORATIONS

Corporations.

TAX ON CORPORATIONS

Tax imposed.

Rates on net income. Vol. 43, p. 282.

SEC. 230. (a) In lieu of the tax imposed by section 230 of the Revenue Act of 1924, there shall be levied, collected, and paid for each taxable year upon the net income of every corporation, a tax at the following rates:

For calendar year 1925.

(1) For the calendar year 1925, 13 per centum of the amount of the net income in excess of the credits provided in sections 236 and 263; and

Thereafter.

(2) For each calendar year thereafter, 13½ per centum of such excess amount.

Installment payments.

(b) A taxpayer whose taxable year is the calendar year and who elects for the calendar year 1925 to pay the tax imposed by this section in four installments as provided in section 270, shall pay such installments in amounts as follows:

Post, p. 54.

(1) The amount of the first and second installments shall each equal 24 per centum of the tax; and

(2) The amount of the third and fourth installments shall each equal 26 per centum of the tax.

CONDITIONAL AND OTHER EXEMPTIONS OF CORPORATIONS

Exemptions.

Designated organizations.

SEC. 231. The following organizations shall be exempt from taxation under this title—

Labor, agricultural, etc.

(1) Labor, agricultural, or horticultural organizations;

Mutual Savings banks.

(2) Mutual savings banks not having a capital stock represented by shares;

INCOME TAX.

Fraternal beneficiary societies, lodges, etc.

(3) Fraternal beneficiary societies, orders, or associations, (a) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system; and (b) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents;

Domestic building and loan associations; cooperative banks.

(4) Domestic building and loan associations substantially all the business of which is confined to making loans to members; and cooperative banks without capital stock organized and operated for mutual purposes and without profit;

Mutual cemetery companies, etc.

(5) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

Corporations, community chests, etc., for religious, scientific, etc., purposes.

(6) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

Business leagues, etc.

(7) Business leagues, chambers of commerce, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

Civic leagues, employees' associations, etc.

(8) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes;

Pleasure clubs.

(9) Clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder;

Local life insurance, mutual ditch, etc., companies.

(10) Benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations; but only if 85 per centum or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses;

Farmers' mutual casualty insurance companies.

(11) Farmers' or other mutual hail, cyclone, casualty, or fire insurance companies or associations (including interinsurers and reciprocal underwriters) the income of which is used or held for the purpose of paying losses or expenses;

Cooperative associations of farmers for marketing their products.

(12) Farmers', fruit growers', or like associations organized and operated on a cooperative basis (a) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing expenses, on the basis of either the quantity or the value of the products furnished by them, or (b) for the purpose of purchasing supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses. Exemption shall not be denied any such association because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 per centum per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the association, upon dissolution or otherwise, beyond the fixed dividends) is owned by pro-

Purchasing supplies, and equipment for members.

Capital stock associations restricted.

ducers who market their products or purchase their supplies and equipment through the association; nor shall exemption be denied any such association because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose. Such an association may market the products of nonmembers in an amount the value of which does not exceed the value of the products marketed for members, and may purchase supplies and equipment for nonmembers in an amount the value of which does not exceed the value of the supplies and equipment purchased for members, provided the value of the purchases made for persons who are neither members nor producers does not exceed 15 per centum of the value of all its purchases;

Limitation on marketing products of nonmembers.

(13) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title; and

As trustees for exempted corporations.

(14) Federal land banks, national farm-loan associations, and Federal intermediate credit banks, as provided in the Federal Farm Loan Act, as amended.

Federal land banks, etc. Vol. 39, p. 380.

NET INCOME OF CORPORATIONS DEFINED

Corporation net income.

SEC. 232. In the case of a corporation subject to the tax imposed by section 230 the term "net income" means the gross income as defined in section 233 less the deductions allowed by sections 234 and 206, and the net income shall be computed on the same basis as is provided in subdivisions (b) and (d) of section 212 or in section 226. In the case of a foreign corporation or of a corporation entitled to the benefits of section 262 the computation shall also be made in the manner provided in section 217.

Computation of domestic. Vol. 43, p. 283.

Foreign.

GROSS INCOME OF CORPORATIONS DEFINED

Corporation gross income.

SEC. 233. (a) In the case of a corporation subject to the tax imposed by section 230 the term "gross income" means the gross income as defined in sections 213 and 217, except that mutual marine insurance companies shall include in gross income the gross premiums collected and received by them less amounts paid for reinsurance.

Sources of domestic.

Exception.

(b) In the case of a foreign corporation, gross income means only gross income from sources within the United States, determined (except in the case of insurance companies subject to the tax imposed by sections 243 or 246) in the manner provided in section 217.

Foreign, from United States sources.

DEDUCTIONS ALLOWED CORPORATIONS

Deductions.

SEC. 234. (a) In computing the net income of a corporation subject to the tax imposed by section 230 there shall be allowed as deductions:

Allowed in computing net income.

(1) All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered, and including rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity;

Business expenses.

(2) All interest paid or accrued within the taxable year on its indebtedness, except on indebtedness incurred or continued to purchase or carry obligations or securities (other than obligations of the United States issued after September 24, 1917, and originally

Interest on debts.

Exception.

INCOME TAX.

subscribed for by the taxpayer) the interest upon which is wholly exempt from taxation under this title;

Domestic taxes. Exception. Foreign taxes.

(3) Taxes paid or accrued within the taxable year except (A) income, war-profits, and excess-profits taxes imposed by the authority of the United States, (B) so much of the income, war-profits, and excess-profits taxes imposed by the authority of any foreign country or possession of the United States as is allowed as a credit under section 238, and (C) taxes assessed against local benefits of a kind tending to increase the value of the property assessed. In the case of obligors specified in subdivision (b) of section 221 no deduction for the payment of the tax imposed by this title, or any other tax paid pursuant to the tax-free covenant clause, shall be allowed, nor shall such tax be included in the gross income of the obligee. The deduction allowed by this paragraph shall be allowed in the case of taxes imposed upon a shareholder of a corporation upon his interest as shareholder, which are paid by the corporation without reimbursement from the shareholder, but in such cases no deduction shall be allowed the shareholder for the amount of such taxes. For the purpose of this paragraph, estate, inheritance, legacy, and succession taxes accrue on the due date thereof except as otherwise provided by law of the jurisdiction imposing such taxes;

For local benefits.

Not applicable to corporations guaranteeing interest free from tax.

Allowed if paid by shareholder.

Accrual of estate, etc., taxes.

Losses.

Restriction of, on sales of securities, etc.

(4) Losses sustained during the taxable year and not compensated for by insurance or otherwise. No deduction shall be allowed under this paragraph for any loss claimed to have been sustained in any sale or other disposition of shares of stock or securities where it appears that within thirty days before or after the date of such sale or other disposition the taxpayer has acquired (otherwise than by bequest or inheritance) or has entered into a contract or option to acquire substantially identical property, and the property so acquired is held by the taxpayer for any period after such sale or other disposition, unless such claim is made by a dealer in stock or securities and with respect to a transaction made in the ordinary course of its business. If such acquisition or the contract or option to acquire is to the extent of part only of substantially identical property, then only a proportionate part of the loss shall be disallowed. The basis for determining the amount of the deduction for losses sustained shall be the same as is provided in section 204 for determining the gain or loss from the sale or other disposition of property;

Basis for determining.

Ante, p. 14.

Worthless debts.

(5) Debts ascertained to be worthless and charged off within the taxable year (or in the discretion of the Commissioner, a reasonable addition to a reserve for bad debts); and when satisfied that a debt is recoverable only in part, the Commissioner may allow such debt to be charged off in part;

Dividends from domestic corporations.

From foreign, from United States sources.

(6) The amount received as dividends (A) from a domestic corporation other than a corporation entitled to the benefits of section 262, and other than a corporation organized under the China Trade Act, 1922, or (B) from any foreign corporation when it is shown to the satisfaction of the Commissioner that more than 50 per centum of the gross income of such foreign corporation for the three-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the foreign corporation has been in existence) was derived from sources within the United States as determined under section 217;

Exhaustion, etc., of property.

(7) A reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence;

Mines, oil and gas wells, timber, etc. Allowance for depletion, depreciation, etc.

(8) In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions

in each case; such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary. In the case of leases the deductions allowed by this paragraph shall be equitably apportioned between the lessor and lessee;

Leases.

(9) In the case of insurance companies (other than life insurance companies), in addition to the above (unless otherwise allowed): (A) The net addition required by law to be made within the taxable year to reserve funds (including in the case of assessment insurance companies the actual deposit of sums with State or Territorial officers pursuant to law as additions to guarantee or reserve funds); and (B) the sums other than dividends paid within the taxable year on policy and annuity contracts. This paragraph shall apply only to mutual insurance companies other than life insurance companies;

Insurance companies.

Additional, for reserve fund, except life.

Restriction.

(10) In the case of mutual marine insurance companies, there shall be allowed, in addition to the deductions allowed in paragraphs (1) to (9), inclusive, unless otherwise allowed, amounts repaid to policyholders on account of premiums previously paid by them, and interest paid upon such amounts between the ascertainment and the payment thereof;

Mutual marine companies.

Additional, allowed for premiums returned, etc.

(11) In the case of mutual insurance companies (including interinsurers and reciprocal underwriters, but not including mutual life or mutual marine insurance companies) requiring their members to make premium deposits to provide for losses and expenses, there shall be allowed, in addition to the deductions allowed in paragraphs (1) to (9), inclusive, unless otherwise allowed, the amount of premium deposits returned to their policyholders and the amount of premium deposits retained for the payment of losses, expenses, and reinsurance reserves.

Other mutual companies.

Additional, for returned premium deposits.

(b) In the case of a foreign corporation or of a corporation entitled to the benefits of section 262 the deductions allowed in subdivision (a) shall be allowed only if and to the extent that they are connected with income from sources within the United States; and the proper apportionment and allocation of the deductions with respect to sources within and without the United States shall be determined as provided in section 217 under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

Foreign corporations.

Allowances only on income from United States sources.

Apportionment.

ITEMS NOT DEDUCTIBLE BY CORPORATIONS

Items not deductible.

SEC. 235. In computing net income no deduction shall in any case be allowed in respect of any of the items specified in section 215.

Same as individuals.

Ante, p. 28.

CREDITS ALLOWED CORPORATIONS

Credits allowed.

SEC. 236. For the purpose only of the tax imposed by section 230 there shall be allowed the following credits:

Designation of.

(a) The amount received as interest upon obligations of the United States which is included in gross income under section 233; and

Interest from Federal obligations.

(b) In the case of a domestic corporation the net income of which is $25,000 or less, a specific credit of $2,000; but if the net income is more than $25,000 the tax imposed by section 230 shall not exceed the tax which would be payable if the $2,000 credit were allowed, plus the amount of the net income in excess of $25,000.

Domestic corporations.

Specific money credit.

PAYMENT OF CORPORATION INCOME TAX AT SOURCE

Payment at source.

SEC. 237. In the case of foreign corporations subject to taxation under this title not engaged in trade or business within the United

By foreign corporations not in business in United States.

INCOME TAX.

States and not having any office or place of business therein, there shall be deducted and withheld at the source in the same manner and upon the same items of income as is provided in section 221 a tax equal to 12½ per centum thereof in respect of all payments of income made before the enactment of this Act, and equal to 13½ per centum thereof in respect of all payments of income made after the enactment of this Act, and such tax shall be returned and paid in the same manner and subject to the same conditions as provided in that section: *Provided*, That in the case of interest described in subdivision (b) of that section the deduction and withholding shall be at the rate of 2 per centum.

Ante, p. 35.

Rates.

Proviso.
Rate when interest granted free of tax.

Credit for taxes.
Vol. 43, p. 285.

CREDIT FOR TAXES IN CASE OF CORPORATIONS

Domestic corporations.
Paid to foreign countries.

SEC. 238. (a) In the case of a domestic corporation the tax imposed by this title shall be credited with the amount of any income, war-profits, and excess-profits taxes paid or accrued during the same taxable year to any foreign country, or to any possession of the United States: *Provided*, That the amount of such credit shall in no case exceed the same proportion of the tax (computed on the basis of the taxpayer's net income without the deduction of any income, war-profits, or excess-profits taxes imposed by any foreign country or possession of the United States), against which such credit is taken, which the taxpayer's net income (computed without the deduction of any such income, war-profits, or excess-profits tax) from sources without the United States bear to its entire net income (computed without such deduction) for the same taxable year. In the case of domestic insurance companies subject to the tax imposed by section 243 or 246, the term "net income" as used in this subdivision means net income as defined in sections 245 and 246, respectively.

Proviso.
Limitation.

Net income of domestic insurance companies.

Post, pp. 47, 48.

Redetermination if tax paid differs from credit claimed.

(b) If accrued taxes when paid differ from the amounts claimed as credits by the corporation, or if any tax paid is refunded in whole or in part, the corporation shall at once notify the Commissioner, who shall redetermine the amount of the taxes for the year or years affected, and the amount of taxes due upon such redetermination, if any, shall be paid by the corporation upon notice and demand by the collector, or the amount of taxes overpaid, if any, shall be credited, or refunded to the corporation in accordance with the provisions of section 284. In the case of such a tax accrued but not paid, the Commissioner as a condition precedent to the allowance of this credit may require the corporation to give a bond with sureties satisfactory to and to be approved by him in such sum as he may require, conditioned upon the payment by the taxpayer of any amount of taxes found due upon any such redetermination; and the bond herein prescribed shall contain such further conditions as the Commissioner may require.

Tax accrued but not paid.

Bond required before allowance.

Credits for taxes allowed in the year accrued.

(c) The credits provided for in subdivision (a) of this section may, at the option of the taxpayer and irrespective of the method of accounting employed in keeping its books, be taken in the year in which the taxes of the foreign country or the possession of the United States accrued, subject, however, to the conditions prescribed in subdivision (b) of this section. If the taxpayer elects to take such credits in the year in which the taxes of the foreign country or the possession of the United States accrued, the credits for all subsequent years shall be taken upon the same basis.

For foreign taxes.

Evidence of foreign income required.

(d) These credits shall be allowed only if the taxpayer furnishes evidence satisfactory to the Commissioner showing the amount of income derived from sources without the United States, and all

other information necessary for the verification and computation of such credit.

Domestic corporation controlling a foreign.

(e) For the purposes of this section a domestic corporation which owns a majority of the voting stock of a foreign corporation from which it receives dividends (not deductible under section 234) in any taxable year shall be deemed to have paid the same proportion of any income, war-profits, or excess-profits taxes paid by such foreign corporation to any foreign country or to any possession of the United States, upon or with respect to the accumulated profits of such foreign corporation from which such dividends were paid, which the amount of such dividends bears to the amount of such accumulated profits: *Provided*, That the credit allowed to any domestic corporation under this subdivision shall in no case exceed the same proportion of the taxes against which it is credited, which the amount of such dividends bears to the amount of the entire net income of the domestic corporation in which such dividends are included. The term "accumulated profits" when used in this subdivision in reference to a foreign corporation, means the amount of its gains, profits, or income in excess of the income, war-profits, and excess-profits taxes imposed upon or with respect to such profits or income; and the Commissioner with the approval of the Secretary shall have full power to determine from the accumulated profits of what year or years such dividends were paid; treating dividends paid in the first sixty days of any year as having been paid from the accumulated profits of the preceding year or years (unless to his satisfaction shown otherwise), and in other respects treating dividends as having been paid from the most recently accumulated gains, profits, or earnings. In the case of a foreign corporation, the income, war-profits, and excess-profits taxes of which are determined on the basis of an accounting period of less than one year, the word "year" as used in this subdivision shall be construed to mean such accounting period.

Proportion of foreign tax on dividends received deemed to have been paid by.

Proviso.
Limitation on credit allowed.

Meaning of "accumulated profits."

Determination by Commissioner.

Accounting period for foreign corporations.

(f) For the purposes of this section a corporation entitled to the benefits of section 262 or 263 shall be treated as a foreign corporation.

Corporations in United States possessions deemed foreign.

CORPORATION RETURNS

Corporation returns.

SEC. 239. (a) Every corporation subject to taxation under this title shall make a return, stating specifically the items of its gross income and the deductions and credits allowed by this title. The return shall be sworn to by the president, vice president, or other principal officer and by the treasurer or assistant treasurer. If any foreign corporation has no office or place of business in the United States but has an agent in the United States, the return shall be made by the agent. In cases where receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations, such receivers, trustees, or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns made by receivers, trustees, or assignees shall be collected in the same manner as if collected from the corporations of whose business or property they have custody and control.

Specific requirements for making.
Vol. 43, p. 287.

Foreign, with no American office.

Receivers, trustees, etc.

Collection of tax.

(b) Returns made under this section shall be subject to the provisions of section 226. In the case of a return made for a fractional part of a year, except a return made under subdivision (a) of section 226, the credit provided in subdivision (b) of section 236 shall be reduced to an amount which bears the same ratio to the full credit therein provided as the number of months in the period for which the return is made bears to twelve months.

Accounting.
Reduction for part of a year.

INCOME TAX. Detailed statement to accompany returns.

(c) There shall be included in the return or appended thereto a statement of such facts as will enable the Commissioner to determine the portion of the earnings or profits of the corporation (including gains, profits and income not taxed) accumulated during the taxable year for which the return is made, which have been distributed or ordered to be distributed, respectively, to its shareholders during such year.

Consolidated returns.

CONSOLIDATED RETURNS OF CORPORATIONS

Affiliated corporations may make, or separate.

SEC. 240. (a) Corporations which are affiliated within the meaning of this section may, for any taxable year, make separate returns or, under regulations prescribed by the Commissioner with the approval of the Secretary, make a consolidated return of net income for the purpose of this title, in which case the taxes thereunder shall be computed and determined upon the basis of such return. If return is made on either of such bases, all returns thereafter made shall be upon the same basis unless permission to change the basis is granted by the Commissioner.

Computation of proportionate assessments.

(b) In any case in which a tax is assessed upon the basis of a consolidated return, the total tax shall be computed in the first instance as a unit and shall then be assessed upon the respective affiliated corporations in such proportions as may be agreed upon among them, or, in the absence of any such agreement, then on the basis of the net income properly assignable to each. There shall be allowed in computing the income tax only one specific credit computed as provided in subdivision (b) of section 236.

Only one specific credit.

Ante, p. 43.

Corporations deemed affiliated.

Voting stock ownership.

(c) For the purpose of this section two or more domestic corporations shall be deemed to be affiliated (1) if one corporation owns at least 95 per centum of the voting stock of the other or others, or (2) if at least 95 per centum of the voting stock of two or more corporations is owned by the same interests. This subdivision shall be applicable to the determination of affiliation for the taxable year 1925.

For 1925.

Stock ownership.

(d) For the purpose of this section two or more domestic corporations shall be deemed to be affiliated (1) if one corporation owns at least 95 per centum of the stock of the other or others, or (2) if at least 95 per centum of the stock of two or more corporations is owned by the same interests. As used in this subdivision the term "stock" does not include nonvoting stock which is limited and preferred as to dividends. This subdivision shall be applicable to the determination of affiliation for the taxable year 1926 and each taxable year thereafter.

For 1926 and subsequent years.

China trade corporations not affiliated.

Vol. 42, p. 849.

(e) A corporation organized under the China Trade Act, 1922, shall not be deemed to be affiliated with any other corporation within the meaning of this section.

Consolidation of accounts by Commissioner, of business controlled by same interests.

(f) In any case of two or more related trades or businesses (whether unincorporated or incorporated and whether organized in the United States or not) owned or controlled directly or indirectly by the same interests, the Commissioner may and at the request of the taxpayer shall, if necessary in order to make an accurate distribution or apportionment of gains, profits, income, deductions, or capital between or among such related trades or businesses, consolidate the accounts of such related trades or businesses.

Corporations in United States possessions deemed foreign.

(g) For the purposes of this section a corporation entitled to the benefits of section 262 shall be treated as a foreign corporation.

Corporation returns.

TIME AND PLACE FOR FILING CORPORATE RETURNS

Time for filing.

Ante, p. 39.

SEC. 241. (a) Returns of corporations shall be made at the same time as is provided in subdivision (a) of section 227, except that

in the case of foreign corporations not having any office or place of business in the United States returns shall be made at the same time as provided in section 227 in the case of a nonresident alien individual.

To collector of the district.

(b) Returns shall be made to the collector of the district in which is located the principal place of business or principal office or agency of the corporation, or, if it has no principal place of business or principal office or agency in the United States, then to the collector at Baltimore, Maryland.

At Baltimore, Md.

Insurance companies. Vol. 43, p. 288.

TAXES ON INSURANCE COMPANIES

Meaning of "life insurance company."

SEC. 242. When used in this title the term "life insurance company" means an insurance company engaged in the business of issuing life insurance and annuity contracts (including contracts of combined life, health, and accident insurance), the reserve funds of which held for the fulfillment of such contracts comprise more than 50 per centum of its total reserve funds.

Tax on net incomes.

SEC. 243. In lieu of the tax imposed by section 230, there shall be levied, collected, and paid for each taxable year upon the net income of every life insurance company a tax as follows:

Domestic life.

(1) In the case of a domestic life insurance company, 12½ per centum of its net income;

Foreign life.

(2) In the case of a foreign life insurance company, 12½ per centum of its net income from sources within the United States.

Sources of gross income.

SEC. 244. (a) In the case of a life insurance company the term "gross income" means the gross amount of income received during the taxable year from interest, dividends, and rents.

Application of "reserve funds required by law" to assessment companies.

(b) The term "reserve funds required by law" includes, in the case of assessment insurance, sums actually deposited by any company or association with State or Territorial officers pursuant to law as guaranty or reserve funds, and any funds maintained under the charter or articles of incorporation of the company or association exclusively for the payment of claims arising under certificates of membership or policies issued upon the assessment plan and not subject to any other use.

Net income.
Deductions from gross income.

SEC. 245. (a) In the case of a life insurance company the term "net income" means the gross income less—

Exempt interest.

(1) The amount of interest received during the taxable year which under paragraph (4) of subdivision (b) of section 213 is exempt from taxation under this title;

Reserve funds for weekly payments assessments.

(2) An amount equal to the excess, if any, over the deduction specified in paragraph (1) of this subdivision, of 4 per centum of the mean of the reserve funds required by law and held at the beginning and end of the taxable year, plus (in case of life insurance companies issuing policies covering life, health, and accident insurance combined in one policy issued on the weekly premium payment plan, continuing for life and not subject to cancellation) 4 per centum of the mean of such reserve funds (not required by law) held at the beginning and end of the taxable year, as the Commissioner finds to be necessary for the protection of the holders of such policies only;

Dividends from domestic corporations.

(3) The amount received as dividends (A) from a domestic corporation other than a corporation entitled to the benefits of section 262, and other than a corporation organized under the China Trade Act, 1922, or (B) from any foreign corporation when it is shown to the satisfaction of the Commissioner that more than 50 per centum of the gross income of such foreign corporation for the three-year period ending with the close of its taxable year preceding

From foreign.

INCOME TAX.

Ante, p. 30.

the declaration of such dividends (or for such part of such period as the foreign corporation has been in existence) was derived from sources within the United States as determined under section 217;

Percentage of reserves for deferred dividends.

(4) An amount equal to 2 per centum of any sums held at the end of the taxable year as a reserve for dividends (other than dividends payable during the year following the taxable year) the payment of which is deferred for a period of not less than five years from the date of the policy contract;

Investment expenses. *Proviso.* Limitation.

(5) Investment expenses paid during the taxable year: *Provided*, That if any general expenses are in part assigned to or included in the investment expenses, the total deduction under this paragraph shall not exceed one-fourth of 1 per centum of the book value of the mean of the invested assets held at the beginning and end of the taxable year;

Real estate taxes.

Exception.

(6) Taxes and other expenses paid during the taxable year exclusively upon or with respect to the real estate owned by the company, not including taxes assessed against local benefits of a kind tending to increase the value of the property assessed, and not including any amount paid out for new buildings, or for permanent improvements or betterments made to increase the value of any property. The deduction allowed by this paragraph shall be allowed in the case of taxes imposed upon a shareholder of a company upon his interest as shareholder, which are paid by the company without reimbursement from the shareholder, but in such cases no deduction shall be allowed the shareholder for the amount of such taxes;

If taxes paid on interest of shareholder.

Exhaustion of property.

(7) A reasonable allowance for the exhaustion, wear and tear of property, including a reasonable allowance for obsolescence;

Interest on debts.

Exception.

(8) All interest paid or accrued within the taxable year on its indebtedness, except on indebtedness incurred or continued to purchase or carry obligations or securities (other than obligations of the United States issued after September 24, 1917, and originally subscribed for by the taxpayer) the interest upon which is wholly exempt from taxation under this title; and

Specific money credits.

(9) In the case of a domestic life insurance company, the net income of which (computed without the benefit of this paragraph) is $25,000 or less, the sum of $2,000; but if the net income is more than $25,000 the tax imposed by section 243 shall not exceed the tax which would be payable if the $2,000 credit were allowed, plus the amount of the net income in excess of $25,000.

Real estate deductions limited.

(b) No deduction shall be made under paragraphs (6) and (7) of subdivision (a) on account of any real estate owned and occupied in whole or in part by a life insurance company unless there is included in the return of gross income the rental value of the space so occupied. Such rental value shall be not less than a sum which in addition to any rents received from other tenants shall provide a net income (after deducting taxes, depreciation, and all other expenses) at the rate of 4 per centum per annum of the book value at the end of the taxable year of the real estate so owned or occupied.

Foreign life companies.

(c) In the case of a foreign life insurance company the amount of its net income for any taxable year from sources within the United States shall be the same proportion of its net income for the taxable year from sources within and without the United States, which the reserve funds required by law and held by it at the end of the taxable year upon business transacted within the United States is of the reserve funds held by it at the end of the taxable year upon all business transacted.

Insurance companies other than life or mutual.

Rate.

SEC. 246. (a) In lieu of the tax imposed by section 230, there shall be levied, collected, and paid for each taxable year upon the net income of every insurance company (other than a life or mutual insurance company) a tax as follows:

INCOME TAX.
Domestic.

(1) In the case of such a domestic insurance company, 12½ per centum of its net income;

Foreign.

(2) In the case of such a foreign insurance company, 12½ per centum of its net income from sources within the United States.

Meaning of terms.

(b) In the case of an insurance company subject to the tax imposed by this section—

"Gross income."

(1) The term "gross income" means the combined gross amount earned during the taxable year, from investment income and from underwriting income as provided in this subdivision, computed on the basis of the underwriting and investment exhibit of the annual statement approved by the National Convention of Insurance Commissioners;

"Net income."

(2) The term "net income" means the gross income as defined in paragraph (1) of this subdivision less the deductions allowed by section 247;

"Investment income."

(3) The term "investment income" means the gross amount of income earned during the taxable year from interest, dividends, and rents, computed as follows:

Sources of.

To all interest, dividends and rents received during the taxable year, add interest, dividends and rents due and accrued at the end of the taxable year, and deduct all interest, dividends and rents due and accrued at the end of the preceding taxable year;

"Underwriting income."

(4) The term "underwriting income" means the premiums earned on insurance contracts during the taxable year less losses incurred and expenses incurred;

"Premiums earned, etc."

(5) The term "premiums earned on insurance contracts during the taxable year" means an amount computed as follows:

Computation of.

From the amount of gross premiums written on insurance contracts during the taxable year, deduct return premiums and premiums paid for reinsurance. To the result so obtained add unearned premiums on outstanding business at the end of the preceding taxable year and deduct unearned premiums on outstanding business at the end of the taxable year;

"Losses incurred."

(6) The term "losses incurred" means losses incurred during the taxable year on insurance contracts, computed as follows:

Computation of.

To losses paid during the taxable year, add salvage and reinsurance recoverable outstanding at the end of the preceding taxable year, and deduct salvage and reinsurance recoverable outstanding at the end of the taxable year. To the result so obtained add all unpaid losses outstanding at the end of the taxable year and deduct unpaid losses outstanding at the end of the preceding taxable year;

"Expenses incurred."

(7) The term "expenses incurred" means all expenses shown on the annual statement approved by the National Convention of Insurance Commissioners, and shall be computed as follows:

Computation of.

To all expenses paid during the taxable year add expenses unpaid at the end of the taxable year and deduct expenses unpaid at the end of the preceding taxable year. For the purpose of computing the net income subject to the tax imposed by this section there shall be deducted from expenses incurred as defined in this paragraph all expenses incurred which are not allowed as deductions by section 247.

Net income.
Deductions.

SEC. 247. (a) In computing the net income of an insurance company subject to the tax imposed by section 246 there shall be allowed as deductions:

Business expenses.

(1) All ordinary and necessary expenses incurred, as provided in paragraph (1) of subdivision (a) of section 234;

Interest.

(2) All interest as provided in paragraph (2) of subdivision (a) of section 234;

Taxes.

(3) Taxes as provided in paragraph (3) of subdivision (a) of section 234;

INCOME TAX.
Losses.
Worthless debts.

(4) Losses incurred;

(5) Bad debts in the nature of agency balances and bills receivable ascertained to be worthless and charged off within the taxable year;

Dividends from corporations.

(6) The amount received as dividends from corporations as provided in paragraph (6) of subdivision (a) of section 234;

Exempt interest.

(7) The amount of interest earned during the taxable year which under paragraph (4) of subdivision (b) of section 213 is exempt from taxation under this title, and the amount of interest allowed as a credit under section 236;

Exhaustion, etc., of property.

(8) A reasonable allowance for the exhaustion, wear and tear of property, as provided in paragraph (7) of subdivision (a) of section 234;

Specific money credit to domestic company.

(9) In the case of such a domestic insurance company, the net income of which (computed without the benefit of this paragraph) is $25,000 or less, the sum of $2,000; but if the net income is more than $25,000 the tax imposed by section 246 shall not exceed the tax which would be payable if the $2,000 credit were allowed, plus the amount of the net income in excess of $25,000.

Foreign corporations. Deductions for United States business.

(b) In the case of a foreign corporation the deductions allowed in this section shall be allowed to the extent provided in subdivision (b) of section 234.

No duplication.

(c) Nothing in this section or in section 246 shall be construed to permit the same item to be twice deducted.

Administrative provisions.

PART IV.—ADMINISTRATIVE PROVISIONS

Dividend payments.

RETURNS OF PAYMENTS OF DIVIDENDS

Corporations to make specific returns of.

SEC. 254. Every corporation subject to the tax imposed by this title shall, when required by the Commissioner, render a correct return, duly verified under oath, of its payments of dividends, stating the name and address of each shareholder, the number of shares owned by him, and the amount of dividends paid to him.

Brokers.

RETURNS OF BROKERS

Sworn returns of all business transactions to be made by.

SEC. 255. Every person doing business as a broker shall, when required by the Commissioner, render a correct return duly verified under oath, under such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe, showing the names of customers for whom such person has transacted any business, with such details as to the profits, losses, or other information which the Commissioner may require, as to each of such customers, as will enable the Commissioner to determine whether all income tax due on profits or gains of such customers has been paid.

Information at source.

INFORMATION AT SOURCE

Persons making fixed payments to others of $1,500, or more, to render returns thereof.

SEC. 256. All persons, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, and employers, making payment to another person, of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments described in sections 254 and 255), of $1,500 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Commissioner,

Exception. *Supra.*

under such regulations and in such form and manner and to such extent as may be prescribed by him with the approval of the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment.

Interest, on foreign obligations.

Such returns may be required, regardless of amounts, (1) in the case of payments of interest upon bonds, mortgages, deeds of trust, or other similar obligations of corporations, and (2) in the case of collections of items (not payable in the United States) of interest upon the bonds of foreign countries and interest upon the bonds of and dividends from foreign corporations by persons undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange.

Collecting foreign coupons, etc.

Names and addresses of recipients.

When necessary to make effective the provisions of this section the name and address of the recipient of income shall be furnished upon demand of the person paying the income.

Not applicable to Federal securities.

The provisions of this section shall not apply to the payment of interest on obligations of the United States.

RETURNS TO BE PUBLIC RECORDS

Returns to be public records.

Inspection subject to regulations, etc.

Post, p. 127.

SEC. 257. (a) Returns upon which the tax has been determined by the Commissioner shall constitute public records; but, except as hereinafter provided in this section and section 1203, they shall be open to inspection only upon order of the President and under rules and regulations prescribed by the Secretary and approved by the President. Whenever a return is open to the inspection of any person a certified copy thereof shall, upon request, be furnished to such person under rules and regulations prescribed by the Commissioner with the approval of the Secretary. The Commissioner may prescribe a reasonable fee for furnishing such copy.

Fee for a certified copy.

Data from, to be furnished committees of Congress.

(b) (1) The Secretary and any officer or employee of the Treasury Department, upon request from the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, or a select committee of the Senate or House specially authorized to investigate returns by a resolution of the Senate or House, or a joint committee so authorized by concurrent resolution, shall furnish such committee sitting in executive session with any data of any character contained in or shown by any return.

Inspection by committees.

(2) Any such committee shall have the right, acting directly as a committee, or by or through such examiners or agents as it may designate or appoint, to inspect any or all of the returns at such times and in such manner as it may determine.

Submission of information to the two Houses.

(3) Any relevant or useful information thus obtained may be submitted by the committee obtaining it to the Senate or the House, or to both the Senate and the House, as the case may be.

Access to corporation returns allowed State officials.

(c) The proper officers of any State may, upon the request of the governor thereof, have access to the returns of any corporation, or to an abstract thereof showing the name and income of the corporation, at such times and in such manner as the Secretary may prescribe.

Shareholders allowed to examine returns of their corporations.

(d) All bona fide shareholders of record owning 1 per centum or more of the outstanding stock of any corporation shall, upon making request of the Commissioner, be allowed to examine the annual income returns of such corporation and of its subsidiaries. Any shareholder who pursuant to the provisions of this section is allowed to examine the return of any corporation, and who makes known in any manner whatever not provided by law the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any such return, shall be guilty of a misde-

Punishment for unauthorized divulging information therefrom.

INCOME TAX.

meanor and be punished by a fine not exceeding $1,000 or by imprisonment not exceeding one year, or both.

List of income taxpayers for inspection in collector's office.

(e) The Commissioner shall as soon as practicable in each year cause to be prepared and made available to public inspection in such manner as he may determine, in the office of the collector in each internal-revenue district and in such other places as he may determine, lists containing the name and the post-office address of each person making an income-tax return in such district.

Statistics.

PUBLICATION OF STATISTICS

Annual publication directed of operation, etc., of income law.

SEC. 258. The Commissioner, with the approval of the Secretary, shall prepare and publish annually statistics reasonably available with respect to the operation of the income, war-profits and excess-profits tax laws, including classifications of taxpayers and of income, the amounts allowed as deductions, exemptions, and credits, and any other facts deemed pertinent and valuable.

Collection of foreign items.

COLLECTION OF FOREIGN ITEMS

Licenses required for collecting foreign coupons, dividends, etc.

SEC. 259. All persons undertaking as a matter of business or for profit the collection of foreign payments of interest or dividends by means of coupons, checks, or bills of exchange shall obtain a license from the Commissioner and shall be subject to such regulations enabling the Government to obtain the information required under this title as the Commissioner, with the approval of the Secretary, shall prescribe; and whoever knowingly undertakes to collect such payments without having obtained a license therefor, or without complying with such regulations, shall be guilty of a misdemeanor and shall be fined not more than $5,000 or imprisoned for not more than one year, or both.

Punishment for collecting without a license.

Citizens of United States possessions.

CITIZENS OF POSSESSIONS OF THE UNITED STATES

Nonresidents of United States taxable only on income from United States sources.

SEC. 260. Any individual who is a citizen of any possession of the United States (but not otherwise a citizen of the United States) and who is not a resident of the United States, shall be subject to taxation under this title only as to income derived from sources within the United States, and in such case the tax shall be computed and paid in the same manner and subject to the same conditions as in the case of other persons who are taxable only as to income derived from such sources.

Virgin Islands.

Payment of taxes in, not affected.
Vol. 42, p. 123.

Nothing in this section shall be construed to alter or amend the provisions of the Act entitled "An Act making appropriations for the naval service for the fiscal year ending June 30, 1922, and for other purposes," approved July 12, 1921, relating to the imposition of income taxes in the Virgin Islands of the United States.

Porto Rico and the Philippines.

PORTO RICO AND THE PHILIPPINE ISLANDS

Insular officials to collect taxes.
Vol. 38, p. 180; Vol. 39, p. 776; Vol. 40, p. 1087.

SEC. 261. In Porto Rico and the Philippine Islands the income tax shall be levied, assessed, collected, and paid as provided by law prior to the enactment of this Act.

Authority of insular legislatures.

The Porto Rican or the Philippine Legislature shall have power by due enactment to amend, alter, modify, or repeal the income tax laws in force in Porto Rico or the Philippine Islands, respectively.

INCOME FROM SOURCES WITHIN THE POSSESSIONS OF THE UNITED STATES

Income from United States possessions.

Gross income of citizens, etc., deemed from United States sources.

SEC. 262. (a) In the case of citizens of the United States or domestic corporations, satisfying the following conditions, gross income means only gross income from sources within the United States—

If 80 per cent derived from United States possessions sources.

(1) If 80 per centum or more of the gross income of such citizen or domestic corporation (computed without the benefit of this section), for the three-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within a possession of the United States; and

If corporation derives 50 per cent from business therein.

(2) If, in the case of such corporation, 50 per centum or more of its gross income (computed without the benefit of this section) for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States; or

If citizens derives 50 per cent from active business therein.

(3) If, in the case of such citizen, 50 per centum or more of his gross income (computed without the benefit of this section) for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States either on his own account or as an employee or agent of another.

All amounts received in United States included in gross income.

(b) Notwithstanding the provisions of subdivision (a) there shall be included in gross income all amounts received by such citizens or corporations within the United States, whether derived from sources within or without the United States.

Virgin Islands not included.

(c) As used in this section the term "possession of the United States" does not include the Virgin Islands of the United States.

China Trade Act corporations.

CHINA TRADE ACT CORPORATIONS

Credit for proportion of income from China sources bears to shares of residents in China.

SEC. 263. (a) For the purpose only of the tax imposed by section 230 there shall be allowed, in the case of a corporation organized under the China Trade Act, 1922, a credit of an amount equal to the proportion of the net income derived from sources within China (determined in a similar manner to that provided in section 217) which the par value of the shares of stock of the corporation owned on the last day of the taxable year by (1) persons resident in China, the United States, or possessions of the United States, and (2) individual citizens of the United States or China wherever resident, bears to the par value of the whole number of shares of stock of the corporation outstanding on such date: *Provided*, That in no case shall the amount by which the tax imposed by section 230 is diminished by reason of such credit exceed the amount of the special dividend certified under subdivision (b) of this section.

Ante, p. 30.

Proviso.
Limitation.
Ante, p. 39.

Condition.

(b) Such credit shall not be allowed unless the Secretary of Commerce has certified to the Commissioner—

Credit subject to special dividend to residents in China.

(1) The amount which, during the year ending on the date fixed by law for filing the return, the corporation has distributed as a special dividend to or for the benefit of such persons as on the last day of the taxable year were resident in China, the United States, or possessions of the United States, or were individual citizens of the United States or China, and owned shares of stock of the corporation;

Additional to other dividends.

(2) That such special dividend was in addition to all other amounts, payable or to be payable to such persons or for their benefit, by reason of their interest in the corporation; and

Dividends in proportion to stock owned.

(3) That such distribution has been made to or for the benefit of such persons in proportion to the par value of the shares of stock of the corporation owned by each; except that if the corporation

INCOME TAX.

has more than one class of stock, the certificates shall contain a statement that the articles of incorporation provide a method for the apportionment of such special dividend among such persons, and that the amount certified has been distributed in accordance with the method so provided.

Ownership of stock.

(c) For the purposes of this section shares of stock of a corporation shall be considered to be owned by the person in whom the equitable right to the income from such shares is in good faith vested.

Meaning of "China."

(d) As used in this section the term "China" shall have the same meaning as when used in the China Trade Act, 1922.

Payment of tax, etc.

PART V.—PAYMENT, COLLECTION, AND REFUND OF TAX AND PENALTIES

DATE ON WHICH TAX SHALL BE PAID

Date of payment.

Time designated.

SEC. 270. (a) Except as provided in subdivisions (b), (c), and (d) of this section the total amount of tax imposed by this title shall be paid—

For taxpayers other than nonresident aliens, etc.

(1) In the case of a taxpayer, other than a nonresident alien individual, and other than a foreign corporation not having an office or place of business in the United States, on the fifteenth day of March following the close of the calendar year, or, if the return should be made on the basis of a fiscal year, then on the fifteenth day of the third month following the close of the fiscal year; and

Nonresident aliens and foreign corporations without an office in the United States.

(2) In the case of a nonresident alien individual, and of a foreign corporation not having an office or place of business in the United States, on the fifteenth day of June following the close of the calendar year, or, if the return should be made on the basis of a fiscal year, then on the fifteenth day of the sixth month following the close of the fiscal year.

Allowed in four installments.

(b) (1) The taxpayer may elect to pay the tax in four equal installments, in which case the first installment shall be paid on the date prescribed in subdivision (a) for the payment of the tax by the taxpayer, the second installment shall be paid on the fifteenth day of the third month, the third installment on the fifteenth day of the sixth month, and the fourth installment on the fifteenth day of the ninth month, after such date.

Whole amount on default.

(2) If any installment is not paid on or before the date fixed for its payment, the whole amount of the tax unpaid shall be paid upon notice and demand from the collector.

Extension allowed on request.

(c) (1) At the request of the taxpayer, the Commissioner may extend the time for payment of the amount determined as the tax by the taxpayer, or any installment thereof, for a period not to exceed six months from the date prescribed in subdivision (a) or (b) for the payment of the tax or an installment thereof. In such case the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension.

Payment on expiration.

Interest on extension.

(2) If the time for payment is thus extended there shall be collected, as a part of such amount, interest thereon at the rate of 6 per centum per annum from the date when such payment should have been made if no extension had been granted, until the expiration of the period of the extension.

Prior to prescribed date.

(d) A tax imposed by this title, or any installment thereof, may be paid, at the election of the taxpayer, prior to the date prescribed for its payment.

Not applicable to payments at source. *Ante*, pp. 35, 43.

(e) The provisions of this section shall not apply to the payment of a tax required to be withheld at the source under section 221 or 237.

EXAMINATION OF RETURN AND DETERMINATION OF TAX

Examination of returns, etc.

SEC. 271. As soon as practicable after the return is filed the Commissioner shall examine it and shall determine the correct amount of the tax.

To be made as soon as practicable.

OVERPAYMENTS

Overpayments.

SEC. 272. If the taxpayer has paid as an installment of the tax more than the amount determined to be the correct amount of such installment, the excess shall be credited against the unpaid installments, if any. If the amount already paid, whether or not on the basis of installments, exceeds the amount determined to be the correct amount of the tax, the excess shall be credited or refunded as provided in section 284.

Credit if installment payments exceed correct amount.

Credit or refund.

Post, p. 66.

DEFICIENCY IN TAX

Deficiency in tax.

SEC. 273. As used in this title in respect of a tax imposed by this title the term "deficiency" means—

Meaning of term.

(1) The amount by which the tax imposed by this title exceeds the amount shown as the tax by the taxpayer upon his return; but the amount so shown on the return shall first be increased by the amounts previously assessed (or collected without assessment) as a deficiency, and decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax; or

The amount the tax exceeds return by taxpayer.

Conditions.

(2) If no amount is shown as the tax by the taxpayer upon his return, or if no return is made by the taxpayer, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed, or collected without assessment, shall first be decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax.

Amount of tax exceeding previous assessment.

SEC. 274. (a) If in the case of any taxpayer, the Commissioner determines that there is a deficiency in respect of the tax imposed by this title, the Commissioner is authorized to send notice of such deficiency to the taxpayer by registered mail. Within 60 days after such notice is mailed (not counting Sunday as the sixtieth day), the taxpayer may file a petition with the Board of Tax Appeals for a redetermination of the deficiency. Except as otherwise provided in subdivision (d) or (f) of this section or in section 279, 282, or 1001, no assessment of a deficiency in respect of the tax imposed by this title and no distraint or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the taxpayer, nor until the expiration of such 60-day period, nor, if a petition has been filed with the Board, until the decision of the Board has become final. Notwithstanding the provisions of section 3224 of the Revised Statutes the making of such assessment or the beginning of such proceeding or distraint during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

Notice to taxpayer of deficiency.

Appeal to Board of Tax Appeals.

No assessment, etc., until notice has been mailed or appeal filed, etc.

Injunction by court procedure allowed.

(b) If the taxpayer files a petition with the Board, the entire amount redetermined as the deficiency by the decision of the Board which has become final shall be assessed and shall be paid upon notice and demand from the collector. No part of the amount determined as a deficiency by the Commissioner but disallowed as such by the decision of the Board which has become final shall be assessed or be collected by distraint or by proceeding in court with or without assessment.

Payment of amount redetermined by Board, if petition filed.

Disallowed amount not collectible.

(c) If the taxpayer does not file a petition with the Board within the time prescribed in subdivision (a) of this section, the deficiency,

Payment on demand if no appeal filed.

INCOME TAX.

notice of which has been mailed to the taxpayer, shall be assessed, and shall be paid upon notice and demand from the collector.

Restrictions may be waived by taxpayer.

(d) The taxpayer shall at any time have the right, by a signed notice in writing filed with the Commissioner, to waive the restrictions provided in subdivision (a) of this section on the assessment and collection of the whole or any part of the deficiency.

Redetermination of correct amount by Board, even if greater than deficiency notified.

(e) The Board shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the taxpayer, and to determine whether any penalty, additional amount or addition to the tax should be assessed, if claim therefor is asserted by the Commissioner at or before the hearing or a rehearing.

Restriction hereafter on determining deficiency after notice, by Commissioner.

(f) If after the enactment of this Act the Commissioner has mailed to the taxpayer notice of a deficiency as provided in subdivision (a), and the taxpayer files a petition with the Board within the time prescribed in such subdivision, the Commissioner shall have no right to determine any additional deficiency in respect of the same taxable year, except in the case of fraud, and except as provided in subdivision (e) of this section or in subdivision (c) of section 279. If the taxpayer is notified that, on account of a mathematical error appearing upon the face of the return, an amount of tax in excess of that shown upon the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical error, such notice shall not be considered, for the purposes of this subdivision or of subdivision (a) of this section, or of subdivision (d) of section 284, as a notice of a deficiency, and the taxpayer shall have no right to file a petition with the Board based on such notice, nor shall such assessment or collection be prohibited by the provisions of subdivision (a) of this section.

Mathematical error not considered a notice of deficiency.

Facts to be considered in redetermining deficiency by Board.

(g) The Board in redetermining a deficiency in respect of any taxable year shall consider such facts with relation to the taxes for other taxable years as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the tax for any other taxable year has been overpaid or underpaid.

Date of Board's final decision.

(h) For the purposes of this title the date on which a decision of the Board becomes final shall be determined according to the provisions of section 1005.

Post, p. 110.

Prorating of deficiency on installment payments.

(i) If the taxpayer has elected to pay the tax in installments and a deficiency has been assessed, the deficiency shall be prorated to the four installments. Except as provided in section 279, that part of the deficiency so prorated to any installment the date for payment of which has not arrived, shall be collected at the same time as and as part of such installment. That part of the deficiency so prorated to any installment the date for payment of which has arrived, shall be paid upon notice and demand from the collector.

Interest upon amount of deficiency.

(j) Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the collector, and shall be collected as a part of the tax, at the rate of 6 per centum per annum from the date prescribed for the payment of the tax (or, if the tax is paid in installments, from the date prescribed for the payment of the first installment) to the date the deficiency is assessed, or, in the case of a waiver under subdivision (d) of this section, to the thirtieth day after the filing of such waiver or to the date the deficiency is assessed whichever is the earlier.

INCOME TAX. Extension for payment allowed, to avoid undue hardship to taxpayer.

(k) Where it is shown to the satisfaction of the Commissioner that the payment of a deficiency upon the date prescribed for the payment thereof will result in undue hardship to the taxpayer the Commissioner, with the approval of the Secretary (except where the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax), may grant an extension for the payment of such deficiency or any part thereof for a period not in excess of eighteen months. If an extension is granted, the Commissioner may require the taxpayer to furnish a bond in such amount, not exceeding double the amount of the deficiency, and with such sureties, as the Commissioner deems necessary, conditioned upon the payment of the deficiency in accordance with the terms of the extension. In such case there shall be collected, as a part of the tax, interest on the part of the deficiency the time for payment of which is so extended, at the rate of 6 per centum per annum for the period of the extension, and no other interest shall be collected on such part of the deficiency for such period. If the part of the deficiency the time for payment of which is so extended is not paid in accordance with the terms of the extension, there shall be collected, as a part of the tax, interest on such unpaid amount at the rate of 1 per centum a month for the period from the time fixed by the terms of the extension for its payment until it is paid, and no other interest shall be collected on such unpaid amount for such period.

Bond required.

Interest on deficiency.

Additional, if not paid.

ADDITIONS TO THE TAX IN CASE OF DEFICIENCY

Additions to tax.

SEC. 275. (a) If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, 5 per centum of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected, and paid in the same manner as if it were a deficiency, except that the provisions of subdivisions (i) and (j) of section 274 shall not be applicable.

If deficiency due to negligence.

(b) If any part of any deficiency is due to fraud with intent to evade tax, then 50 per centum of the total amount of the deficiency (in addition to such deficiency) shall be so assessed, collected, and paid, in lieu of the 50 per centum addition to the tax provided in section 3176 of the Revised Statutes, as amended.

If due to fraud, etc.

ADDITIONS TO THE TAX IN CASE OF DELINQUENCY

Delinquencies.

SEC. 276. (a) (1) Where the amount determined by the taxpayer as the tax imposed by this title, or any installment thereof, or any part of such amount or installment, is not paid on or before the date prescribed for its payment, there shall be collected as a part of the tax, interest upon such unpaid amount at the rate of 1 per centum a month from the date prescribed for its payment until it is paid.

Interest prescribed, if tax not paid when due.

(2) Where an extension of time for payment of the amount so determined as the tax by the taxpayer, or any installment thereof, has been granted, and the amount the time for payment of which has been extended, and the interest thereon determined under paragraph (2) of subdivision (c) of section 270, is not paid in full prior to the expiration of the period of the extension, then, in lieu of the interest provided for in paragraph (1) of this subdivision, interest at the rate of 1 per centum a month shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid.

If tax and interest not paid in full, on extension granted.

(b) Where a deficiency, or any interest or additional amounts assessed in connection therewith under subdivision (j) of section 274, or under section 275, or any addition to the tax in case of delinquency provided for in section 3176 of the Revised Statutes, as amended, is

Interest, if deficiency, etc., not paid on notice and demand.

Post, p. 112.

INCOME TAX.

not paid in full within ten days from the date of notice and demand from the collector, there shall be collected as part of the tax, interest upon the unpaid amount at the rate of 1 per centum a month from the date of such notice and demand until it is paid. If any part of a deficiency prorated to any unpaid installment under subdivision (i) of section 274 is not paid in full on or before the date prescribed for the payment of such installment, there shall be collected as part of the tax interest upon the unpaid amount at the rate of 1 per centum a month from such date until it is paid.

Nonpayment of prorated installments.

Ante, p. 56.

(c) For any period an estate is held by a fiduciary appointed by order of any court of competent jurisdiction or by will, there shall be collected interest at the rate of 6 per centum per annum in lieu of the interest provided in subdivisions (a) and (b) of this section.

Interest rate payable by fiduciaries.

(d) If a bond is filed, as provided in section 279, the provisions of subdivisions (b) and (c) of this section shall not apply to the amount covered by the bond.

Not applicable to amount covered by bond.

PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION OF TAX

Limitation on assessment and collection.
Vol. 34, p. 299.

SEC. 277. (a) Except as provided in section 278—

Periods designated.

(1) The amount of income taxes imposed by this Act shall be assessed within three years after the return was filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period.

Income tax to be assessed in three years.

(2) The amount of income, excess-profits, and war-profits taxes imposed by the Revenue Act of 1921, and by such Act as amended, for the taxable year 1921 and succeeding taxable years, and the amount of income taxes imposed by the Revenue Act of 1924, shall be assessed within four years after the return was filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period.

For income, etc., under Acts of 1921 and 1924, in four years.
Vol. 42, p. 227; Vol. 43, p. 254.

(3) The amount of income, excess-profits, and war-profits taxes imposed by the Act entitled "An Act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909, the Act entitled "An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes," approved October 3, 1913, the Revenue Act of 1916, the Revenue Act of 1917, the Revenue Act of 1918, and by any such Act as amended, shall be assessed within five years after the return was filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period.

For income, etc., taxes under former Acts, in five years.
Vol. 36, p. 112.
Vol. 38, p. 166.
Vol. 39, pp. 756, 1004.
Vol. 40, pp. 300, 1057.

(4) In the case of income received during the lifetime of a decedent, the tax shall be assessed, and any proceeding in court without assessment for the collection of such tax shall be begun, within one year after written request therefor (filed after the return is made) by the executor, administrator, or other fiduciary representing the estate of such decedent, but not after the expiration of the period prescribed for the assessment of the tax in paragraph (1), (2), or (3) of this subdivision.

Income received during life of decedent, on request of executor, etc.

(5) If a corporation makes no return of the tax imposed by this title, but each of the shareholders includes in his return his distributive share of the net income of the corporation, then the tax of the corporation shall be assessed within four years after the last date on which any such shareholder's return was filed. Nothing in section 283 shall be construed as making the provisions of this paragraph applicable to any tax imposed by a prior Act of Congress.

Corporation making no return, tax assessed in four years after return of shareholders.

Not applicable to prior Acts.
Post, p. 63.

(b) The running of the statute of limitations provided in this section or in section 278 on the making of assessments and the beginning of distraint or a proceeding in court for collection, in

Suspension of statute of limitations during period of prohibition of assessment, etc.

respect of any deficiency, shall (after the mailing of a notice under subdivision (a) of section 274) be suspended for the period during which the Commissioner is prohibited from making the assessment or beginning distraint or a proceeding in court, and for 60 days thereafter.

Assessment, etc., at any time in case of fraud.

SEC. 278. (a) In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

Assessment, etc., of all deficiencies under prior Acts. Vol. 42, pp. 240, 255.

(b) Any deficiency attributable to a change in a deduction tentatively allowed under paragraph (9) of subdivision (a) of section 214, or paragraph (8) of subdivision (a) of section 234, of the Revenue Act of 1918 or the Revenue Act of 1921, may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

At any time with written consent of Commissioner and taxpayer.

(c) Where both the Commissioner and the taxpayer have consented in writing to the assessment of the tax after the time prescribed in section 277 for its assessment the tax may be assessed at any time prior to the expiration of the period agreed upon.

Collection of income, etc., tax by distraint, etc.

(d) Where the assessment of any income, excess-profits, or war-profits tax imposed by this title or by prior Act of Congress has been made (whether before or after the enactment of this Act) within the statutory period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court (begun before or after the enactment of this Act), but only if begun (1) within six years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the taxpayer.

Time limit.

Distraint, etc., prior to Act of 1924, not barred.

Effect of statutory limitation.

(e) This section shall not bar a distraint or proceeding in court begun before the enactment of the Revenue Act of 1924; nor shall it authorize the assessment of a tax or the collection thereof by distraint or by proceeding in court (1) if at the time of the enactment of this Act such assessment, distraint or proceeding was barred by the statutory period of limitation properly applicable thereto, unless prior to the enactment of this Act the Commissioner and the taxpayer agreed in writing thereto, or (2) contrary to the provisions of subdivision (a) of section 274 of this Act.

Jeopardy assessments.

JEOPARDY ASSESSMENTS

Deficiency immediately assessed, etc., if jeopardized by delay.

SEC. 279. (a) If the Commissioner believes that the assessment or collection of a deficiency will be jeopardized by delay, he shall immediately assess such deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) and notice and demand shall be made by the collector for the payment thereof.

Notice to be mailed.

(b) If the jeopardy assessment is made before any notice in respect of the tax to which the jeopardy assessment relates has been mailed under subdivision (a) of section 274, then the Commissioner shall mail a notice under such subdivision within 60 days after the making of the assessment.

Authorized if deficiency differs from the previous notice thereof.

(c) The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the taxpayer, despite the provisions of subdivision (f) of section 274 and whether or not the taxpayer has theretofore filed a petition with the Board of Tax Appeals. The Commissioner shall notify the Board of the amount of such assessment, if the petition is filed with the Board before the making of the assessment or is subsequently filed, and the Board shall have jurisdiction to redetermine the entire

Board to redetermine on notice.

INCOME TAX.

amount of the deficiency and of all amounts assessed at the same time in connection therewith.

Restriction, if assessment made after decision of Board.

(d) If the jeopardy assessment is made after the decision of the Board is rendered such assessment may be made only in respect of the deficiency determined by the Board in its decision.

Not allowed after final decision of Board, etc.

(e) A jeopardy assessment may not be made after the decision of the Board has become final or after the taxpayer has filed a petition for review of the decision of the Board.

Stay of collection, upon filing bond.

(f) When a jeopardy assessment has been made the taxpayer, within 10 days after notice and demand from the collector for the payment of the amount of the assessment, may obtain a stay of collection of the whole or any part of the amount of the assessment by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of so much of the amount, the collection of which is stayed by the bond, as is not abated by a decision of the Board which has become final, together with interest thereon as provided in subdivision (j) of this section.

Conditions.

Further condition if bond given before filing petition.

(g) If the bond is given before the taxpayer has filed his petition with the Board under subdivision (a) of section 274, the bond shall contain a further condition that if a petition is not filed within the period provided in such subdivision, then the amount the collection of which is stayed by the bond will be paid on notice and demand at any time after the expiration of such period, together with interest thereon at the rate of 6 per centum per annum from the date of the jeopardy notice and demand to the date of notice and demand under this subdivision.

Stay of collection of part covered by bond.

Effect of waiver of stay, etc.

(h) Upon the filing of the bond the collection of so much of the amount assessed as is covered by the bond shall be stayed. The taxpayer shall have the right to waive such stay at any time in respect of the whole or any part of the amount covered by the bond, and if as a result of such waiver any part of the amount covered by the bond is paid, then the bond shall, at the request of the taxpayer, be proportionately reduced. If the Board determines that the amount assessed is greater than the amount which should have been assessed, then when the decision of the Board is rendered the bond shall, at the request of the taxpayer, be proportionately reduced.

Collection when decision of Board final.

(i) When the petition has been filed with the Board and when the amount which should have been assessed has been determined by a decision of the Board which has become final, then any unpaid portion, the collection of which has been stayed by the bond, shall be collected as part of the tax upon notice and demand from the collector, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be credited or refunded to the taxpayer as provided in section 284. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the collector.

Credit or refund.

Collection of greater assessment.

Interest on amount collected.

(j) In the case of the amount collected under subdivision (i) there shall be collected at the same time as such amount, and as a part of the tax, interest at the rate of 6 per centum per annum upon such amount from the date of the jeopardy notice and demand to the date of notice and demand under subdivision (i) of this section, or, in the case of the amount collected in excess of the amount of the jeopardy assessment, interest as provided in subdivision (j) of section 274. If the amount included in the notice and demand from the collector under subdivision (i) of this section is not paid in full

Additional rate if amount of deficiency not paid in full.

within 10 days after such notice and demand, then there shall be collected, as part of the tax, interest upon the unpaid amount at the rate of 1 per centum a month (or, for any period the estate of the taxpayer is held by a fiduciary appointed by any court of competent jurisdiction or by will, at the rate of 6 per centum per annum) from the date of such notice and demand until it is paid.

No other abatement claim to be filed hereafter.

(k) No claim in abatement shall be filed in respect of any assessment made after the enactment of this Act in respect of any income, war-profits, or excess-profits tax.

Transferred assets.

CLAIMS AGAINST TRANSFERRED ASSETS

Designated liabilities subjecting transferee to tax similar to deficiencies.

SEC. 280. (a) The amounts of the following liabilities shall, except as hereinafter in this section provided, be assessed, collected, and paid in the same manner and subject to the same provisions and limitations as in the case of a deficiency in a tax imposed by this title (including the provisions in case of delinquency in payment after notice and demand, the provisions authorizing distraint and proceedings in court for collection, and the provisions prohibiting claims and suits for refunds):

Imposed upon taxpayer by prior income tax.

(1) The liability, at law or in equity, of a transferee of property of a taxpayer, in respect of the tax (including interest, additional amounts, and additions to the tax provided by law) imposed upon the taxpayer by this title or by any prior income, excess-profits, or war-profits tax Act.

Payments from taxpayer's estate. R. S., sec. 3467, p. 687.

(2) The liability of a fiduciary under section 3467 of the Revised Statutes in respect of the payment of any such tax from the estate of the taxpayer.

Determination of amount.

Any such liability may be either as to the amount of tax shown on the return or as to any deficiency in tax.

Limitation period.

(b) The period of limitation for assessment of any such liability of a transferee or fiduciary shall be as follows:

One year after taxpayer's assessment.

(1) Within one year after the expiration of the period of limitation for assessment against the taxpayer; or

Within six years after taxpayer's assessment made.

(2) If the period of limitation for assessment against the taxpayer expired before the enactment of this Act but assessment against the taxpayer was made within such period,—then within six years after the making of such assessment against the taxpayer, but in no case later than one year after the enactment of this Act.

One year for court proceedings.

(3) If a court proceeding against the taxpayer for the collection of the tax has been begun within either of the above periods,—then within one year after return of execution in such proceeding.

Provision for death of taxpayer or terminated corporation.

(c) For the purposes of this section, if the taxpayer is deceased, or in the case of a corporation, has terminated its existence, the period of limitation for assessment against the taxpayer shall be the period that would be in effect had the death or termination of existence not occurred.

Suspension of period after notice mailed, by Commissioner.

(d) The running of the period of limitation upon the assessment of the liability of a transferee or fiduciary shall, after the mailing of the notice under subdivision (a) of section 274 to the transferee of fiduciary, be suspended for the period during which the Commissioner is prohibited from making the assessment in respect of the liability of the transferee or fiduciary, and for 60 days thereafter.

Pending proceedings not affected.

(e) This section shall not apply to any suit or other proceeding for the enforcement of the liability of a transferee or fiduciary pending at the time of the enactment of this Act.

Meaning of "transferee."

(f) As used in this section, the term "transferee" includes heir, legatee, devisee, and distributee.

INCOME TAX.
Fiduciaries.

FIDUCIARIES

Powers, etc., of taxpayers transferred to, on notice to Commissioner.

SEC. 281. (a) Upon notice to the Commissioner that any person is acting in a fiduciary capacity such fiduciary shall assume the powers, rights, duties, and privileges of the taxpayer in respect of a tax imposed by this title or by prior income, excess-profits, or war-profits tax Act (except as otherwise specifically provided and except that the tax shall be collected from the estate of the taxpayer), until notice is given that the fiduciary capacity has terminated.

Powers, etc., assumed by fiduciary.

(b) Upon notice to the Commissioner that any person is acting in a fiduciary capacity for a person subject to the liability specified in section 280, the fiduciary shall assume, on behalf of such person, the powers, rights, duties, and privileges of such person under such section (except that the liability shall be collected from the estate of such person), until notice is given that the fiduciary capacity has terminated.

Manner of notice.

(c) Notice under subdivision (a) or (b) shall be given in accordance with regulations prescribed by the Commissioner with the approval of the Secretary.

Notice of deficiency mailed to taxpayer, if none received by fiduciary.

(d) In the absence of any notice to the Commissioner under subdivision (a) or (b), notice under this title of a deficiency or other liability, if mailed to the taxpayer or other person subject to liability at his last known address, shall be sufficient for the purposes of this title even if such taxpayer or other person is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

Bankruptcy and receiverships.

BANKRUPTCY AND RECEIVERSHIPS

Immediate assessment of deficiency in bankruptcy and receivership cases.

SEC. 282. (a) Upon the adjudication of bankruptcy of any taxpayer in any bankruptcy proceeding or the appointment of a receiver for any taxpayer in any receivership proceeding before any court of the United States or of any State or Territory or of the District of Columbia, any deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) determined by the Commissioner in respect of a tax imposed by this title upon such taxpayer shall, despite the provisions of subdivision (a) of section 274, be immediately assessed if such deficiency has not theretofore been assessed in accordance with law. Claim for the deficiency and such interest, additional amounts and additions to the tax may be presented, for adjudication in accordance with law, to the court before which the bankruptcy or receivership proceeding is pending, despite the pendency of proceedings for the redetermination of the deficiency in pursuance of a petition to the Board; but no petition for any such redetermination shall be filed with the Board after the adjudication of bankruptcy or the appointment of the receiver.

Adjudication of claim by court.

Collection of claims allowed in court proceedings.

(b) Any portion of the claim allowed in such bankruptcy or receivership proceeding which is unpaid shall be paid by the taxpayer upon notice and demand from the collector after the termination of such proceeding, and may be collected by distraint or proceeding in court within six years after termination of such proceeding.

Interest on claim if not paid on demand.

(c) If the amount of such portion of the claim is not paid in full within 10 days from the date of notice and demand from the collector, then there shall be collected as a part of such amount interest upon the unpaid portion thereof at the rate of 1 per centum a month from the date of such notice and demand until payment.

INCOME TAX.

Extensions of time for such payment may be had in the same manner and subject to the same provisions and limitations as are provided in subdivision (k) of section 274 in the case of a deficiency in a tax imposed by this title.

Time extension.

TAXES UNDER PRIOR ACTS

Taxes under former Acts.

SEC. 283. (a) If after the enactment of this Act the Commissioner determines that any assessment should be made in respect of any income, war-profits, or excess-profits tax imposed by the Revenue Act of 1916, the Revenue Act of 1917, the Revenue Act of 1918, the Revenue Act of 1921, or the Revenue Act of 1924, or by any such Act as amended, the Commissioner is authorized to send by registered mail to the person liable for such tax notice of the amount proposed to be assessed, which notice shall, for the purposes of this Act, be considered a notice under subdivision (a) of section 274 of this Act. In the case of any such determination the amount which should be assessed (whether as deficiency or as interest, penalty, or other addition to the tax) shall, except as provided in subdivision (d) of this section, be computed as if this Act had not been enacted, but the amount so computed shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including the provisions in case of delinquency in payment after notice and demand and the provisions prohibiting claims and suits for refund) as in the case of a deficiency in the tax imposed by this title, except as otherwise provided in section 277 of this Act.

Notice hereafter of proposed assessments of income, etc., taxes. Vol. 39, pp. 756–772. Vol. 40, pp. 300–308, 1057–1096. Vol. 42, pp. 227–271. Vol. 43, pp. 253–353.

Tax computed as if this Act had not passed.

(b) If before the enactment of this Act any person has appealed to the Board of Tax Appeals under subdivision (a) of section 274 of the Revenue Act of 1924 (if such appeal relates to a tax imposed by Title II of such Act or to so much of an income, war-profits, or excess-profits tax imposed by any of the prior Acts enumerated in subdivision (a) of this section as was not assessed before June 3, 1924), and the appeal is pending before the Board at the time of the enactment of this Act, the Board shall have jurisdiction of the appeal. In all such cases the powers, duties, rights, and privileges of the Commissioner and of the person who has brought the appeal, and the jurisdiction of the Board and of the courts, shall be determined, and the computation of the tax shall be made, in the same manner as provided in subdivision (a) of this section, except as provided in subdivision (j) of this section and except that the person liable for the tax shall not be subject to the provisions of subdivision (d) of section 284.

Jurisdiction of Board continued on appeals prior to this Act, for tax not assessed before June 3, 1924.

Powers, etc., determined according to prior Acts.

Computation, etc.

(c) If before the enactment of this Act the Commissioner has mailed to any person a notice under subdivision (a) of section 274 of the Revenue Act of 1924 (whether in respect of a tax imposed by Title II of such Act or in respect of so much of an income, war-profits, or excess-profits tax imposed by any of the prior Acts enumerated in subdivision (a) of this section as was not assessed before June 3, 1924), and if the 60-day period referred to in such subdivision has not expired before the enactment of this Act and no appeal has been filed before the enactment of this Act, such person may file a petition with the Board in the same manner as if a notice of deficiency had been mailed after the enactment of this Act in respect of a deficiency in a tax imposed by this title. In such cases the 60-day period referred to in subdivision (a) of section 274 of this Act shall begin on the date of the enactment of this Act, and the powers, duties, rights, and privileges of the Commissioner and of the person entitled to file the petition, and the jurisdiction of the Board and of the courts, shall, whether or not the petition is filed,

Taxpayer may file appeal if notice of deficiency, etc., under Act of 1924, has not expired.

Period to begin on date of this Act.

Jurisdiction of Board and courts.

INCOME TAX.

be determined, and the computation of the tax shall be made, in the same manner as provided in subdivision (a) of this section.

Interest on assessments hereafter under Acts prior to November 23, 1921.

(d) In the case of any assessment made after the enactment of this Act in respect of a tax imposed by any Act of Congress prior to November 23, 1921, interest upon the tax proposed to be assessed shall be assessed at the same time as such tax, shall be paid upon notice and demand from the collector, and shall be collected as part of such tax, at the rate of 6 per centum per annum, from the date of the enactment of this Act to the date such tax is assessed, or, in the case of a waiver under subdivision (d) of section 274, to the thirtieth day after the filing of such waiver or to the date the deficiency is assessed whichever is the earlier.

Time extended, on waiver.

Notice if deficiency under prior Acts assessed but not paid hitherto.

(e) If any deficiency in any income, war-profits, or excess-profits tax imposed by the Revenue Act of 1916, the Revenue Act of 1917, the Revenue Act of 1918, or the Revenue Act of 1921, or by any such Act as amended, was assessed before June 3, 1924, but was not paid in full before the date of the enactment of this Act, and if the Commissioner, after the enactment of this Act, finally determines the amount of the deficiency, he is authorized to send by registered mail to the person liable for such tax notice of such deficiency, which notice shall, for the purposes of this Act, be considered a notice under subdivision (a) of section 274 of this Act. In the case of any such final determination the amount of the tax (whether deficiency or interest, penalty, or other addition to the tax) shall, except as provided in subdivision (h) of this section, be computed as if this Act had not been enacted, but the amount so computed shall be collected and paid in the same manner and subject to the same provisions and limitations (including the provisions in case of delinquency in payment after notice and demand, and the provisions relating to claims and suits for refund) as in the case of a deficiency in the tax imposed by this title, except as otherwise provided in section 277 of this Act and in subdivision (i) of this section.

Tax computed under former Acts.

Collection and payment.

Ante, p. 58.
Post, p. 65.

Jurisdiction of Board on appeals for deficiency under former assessment and not paid June 3, 1924.

(f) If any deficiency in any income, war-profits, or excess-profits tax imposed by the Revenue Act of 1916, the Revenue Act of 1917, the Revenue Act of 1918, or the Revenue Act of 1921, or by any such Act as amended, was assessed before June 3, 1924, but was not paid in full before that date, and if the Commissioner after June 2, 1924, but before the enactment of this Act finally determined the amount of the deficiency, and if the person liable for such tax appealed before the enactment of this Act to the Board and the appeal is pending before the Board at the time of the enactment of this Act, the Board shall have jurisdiction of the appeal. In all such cases the powers, duties, rights, and privileges of the Commissioner and of the person who has brought the appeal, and the jurisdiction of the Board and of the courts, shall be determined, and the computation of the tax shall be made, in the same manner as provided in subdivision (e) of this section, except as provided in subdivision (j) of this section and except that the person liable for the tax shall not be subject to the provisions of subdivision (d) of section 284.

Determination, etc., under former Acts.

Credits and refunds.

Appeals allowed to Board for deficiency under former assessment and not paid hitherto.

(g) If any deficiency in any income, war-profits, or excess-profits tax imposed by the Revenue Act of 1916, the Revenue Act of 1917, the Revenue Act of 1918, or the Revenue Act of 1921, or by any such Act as amended, was assessed before June 3, 1924, but was not paid in full before the date of the enactment of this Act, and if the Commissioner after June 2, 1924, finally determined the amount of the deficiency, and notified the person liable for such tax to that effect less than 60 days prior to the enactment of this Act and no appeal has been filed before the enactment of this Act, the person so notified

may file a petition with the Board in the same manner as if a notice of deficiency had been mailed after the enactment of this Act in respect of a deficiency in a tax imposed by this title. In such cases the 60-day period referred to in subdivision (a) of section 274 of this Act shall begin on the date of the enactment of this Act, and, whether or not the petition is filed, the powers, duties, rights, and privileges of the Commissioner and of the person who is so notified, and the jurisdiction of the Board and of the courts, shall be determined, and the computation of the tax be made, in the same manner as provided in subdivision (e) of this section.

Period of notice extended.

(h) In cases within the scope of subdivision (e), (f), or (g) in computing the amount which should be collected, interest upon the amount determined by the Commissioner, or by the decision of the Board which has become final, to be the amount of the deficiency, shall be included at the rate of 6 per centum per annum from the date of the enactment of this Act up to the date of notice and demand from the collector, or, in the case of a waiver under subdivision (d) of section 274, to the thirtieth day after the filing of such waiver or to the date of notice and demand whichever is the earlier. The interest provided in this subdivision shall be included only in cases where no other interest for the same period is provided by law.

Interest authorized on determined amounts.

Restriction.

(i) In cases within the scope of subdivision (e), (f), or (g), if the Commissioner believes that the collection of the deficiency will be jeopardized by delay, he may, despite the provisions of subdivision (a) of section 274 of this Act, instruct the collector to proceed to enforce the payment of the unpaid portion of the deficiency, and notice and demand shall be made by the collector for the payment thereof. Within 10 days after such jeopardy notice and demand the person liable for the tax may obtain a stay of collection of the whole or any part of the amount included in the notice and demand by filing with the collector a bond in like manner, under the same conditions, and with the same effect, as in the case of a bond to stay the collection of a jeopardy assessment under section 279 of this Act.

Immediate enforcement if collection jeopardized by delay.

Stay of collection on filing bond.

Ante, p. 59.

(j) In cases within the scope of subdivision (b) or (f) of this section where any hearing before the Board has been held before the enactment of this Act and the decision is rendered after the enactment of this Act, such decision shall, for the purposes of this title, be considered to have become final upon the date when it is rendered and neither party shall have any right to petition for a review of the decision. The Commissioner may, within one year from the time the decision is rendered, begin a proceeding in court for the collection of any part of the amount disallowed by the Board, unless the statutory period of limitations properly applicable thereto has expired before the appeal was taken to the Board. The court shall include in its judgment interest upon the amount thereof in the same cases, at the same rate, and for the same period, as if such amount were collected otherwise than by proceeding in court. In any such proceeding by the Commissioner or in any suit by the taxpayer for a refund, the findings of the Board shall be prima facie evidence of the facts therein stated.

Finality of decisions of Board after this Act on hearings held before.

Suit to collect amount disallowed by Board.

Jurisdiction of court.

(k) Where before the enactment of this Act a jeopardy assessment has been made under subdivision (d) of section 274 of the Revenue Act of 1924 (whether of a deficiency in the tax imposed by Title II of such Act or of a deficiency in an income, war-profits, or excess-profits tax imposed by any of the prior Acts enumerated in subdivision (a) of this section) all proceedings after the enactment of this Act shall be the same as under the Revenue Act of 1924 as amended by this Act, except that—

Jeopardy assessment procedure.
Vol. 43, p. 297.

INCOME TAX.
Reviewal of subsequent decision of Board.

(1) A decision of the Board rendered after the enactment of this Act where no hearing has been held by the Board before the enactment of this Act may be reviewed in the same manner as provided in this Act in the case of a tax imposed by this title;

No court proceeding for disallowed deficiency.

(2) Where no hearing has been held by the Board before the enactment of this Act, the Commissioner shall have no right to begin a proceeding in court for the collection of any part of the deficiency disallowed by the Board; and

Jurisdiction and powers of Board.

(3) In the consideration of the case the jurisdiction and powers of the Board shall be the same as provided in this Act in the case of a tax imposed by this title.

Suspension of statute of limitations on income, etc., tax under prior Acts of Congress.

(l) In the case of any income, war-profits, or excess-profits tax imposed by prior Act of Congress, in computing the period of limitations provided in section 277 or 278 of this Act on the making of assessments and the beginning of distraint or a proceeding in court, the running of the statute of limitations shall be considered to have been suspended (in addition to the period of suspension provided for in subdivision (b) of section 277) for any period prior to the enactment of this Act during which the Commissioner was prohibited from making the assessment or beginning distraint or proceeding in court.

Credits and refunds.

CREDITS AND REFUNDS

Allowed for excess payments under this or prior Acts.

SEC. 284. (a) Where there has been an overpayment of any income, war-profits, or excess-profits tax imposed by this Act, the Act entitled "An Act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909, the Act entitled "An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes," approved October 3, 1913, the Revenue Act of 1916, the Revenue Act of 1917, the Revenue Act of 1918, the Revenue Act of 1921, or the Revenue Act of 1924, or any such Act as amended, the amount of such overpayment shall, except as provided in subdivision (d), be credited against any income, war-profits, or excess-profits tax or installment thereof then due from the taxpayer, and any balance of such excess shall be refunded immediately to the taxpayer.

Vol. 36, p. 112.

Vol. 38, p. 166.

Vol. 39, pp. 756, 1004; Vol. 40, pp. 300, 1057; Vol. 42, p. 227; Vol. 43, p. 253.

Filing claims.

(b) Except as provided in subdivisions (c), (d), (e), and (g) of this section—

In three years under this Act, and four under former.

(1) No such credit or refund shall be allowed or made after three years from the time the tax was paid in the case of a tax imposed by this Act, nor after four years from the time the tax was paid in the case of a tax imposed by any prior Act, unless before the expiration of such period a claim therefor is filed by the taxpayer; and

Limit of credit or refund.

(2) The amount of the credit or refund shall not exceed the portion of the tax paid during the three or four years, respectively, immediately preceding the filing of the claim, or if no claim was filed, then during the three or four years, respectively, immediately preceding the allowance of the credit or refund.

Allowance without claim, if invested capital decreased by Commissioner.

(c) If the invested capital of a taxpayer is decreased by the Commissioner, and such decrease is due to the fact that the taxpayer failed to take adequate deductions in previous years, with the result that there has been an overpayment of income, war-profits, or excess-profits taxes in any previous year or years, then the amount of such overpayment shall be credited or refunded, without the filing of a claim therefor, notwithstanding the period of limitation provided for in subdivision (b) or (g) has expired.

INCOME TAX.
Restriction on credit or refund if deficiency notice mailed to taxpayer and petition filed with Board.

(d) If the Commissioner has mailed to the taxpayer a notice of deficiency under subdivision (a) of section 274 and if the taxpayer after the enactment of this Act files a petition with the Board of Tax Appeals within the time prescribed in such subdivision, no credit or refund in respect of the tax for the taxable year in respect of which the Commissioner has determined the deficiency shall be allowed or made and no suit by the taxpayer for the recovery of any part of such tax shall be instituted in any court except—

Exceptions. Decision of Board.

(1) As provided in subdivision (e) of this section or in subdivision (i) of section 279 or in subdivision (b), (f), or (i) of section 283 or in subdivision (d) of section 1001; and

Excess collected.

(2) As to any amount collected in excess of an amount computed in accordance with the decision of the Board which has become final; and

Collection after statutory limitation.

(3) As to any amount collected after the statutory period of limitations upon the beginning of distraint or a proceeding in court for collection has expired; but in any such claim for credit or refund or in any such suit for refund the decision of the Board which has become final, as to whether such period has expired before the notice of deficiency was mailed, shall be conclusive.

Decision of overpayment by Board.

(e) If the Board finds that there is no deficiency and further finds that the taxpayer has made an overpayment of tax in respect of the taxable year in respect of which the Commissioner determined the deficiency, the Board shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Board has become final, be credited or refunded to the taxpayer as provided in subdivision (a). Such refund or credit shall be made either (1) if claim therefor was filed within the period of limitation provided for in subdivision (b) or (g), or (2) if the petition was filed with the Board within four years after the tax was paid, or, in the case of a tax imposed by this Act, within three years after the tax was paid.

Refund or credit authorized.

Refund, etc., to withholding agent.

(f) Where there has been an overpayment of tax under section 221 or 237 any refund or credit made under the provisions of this section shall be made to the withholding agent unless the amount of such tax was actually withheld by the withholding agent.

Extension, if waiver of right to have tax for 1917 determined in five years has been filed.

(g) If the taxpayer has, within five years from the time the return for the taxable year 1917 was due, filed a waiver of his right to have the taxes due for such taxable year determined and assessed within five years after the return was filed, or if he has, on or before June 15, 1924, filed such a waiver in respect of the taxes due for the taxable year 1918, then such credit or refund relating to the taxes for the year in respect of which the waiver was filed shall be allowed or made if claim therefor is filed either on or before April 1, 1925, or within four years from the time the tax was paid. If the taxpayer has, on or before June 15, 1925, filed such a waiver in respect of the taxes due for the taxable year 1919, then such credit or refund relating to the taxes for the taxable year 1919 shall be allowed or made if claim therefor is filed either on or before April 1, 1926, or within four years from the time the tax was paid. If the taxpayer has, on or before June 15, 1926, filed such a waiver in respect of the taxes due for the taxable year 1920 or 1921, then such credit or refund relating to the taxes for the taxable year 1920 or 1921 shall be allowed or made if claim therefor is filed either on or before April 1, 1927, or within four years from the time the tax was paid. If any such waiver so filed has, before the expiration of the period thereof, been extended either by the filing of a new waiver or by the extension of the original waiver, then such credit or refund relating to the taxes for the year in respect of which the waiver was filed shall be allowed

Waiver for tax of year 1919.

Waiver for years 1920 or 1921.

Effect of extending waiver.

INCOME TAX.

or made if claim therefor is filed either (1) within four years from the time the tax was paid, or (2) on or before April 1, 1926, in the case of credits or refunds relating to the taxes for the taxable years 1917 and 1918, or on or before April 1, 1927, in the case of credits or refunds relating to the taxes for the taxable year 1919, or on or before April 1, 1928, in the case of credits or refunds relating to the taxes for the taxable years 1920 and 1921. This subdivision shall not authorize a credit or refund prohibited by the provisions of subdivision (d).

Limitation.

Ante, p. 67.

Allowance of prior claims not barred.

(h) Except as provided in subdivision (d) this section shall not (1) bar from allowance a claim for credit or refund filed prior to the enactment of this Act which but for such enactment would have been allowable, or (2) bar from allowance a claim in respect of a tax for the taxable year 1919 or 1920 if such claim is filed before the expiration of five years after the date the return was due.

Closing of taxable year.

CLOSING BY COMMISSIONER OF TAXABLE YEAR

Immediate payment if Commissioner finds acts of taxpayer prejudice collection.

SEC. 285. (a) If the Commissioner finds that a taxpayer designs quickly to depart from the United States or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect the tax for the taxable year then last past or the taxable year then current unless such proceedings be brought without delay, the Commissioner shall declare the taxable period for such taxpayer immediately terminated and shall cause notice of such finding and declaration to be given the taxpayer, together with a demand for immediate payment of the tax for the taxable period so declared terminated and of the tax for the preceding taxable year or so much of such tax as is unpaid, whether or not the time otherwise allowed by law for filing return and paying the tax has expired; and such taxes shall thereupon become immediately due and payable. In any proceeding in court brought to enforce payment of taxes made due and payable by virtue of the provisions of this section the finding of the Commissioner, made as herein provided, whether made after notice to the taxpayer or not, shall be for all purposes presumptive evidence of the taxpayer's design.

Notice to be given of finding, demand, etc.

Finding of Commissioner, presumption of extent.

Bond accepted if taxpayer not in default.

(b) A taxpayer who is not in default in making any return or paying income, war-profits, or excess-profits tax under any Act of Congress may furnish to the United States, under regulations to be prescribed by the Commissioner, with the approval of the Secretary, security approved by the Commissioner that he will duly make the return next thereafter required to be filed and pay the tax next thereafter required to be paid. The Commissioner may approve and accept in like manner security for return and payment of taxes made due and payable by virtue of the provisions of this section, provided the taxpayer has paid in full all other income, war-profits, or excess-profits taxes due from him under any Act of Congress.

Condition of acceptance.

Enforcement proceedings suspended on approval of bond.

(c) If security is approved and accepted pursuant to the provisions of this section and such further or other security with respect to the tax or taxes covered thereby is given as the Commissioner shall from time to time find necessary and require, payment of such taxes shall not be enforced by any proceedings under the provisions of this section prior to the expiration of the time otherwise allowed for paying such respective taxes.

Discretionary waiving of requirements of citizens.

(d) In the case of a citizen of the United States or of a possession of the United States about to depart from the United States the Commissioner may, at his discretion, waive any or all of the requirements placed on the taxpayer by this section.

(e) No alien shall depart from the United States unless he first procures from the collector or agent in charge a certificate that he has complied with all the obligations imposed upon him by the income, war-profits, and excess-profits tax laws.

INCOME TAX. Aliens before going abroad must furnish certificate of taxes paid.

(f) If a taxpayer violates or attempts to violate this section there shall, in addition to all other penalties, be added as part of the tax 25 per centum of the total amount of the tax or deficiency in the tax, together with interest at the rate of 1 per centum a month from the time the tax became due.

Additional tax for violations hereof.

EFFECTIVE DATE OF TITLE

Effective date.

SEC. 286. This title shall take effect as of January 1, 1925, except that section 257 and sections 271 to 285, inclusive, and this section, shall take effect on the enactment of this Act.

As of January 1, 1925. Exceptions. *Ante*, pp. 51,55-68.

TITLE III.—ESTATE TAX

ESTATE TAX.

SEC. 300. When used in this title—

Terms construed.

(a) The term "executor" means the executor or administrator of the decedent, or, if there is no executor or administrator appointed, qualified, and acting within the United States, then any person in actual or constructive possession of any property of the decedent;

"Executor."

(b) The term "net estate" means the net estate as determined under the provisions of section 303;

"Net estate."

(c) The term "month" means calendar month; and

"Month."

(d) The term "collector" means the collector of internal revenue of the district in which was the domicile of the decedent at the time of his death, or, if there was no such domicile in the United States, then the collector of the district in which is situated the part of the gross estate of the decedent in the United States, or, if such part of the gross estate is situated in more than one district, then the collector of internal revenue of such district as may be designated by the Commissioner.

"Collector."

SEC. 301. (a) In lieu of the tax imposed by Title III of the Revenue Act of 1924, a tax equal to the sum of the following percentages of the value of the net estate (determined as provided in section 303) is hereby imposed upon the transfer of the net estate of every decedent dying after the enactment of this act, whether a resident or nonresident of the United States;

Tax levied on transfers of estates hereafter. Vol. 43, p. 303.

Rates.

1 per centum of the amount of the net estate not in excess of $50,000;

2 per centum of the amount by which the net estate exceeds $50,000 and does not exceed $100,000;

3 per centum of the amount by which the net estate exceeds $100,000 and does not exceed $200,000;

4 per centum of the amount by which the net estate exceeds $200,000 and does not exceed $400,000;

5 per centum of the amount by which the net estate exceeds $400,000 and does not exceed $600,000;

6 per centum of the amount by which the net estate exceeds $600,000 and does not exceed $800,000;

7 per centum of the amount by which the net estate exceeds $800,000 and does not exceed $1,000,000;

8 per centum of the amount by which the net estate exceeds $1,000,000 and does not exceed $1,500,000;

9 per centum of the amount by which the net estate exceeds $1,500,000 and does not exceed $2,000,000;

ESTATE TAX.

10 per centum of the amount by which the net estate exceeds $2,000,000 and does not exceed $2,500,000;

11 per centum of the amount by which the net estate exceeds $2,500,000 and does not exceed $3,000,000;

12 per centum of the amount by which the net estate exceeds $3,000,000 and does not exceed $3,500,000;

13 per centum of the amount by which the net estate exceeds $3,500,000 and does not exceed $4,000,000;

14 per centum of the amount by which the net estate exceeds $4,000,000 and does not exceed $5,000,000;

15 per centum of the amount by which the net estate exceeds $5,000,000 and does not exceed $6,000,000;

16 per centum of the amount by which the net estate exceeds $6,000,000 and does not exceed $7,000,000;

17 per centum of the amount by which the net estate exceeds $7,000,000 and does not exceed $8,000,000;

18 per centum of the amount by which the net estate exceeds $8,000,000 and does not exceed $9,000,000;

19 per centum of the amount by which the net estate exceeds $9,000,000 and does not exceed $10,000,000;

20 per centum of the amount by which the net estate exceeds $10,000,000.

Credit allowed for estate, etc., taxes of States, etc.

(b) The tax imposed by this section shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any State or Territory or the District of Columbia, in respect of any property included in the gross estate. The credit allowed by this subdivision shall not exceed 80 per centum of the tax imposed by this section, and shall include only such taxes as were actually paid and credit therefor claimed within three years after the filing of the return required by section 304.

Maximum.

Gross estate. Property included.

SEC. 302. The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated—

Decedent's interest therein.

(a) To the extent of the interest therein of the decedent at the time of his death;

Dower or curtesy interests.

(b) To the extent of any interest therein of the surviving spouse, existing at the time of the decedent's death as dower, curtesy, or by virtue of a statute creating an estate in lieu of dower or curtesy;

Transfers in contemplation of death.

(c) To the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, in contemplation of or intended to take effect in possession or enjoyment at or after his death, except in case of a bona fide sale for an adequate and full consideration in money or money's worth. Where within two years prior to his death but after the enactment of this Act and without such a consideration the decedent has made a transfer or transfers, by trust or otherwise, of any of his property, or an interest therein, not admitted or shown to have been made in contemplation of or intended to take effect in possession or enjoyment at or after his death, and the value or aggregate value, at the time of such death, of the property or interest so transferred to any one person is in excess of $5,000, then, to the extent of such excess, such transfer or transfers shall be deemed and held to have been made in contemplation of death within the meaning of this title. Any transfer of a material part of his property in the nature of a final disposition or distribution thereof, made by the decedent within two years prior to his death but prior to the enactment of this Act, without such consideration, shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this title;

Within two years hereafter, of over $5,000.

Transfers prior hitherto.

ESTATE TAX.
Revocable transfers prior to death, etc.

(d) To the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, where the enjoyment thereof was subject at the date of his death to any change through the exercise of a power, either by the decedent alone or in conjunction with any person, to alter, amend, or revoke, or where the decedent relinquished any such power in contemplation of his death, except in case of a bona fide sale for an adequate and full consideration in money or money's worth. The relinquishment of any such power, not admitted or shown to have been in contemplation of the decedent's death, made within two years prior to his death but after the enactment of this Act without such a consideration and affecting the interest or interests (whether arising from one or more transfers or the creation of one or more trusts) of any one beneficiary of a value or aggregate value, at the time of such death, in excess of $5,000, then, to the extent of such excess, such relinquishment or relinquishments shall be deemed and held to have been made in contemplation of death within the meaning of this title;

Relinquishment to beneficiary without consideration deemed such a transfer.

Extent of joint interests, etc.

(e) To the extent of the interest therein held as joint tenants by the decedent and any other person, or as tenants by the entirety by the decedent and spouse, or deposited, with any person carrying on the banking business, in their joint names and payable to either or the survivor, except such part thereof as may be shown to have originally belonged to such other person and never to have been received or acquired by the latter from the decedent for less than an adequate and full consideration in money or money's worth: *Provided*, That where such property or any part thereof, or part of the consideration with which such property was acquired, is shown to have been at any time acquired by such other person from the decedent for less than an adequate and full consideration in money or money's worth, there shall be excepted only such part of the value of such property as is proportionate to the consideration furnished by such other person: *Provided further*, That where any property has been acquired by gift, bequest, devise, or inheritance, as a tenancy by the entirety by the decedent and spouse, then to the extent of one-half of the value thereof, or, where so acquired by the decedent and any other person as joint tenants and their interests are not otherwise specified or fixed by law, then to the extent of the value of a fractional part to be determined by dividing the value of the property by the number of joint tenants;

Exception.

Provisos.
If property acquired from a decedent, etc.

If acquired by gift, etc., under tenancies by entirety or joint.

Passing under a general power of appointment.

(f) To the extent of any property passing under a general power of appointment exercised by the decedent (1) by will, or (2) by deed executed in contemplation of, or intended to take effect in possession or enjoyment at or after, his death, except in case of a bona fide sale for an adequate and full consideration in money or money's worth; and

Received on insurance policies of decedent.

(g) To the extent of the amount receivable by the executor as insurance under policies taken out by the decedent upon his own life; and to the extent of the excess over $40,000 of the amount receivable by all other beneficiaries as insurance under policies taken out by the decedent upon his own life.

Application to prior trusts, etc.

(h) Except as otherwise specifically provided therein subdivisions (b), (c), (d), (e), (f), and (g) of this section shall apply to the transfers, trusts, estates, interests, rights, powers, and relinquishment of powers, as severally enumerated and described therein, whether made, created, arising, existing, exercised, or relinquished before or after the enactment of this Act.

Computation of transfers not bona fide sales, etc.

(i) If any one of the transfers, trusts, interests, rights, or powers, enumerated and described in subdivisions (c), (d), and (f) of this section is made, created, exercised, or relinquished for a consideration in money or money's worth, but is not a bona fide sale for an

ESTATE TAX.

adequate and full consideration in money or money's worth, there shall be included in the gross estate only the excess of the fair market value at the time of death of the property otherwise to be included on account of such transaction, over the value of the consideration received therefor by the decedent.

Net value determined.

SEC. 303. For the purpose of the tax the value of the net estate shall be determined—

Deductions from gross estate of residents.

(a) In the case of a resident, by deducting from the value of the gross estate—

Funeral and administration expense, taxes, etc.

(1) Such amounts for funeral expenses, administration expenses, claims against the estate, unpaid mortgages upon, or any indebtedness in respect to, property (except, in the case of a resident decedent, where such property is not situated in the United States), to the extent that such claims, mortgages, or indebtedness were incurred or contracted bona fide and for an adequate and full consideration in money or money's worth, losses incurred during the settlement of the estate arising from fires, storms, shipwreck, or other casualty, or from theft, when such losses are not compensated for by insurance or otherwise, and such amounts reasonably required and actually expended for the support during the settlement of the estate of those dependent upon the decedent, as are allowed by the laws of the jurisdiction, whether within or without the United States, under which the estate is being administered, but not including any income taxes upon income received after the death of the decedent, or any estate, succession, legacy, or inheritance taxes;

Casualty losses during settlement.

Taxes on income after death not included.

Property received from prior decedent.

(2) An amount equal to the value of any property (A) forming a part of the gross estate situated in the United States of any person who died within five years prior to the death of the decedent, or (B) transferred to the decedent by gift within five years prior to his death, where such property can be identified as having been received by the decedent from such donor by gift or from such prior decedent by gift, bequest, devise, or inheritance, or which can be identified as having been acquired in exchange for property so received. This deduction shall be allowed only where a gift tax imposed under the Revenue Act of 1924, or an estate tax imposed under this or any prior Act of Congress was paid by or on behalf of the donor or the estate of such prior decedent as the case may be, and only in the amount of the value placed by the Commissioner on such property in determining the value of the gift or the gross estate of such prior decedent, and only to the extent that the value of such property is included in the decedent's gross estate and not deducted under paragraph (1) or (3) of this subdivision;

Restricted to property on which gift or estate tax paid.

Limit.

Bequests, etc., for public, religious, etc., purposes.

(3) The amount of all bequests, legacies, devises, or transfers, to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or to or for the use of any corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, or to a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, but only if such contributions or gifts are to be used by such trustee or trustees, or by such fraternal society, order, or association, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals. The amount of the deduction under this paragraph for any transfer shall not exceed the value of the transferred property required to be included in the gross estate; and

Condition.

Limitation of amount.

ESTATE TAX.

(4) An exemption of $100,000. Exemption of $100,000.

(b) In the case of a nonresident, by deducting from the value of that part of his gross estate which at the time of his death is situated in the United States— Deductions from gross estate of nonresidents.

(1) That proportion of the deductions specified in paragraph (1) of subdivision (a) of this section which the value of such part bears to the value of his entire gross estate, wherever situated, but in no case shall the amount so deducted exceed 10 per centum of the value of that part of his gross estate which at the time of his death is situated in the United States; Proportion of administration expenses. Limit as to part in United States.

(2) An amount equal to the value of any property (A) forming a part of the gross estate situated in the United States of any person who died within five years prior to the death of the decedent, or (B) transferred to the decedent by gift within five years prior to his death, where such property can be identified as having been received by the decedent from such donor by gift or from such prior decedent by gift, bequest, devise, or inheritance, or which can be identified as having been acquired in exchange for property so received. This deduction shall be allowed only where a gift tax imposed under the Revenue Act of 1924, or an estate tax imposed under this or any prior Act of Congress was paid by or on behalf of the donor or the estate of such prior decedent as the case may be, and only in the amount of the value placed by the Commissioner on such property in determining the value of the gift or the gross estate of such prior decedent, and only to the extent that the value of such property is included in that part of the decedent's gross estate which at the time of his death is situated in the United States and not deducted under paragraph (1) or (3) of this subdivision; and Property in United States received from prior decedents. Restricted to property on which gift or estate tax paid.

(3) The amount of all bequests, legacies, devises, or transfers, to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or to or for the use of any domestic corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, or to a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, but only if such contributions or gifts are to be used within the United States by such trustee or trustees, or by such fraternal society, order, or association, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals. The amount of the deduction under this paragraph for any transfer shall not exceed the value of the transferred property required to be included in the gross estate. Bequests, etc., for public, religious, etc., purposes in the United States. Conditions. Limitation.

(c) No deduction shall be allowed in the case of a nonresident unless the executor includes in the return required to be filed under section 304 the value at the time of his death of that part of the gross estate of the nonresident not situated in the United States. No deduction unless full return of nonresident's gross estate filed.

(d) For the purpose of this title, stock in a domestic corporation owned and held by a nonresident decedent shall be deemed property within the United States, and any property of which the decedent has made a transfer, by trust or otherwise, within the meaning of subdivision (c) or (d) of section 302, shall be deemed to be situated in the United States, if so situated either at the time of the transfer, or at the time of the decedent's death. Property of nonresident included as within United States.

(e) The amount receivable as insurance upon the life of a nonresident decedent, and any moneys deposited with any person carrying on the banking business, by or for a nonresident decedent who was not engaged in business in the United States at the time Insurance and bank deposits of nonresidents not deemed property in United States.

ESTATE TAX.

of his death, shall not, for the purpose of this title, be deemed property within the United States.

Status of missionaries dying abroad.

(f) Missionaries duly commissioned and serving under boards of foreign missions of the various religious denominations in the United States, dying while in the foreign missionary service of such boards, shall not, by reason merely of their intention to permanently remain in such foreign service, be deemed nonresidents of the United States, but shall be presumed to be residents of the State, the District of Columbia, or the Territories of Alaska or Hawaii wherein they respectively resided at the time of their commission and their departure for such foreign service.

Executor to notify collector of authority.

SEC. 304. (a) The executor, within two months after the decedent's death, or within a like period after qualifying as such, shall give written notice thereof to the collector.

Returns to be filed.

The executor shall also, at such times and in such manner as may be required by regulations made pursuant to law, file with the collector a return under oath in duplicate, setting forth (1) the value of the gross estate of the decedent at the time of his death, or, in case of a nonresident, of that part of his gross estate situated in the United States; (2) the deductions allowed under section 303; (3) the value of the net estate of the decedent as defined in section 303; and (4) the tax paid or payable thereon; or such part of such information as may at the time be ascertainable and such supplemental data as may be necessary to establish the correct tax.

Contents.

Returns required if estate exceeds $100,000, and of nonresidents, of all in United States.

(b) Return shall be made in all cases where the gross estate at the death of the decedent exceeds $100,000, and in the case of the estate of every nonresident any part of whose gross estate is situated in the United States.

Partial returns.

If the executor is unable to make a complete return as to any part of the gross estate of the decedent, he shall include in his return a description of such part and the name of every person holding a legal or beneficial interest therein, and upon notice from the collector such person shall in like manner make a return as to such part of the gross estate.

Time of payment.

SEC. 305. (a) The tax imposed by this title shall be due and payable one year after the decedent's death, and shall be paid by the executor to the collector.

Extension permitted to avoid hardship.

(b) Where the Commissioner finds that the payment on the due date of any part of the amount determined by the executor as the tax would impose undue hardship upon the estate, the Commissioner may extend the time for payment of any such part not to exceed five years from the due date. In such case the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension.

Interest from extended time.

(c) If the time for the payment is thus extended there shall be collected, as a part of such amount, interest thereon at the rate of 6 per centum per annum from the expiration of six months after the due date of the tax to the expiration of the period of the extension.

Extension under Act of 1921. Vol. 42, p. 277, amended.

(d) The time for which the Commissioner may extend the time for payment of the estate tax imposed by Title IV of the Revenue Act of 1921 shall be five years.

Early determination of tax.

SEC. 306. As soon as practicable after the return is filed the Commissioner shall examine it and shall determine the correct amount of the tax.

Meaning of "deficiency."

SEC. 307. As used in this title in respect of a tax imposed by this title the term "deficiency" means—

When tax imposed exceeds return of executor.

(1) The amount by which the tax imposed by this title exceeds the amount shown as the tax by the executor upon his return; but the amount so shown on the return shall first be increased by the amounts previously assessed (or collected without assessment) as

Condition.

a deficiency, and decreased by the amounts previously abated, refunded, or otherwise repaid in respect of such tax; or

Exceeds previous assessment, if no amount shown, etc.

(2) If no amount is shown as the tax by the executor upon his return, or if no return is made by the executor, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed, or collected without assessment, shall first be decreased by the amounts previously abated, refunded, or otherwise repaid in respect of such tax.

Condition.

Notice to executor of deficiency.

SEC. 308. (a) If the Commissioner determines that there is a deficiency in respect of the tax imposed by this title, the Commissioner is authorized to send notice of such deficiency to the executor by registered mail. Within 60 days after such notice is mailed (not counting Sunday as the sixtieth day), the executor may file a petition with the Board of Tax Appeals for a redetermination of the deficiency. Except as otherwise provided in subdivision (d) or (f) of this section or in section 312 or 1001, no assessment of a deficiency in respect of the tax imposed by this title and no distraint or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the executor, nor until the expiration of such 60-day period, nor, if a petition has been filed with the Board, until the decision of the Board has become final. Notwithstanding the provisions of section 3224 of the Revised Statutes the making of such assessment or the beginning of such proceeding or distraint during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

Appeal to Board of Appeals.

No assessment, etc., until notice has been mailed or appeal filed, etc.

Injunction by court procedure allowed.

Payment of amount redetermined by Board, if petition filed.

(b) If the executor files a petition with the Board, the entire amount redetermined as the deficiency by the decision of the Board which has become final shall be assessed and shall be paid upon notice and demand from the collector. No part of the amount determined as a deficiency by the Commissioner but disallowed as such by the decision of the Board which has become final shall be assessed or be collected by distraint or by proceeding in court with or without assessment.

Disallowed amount not collectible.

Payment on demand if no appeal filed.

(c) If the executor does not file a petition with the Board within the time prescribed in subdivision (a) of this section, the deficiency, notice of which has been mailed to the executor, shall be assessed, and shall be paid upon notice and demand from the collector.

Restrictions may be waived by taxpayer.

(d) The executor shall at any time have the right, by a signed notice in writing filed with the Commissioner, to waive the restrictions provided in subdivision (a) of this section on the assessment and collection of the whole or any part of the deficiency.

Redetermination of correct amount by Board, even if greater than notified deficiency.

(e) The Board shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the executor, and to determine whether any additional amount or addition to the tax should be assessed, if claim therefor is asserted by the Commissioner at or before the hearing or a rehearing.

Restriction hereafter on determining deficiency, after notice by Commissioner.

(f) If after the enactment of this Act the Commissioner has mailed to the executor notice of a deficiency as provided in subdivision (a), and the executor files a petition with the Board within the time prescribed in such subdivision, the Commissioner shall have no right to determine any additional deficiency, except in the case of fraud, and except as provided in subdivision (e) of this section or in subdivision (c) of section 312. If the executor is notified that, on account of a mathematical error appearing upon the face of the return, an amount of tax in excess of that shown upon the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the

Mathematical error not considered a notice of deficiency.

ESTATE TAX.

correct amount of tax but for the mathematical error, such notice shall not be considered, for the purposes of this subdivision or of subdivision (a) of this section, or of section 319, as a notice of a deficiency, and the executor shall have no right to file a petition with the Board of Tax Appeals based on such notice, nor shall such assessment or collection be prohibited by the provisions of subdivision (a) of this section.

Date of Board's final decision.

Post, p. 110.

(g) For the purposes of this title the date on which a decision of the Board becomes final shall be determined according to the provisions of section 1005.

Interest upon amount of deficiency.

(h) Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the collector, and shall be collected as a part of the tax, at the rate of 6 per centum per annum from the due date of the tax to the date the deficiency is assessed, or, in the case of a waiver under subdivision (d) of this section, to the thirtieth day after the filing of such waiver or to the date the deficiency is assessed whichever is the earlier.

Extension for payment allowed to avoid undue hardship to the estate.

(i) Where it is shown to the satisfaction of the Commissioner that the payment of a deficiency upon the date prescribed for the payment thereof will result in undue hardship to the estate, the Commissioner with the approval of the Secretary (except where the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax) may grant an extension for the payment of such deficiency or any part thereof for a period not in excess of two years. If an extension is granted, the Commissioner may require the executor to furnish a bond in such amount, not exceeding double the amount of the deficiency, and with such sureties, as the Commissioner deems necessary, conditioned upon the payment of the deficiency in accordance with the terms of the extension. In such case there shall be collected, as a part of the tax, interest on the part of the deficiency the time for payment of which is so extended, at the rate of 6 per centum per annum for the period of the extension, and no other interest shall be collected on such part of the deficiency for such period. If the part of the deficiency the time for payment of which is so extended is not paid in accordance with the terms of the extension, there shall be collected, as a part of the tax, interest on such unpaid amount at the rate of 1 per centum a month for the period from the time fixed by the terms of the extension for its payment until it is paid, and no other interest shall be collected on such unpaid amount for such period.

Bond required.

Interest collected on deficiency.

Additional, if not paid.

Assessment, etc., of 50 per cent addition to tax.

Post, p. 112.

(j) The 50 per centum addition to the tax provided by section 3176 of the Revised Statutes, as amended, shall, when assessed after the enactment of this Act in connection with an estate tax, be assessed, collected, and paid in the same manner as if it were a deficiency, except that the provisions of subdivision (h) of this section shall not be applicable.

Interest imposed if tax not paid when due.

SEC. 309. (a) (1) Where the amount determined by the executor as the tax imposed by this title, or any part of such amount, is not paid on the due date of the tax, there shall be collected as a part of the tax, interest upon such unpaid amount at the rate of 1 per centum a month from the due date until it is paid.

If tax and interest not paid in full, on extension granted.

(2) Where an extension of time for payment of the amount so determined as the tax by the executor has been granted, and the amount the time for payment of which has been extended, and the interest thereon determined under subdivision (c) of section 305, is not paid in full prior to the expiration of the period of the extension, then, in lieu of the interest provided for in paragraph (1) of this subdivision, interest at the rate of 1 per centum a month

shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid.

Interest, if deficiency, etc., not paid in full on demand, etc. *Post*, p. 112.

(b) Where a deficiency, or any interest assessed in connection therewith under subdivision (h) of section 308, or any addition to the tax provided for in section 3176 of the Revised Statutes, as amended, is not paid in full within 30 days from the date of notice and demand from the collector, there shall be collected as part of the tax, interest upon the unpaid amount at the rate of 1 per centum a month from the date of such notice and demand until it is paid.

Not applicable to amount covered by bond.

(c) If a bond is filed, as provided in section 312, the provisions of subdivision (b) of this section shall not apply to the amount covered by the bond.

Assessment, etc., in three years.

SEC. 310. (a) Except as provided in section 311, the amount of the estate taxes imposed by this title shall be assessed within three years after the return was filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of three years after the return was filed.

Suspension of statute of limitation during period of prohibition of assessment, etc.

(b) The running of the statute of limitations provided in this section or in section 311 on the making of assessments and the beginning of distraint or a proceeding in court for collection, in respect of any deficiency, shall (after the mailing of a notice under subdivision (a) of section 308) be suspended for the period during which the Commissioner is prohibited from making the assessment or beginning distraint or a proceeding in court, and for 60 days thereafter.

Ante, p. 75.

Assessment at any time in case of fraud.

SEC. 311. (a) In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

Collection of estate tax, etc., by distraint, etc.

(b) Where the assessment of any tax imposed by this title or of any estate or gift tax imposed by prior Act of Congress has been made (whether before or after the enactment of this Act) within the statutory period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court (begun before or after the enactment of this Act), but only if begun (1) within six years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the executor.

Time limit.

Distraint, etc., prior to Act of 1924, not barred.

Effect of statutory limitation.

(c) This section shall not bar a distraint or proceeding in court begun before the enactment of the Revenue Act of 1924; nor shall it authorize the assessment of a tax or the collection thereof by distraint or by proceeding in court (1) if at the time of the enactment of this Act such assessment, distraint, or proceeding was barred by the statutory period of limitation properly applicable thereto, unless prior to the enactment of this Act the Commissioner and the executor agreed in writing thereto, or (2) contrary to the provisions of subdivision (a) of section 308 of this Act.

Ante, p. 75.

Deficiency immediately assessed, etc., if jeopardized by delay.

SEC. 312. (a) If the Commissioner believes that the assessment or collection of a deficiency will be jeopardized by delay, he shall immediately assess such deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) and notice and demand shall be made by the collector for the payment thereof.

Notice to be mailed.

(b) If the jeopardy assessment is made before any notice in respect of the tax to which the jeopardy assessment relates has been mailed under subdivision (a) of section 308, then the Commissioner shall mail a notice under such subdivision within 60 days after the making of the assessment.

Authorized if deficiency differs from the previous notice thereof.

(c) The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the executor, despite the provisions of subdivision (f) of section

ESTATE TAX.

308 and whether or not the executor has theretofore filed a petition with the Board of Tax Appeals. The Commissioner shall notify the Board of the amount of such assessment, if the petition is filed with the Board before the making of the assessment or is subsequently filed, and the Board shall have jurisdiction to redetermine the entire amount of the deficiency and of all amounts assessed at the same time in connection therewith.

Redetermination by Board.

Restriction if assessment made after the Board's decision.

(d) If the jeopardy assessment is made after the decision of the Board is rendered such assessment may be made only in respect of the deficiency determined by the Board in its decision.

Not allowed after final decision of Board, etc.

(e) A jeopardy assessment may not be made after the decision of the Board has become final or after the executor has filed a petition for review of the decision of the Board.

Stay of collection on filing a bond.

(f) When a jeopardy assessment has been made the executor, within 30 days after notice and demand from the collector for the payment of the amount of the assessment, may obtain a stay of collection of the whole or any part of the amount of the assessment by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of so much of the amount, the collection of which is stayed by the bond, as is not abated by a decision of the Board which has become final, together with interest thereon as provided in subdivision (j) of this section.

Conditions.

Further condition if bond given before filing petition.

(g) If the bond is given before the executor has filed his petition with the Board under subdivision (a) of section 308, the bond shall contain a further condition that if a petition is not filed within the period provided in such subdivision, then the amount the collection of which is stayed by the bond will be paid on notice and demand at any time after the expiration of such period, together with interest thereon at the rate of 6 per centum per annum from the date of the jeopardy notice and demand to the date of notice and demand under this subdivision.

Stay of collecting the part covered by bond.
Effect of waiver of stay, etc.

(h) Upon the filing of the bond the collection of so much of the amount assessed as is covered by the bond shall be stayed. The executor shall have the right to waive such stay at any time in respect of the whole or any part of the amount covered by the bond, and if as a result of such waiver any part of the amount covered by the bond is paid, then the bond shall, at the request of the executor, be proportionately reduced. If the Board determines that the amount assessed is greater than the amount which should have been assessed, then when the decision of the Board is rendered the bond shall, at the request of the executor, be proportionately reduced.

Collection when decision of Board final.

(i) When the petition has been filed with the Board and when the amount which should have been assessed has been determined by a decision of the Board which has become final, then any unpaid portion, the collection of which has been stayed by the bond, shall be collected as part of the tax upon notice and demand from the collector, and any remaining portion of the assessment shall be abated.

Credit or refund.

If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be refunded.

Collection of greater assessment.

If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the collector.

Interest on amount collected.

(j) In the case of the amount collected under subdivision (i) there shall be collected at the same time as such amount, and as a part of the tax, interest at the rate of 6 per centum per annum upon such amount from the date of the jeopardy notice and demand to the date of notice and demand under subdivision (i) of this section,

or, in the case of the amount collected in excess of the amount of the jeopardy assessment, interest as provided in subdivision (h) of section 308. If the amount included in the notice and demand from the collector under subdivision (i) of this section is not paid in full within 30 days after such notice and demand, then there shall be collected, as part of the tax, interest upon the unpaid amount at the rate of 1 per centum a month from the date of such notice and demand until it is paid.

Additional rate if deficiency not paid in full.

(k) No claim in abatement shall be filed in respect of any assessment made after the enactment of this Act in respect of any estate or gift tax.

No other abatement claim to be filed hereafter.

SEC. 313. (a) The collector shall grant to the person paying the tax duplicate receipts, either of which shall be sufficient evidence of such payment, and shall entitle the executor to be credited and allowed the amount thereof by any court having jurisdiction to audit or settle his accounts.

Duplicate receipts to executor.

(b) If the executor makes written application to the Commissioner for determination of the amount of the tax and discharge from personal liability therefor, the Commissioner (as soon as possible, and in any event within one year after the making of such application, or, if the application is made before the return is filed, then within one year after the return is filed, but not after the expiration of the period prescribed for the assessment of the tax in section 310) shall notify the executor of the amount of the tax. The executor, upon payment of the amount of which he is notified, shall be discharged from personal liability for any deficiency in tax thereafter found to be due and shall be entitled to a receipt or writing showing such discharge.

Personal liability of executor discharged on payment of determined tax, etc.

(c) The provisions of subdivision (b) shall not operate as a release of any part of the gross estate from the lien for any deficiency that may thereafter be determined to be due, unless the title to such part of the gross estate has passed to a bona fide purchaser for value, in which case such part shall not be subject to a lien or to any claim or demand for any such deficiency, but the lien shall attach to the consideration received from such purchaser by the heirs, legatees, devisees, or distributees.

Gross estate liable for additional tax found due thereafter.

SEC. 314. (a) If the tax herein imposed is not paid on or before the due date thereof the collector shall, upon instruction from the Commissioner, proceed to collect the tax under the provisions of general law, or commence appropriate proceedings in any court of the United States having jurisdiction, in the name of the United States, to subject the property of the decedent to be sold under the judgment or decree of the court. From the proceeds of such sale the amount of the tax, together with the costs and expenses of every description to be allowed by the court, shall be first paid, and the balance shall be deposited according to the order of the court, to be paid under its direction to the person entitled thereto. This subdivision in so far as it applies to the collection of a deficiency shall be subject to the provisions of section 308.

Collection of unpaid tax by sale of property, etc.

Use of proceeds.

Deficiencies.

Ante, p. 75.

(b) If the tax or any part thereof is paid by, or collected out of that part of the estate passing to or in the possession of, any person other than the executor in his capacity as such, such person shall be entitled to reimbursement out of any part of the estate still undistributed or by a just and equitable contribution by the persons whose interest in the estate of the decedent would have been reduced if the tax had been paid before the distribution of the estate or whose interest is subject to equal or prior liability for the payment of taxes, debts, or other charges against the estate, it being the purpose and intent of this title that so far as is prac-

Reimbursement from estate if tax paid by other than executor.

ESTATE TAX.

From life insurance policies.

ticable and unless otherwise directed by the will of the decedent the tax shall be paid out of the estate before its distribution. If any part of the gross estate consists of proceeds of policies of insurance upon the life of the decedent receivable by a beneficiary other than the executor, the executor shall be entitled to recover from such beneficiary such portion of the total tax paid as the proceeds, in excess of $40,000, of such policies bear to the net estate. If there is more than one such beneficiary the executor shall be entitled to recover from such beneficiaries in the same ratio.

Unpaid tax a lien on gross estate for ten years.

SEC. 315. (a) Unless the tax is sooner paid in full, it shall be a lien for ten years upon the gross estate of the decedent, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of such lien. If the Commissioner is satisfied that the tax liability of an estate has been fully discharged or provided for, he may, under regulations prescribed by him with the approval of the Secretary, issue his certificate, releasing any or all property of such estate from the lien herein imposed.

Part excepted.

Release on payment.

Lien on transfers in contemplation of death.

(b) If (1) the decedent makes a transfer, by trust or otherwise, of any property in contemplation of or intended to take effect in possession or enjoyment at or after his death (except in the case of a bona fide sale for an adequate and full consideration in money or money's worth) or (2) if insurance passes under a contract executed by the decedent in favor of a specific beneficiary, and if in either case the tax in respect thereto is not paid when due, then the transferee, trustee, or beneficiary shall be personally liable for such tax, and such property, to the extent of the decedent's interest therein at the time of such transfer, or to the extent of such beneficiary's interest under such contract of insurance, shall be subject to a like lien equal to the amount of such tax. Any part of such property sold by such transferee or trustee to a bona fide purchaser for an adequate and full consideration in money or money's worth shall be divested of the lien and a like lien shall then attach to all the property of such transferee or trustee, except any part sold to a bona fide purchaser for an adequate and full consideration in money or money's worth.

Life insurance.

Persons liable.

Innocent purchaser for value at sale protected.

Liabilities to be collected as in case of deficiency.

SEC. 316. (a) The amounts of the following liabilities shall, except as hereinafter in this section provided, be assessed, collected, and paid in the same manner and subject to the same provisions and limitations as in the case of a deficiency in a tax imposed by this title (including the provisions in case of delinquency in payment after notice and demand, the provisions authorizing distraint and proceedings in court for collection, and the provisions prohibiting claims and suits for refunds):

Of transferee of property.

(1) The liability, at law or in equity, of a transferee of property of a decedent or donor, in respect of the tax (including interest, additional amounts, and additions to the tax provided by law) imposed by this title or by any prior estate tax Act or by any gift tax Act.

Of fiduciary for tax from estate.

(2) The liability of a fiduciary under section 3467 of the Revised Statutes in respect of the payment of any such tax from the estate of the decedent or donor.

Nature of liability.

Any such liability may be either as to the amount of tax shown on the return or as to any deficiency in tax.

Period of assessment.

(b) The period of limitation for assessment of any such liability of a transferee or fiduciary shall be as follows:

One year after that of executor.

(1) Within one year after the expiration of the period of limitation for assessment against the executor or donor; or

(2) If the period of limitation for assessment against the executor expired before the enactment of this Act but assessment against the executor was made within such period,—then within six years after the making of such assessment against the executor, but in no case later than one year after the enactment of this Act.

Six years if limitation against executor has expired.

Time restricted.

(3) If a court proceeding against the executor or donor for the collection of the tax has been begun within either of the above periods,—then within one year after return of execution in such proceeding.

Limitation in court proceeding.

(c) The running of the period of limitation upon the assessment of the liability of a transferee or fiduciary shall, after the mailing of the notice under subdivision (a) of section 308 to the transferee or fiduciary, be suspended for the period during which the Commissioner is prohibited from making the assessment in respect of the liability of the transferee or fiduciary, and for 60 days thereafter.

Suspension of limitations upon liability of transferee, etc. *Ante*, p. 75.

(d) This section shall not apply to any suit or other proceeding for the enforcement of the liability of a transferee or fiduciary pending at the time of the enactment of this Act.

Pending suits not affected.

(e) As used in this section, the term "transferee" includes heir, legatee, devisee, and distributee.

Meaning of "transferee."

SEC. 317. (a) Upon notice to the Commissioner that any person is acting as executor, such person shall assume the powers, rights, duties, and privileges of an executor in respect of a tax imposed by this title or by any prior estate tax Act, until notice is given that such person is no longer acting as executor.

Notice of assumption of powers, etc., as executor.

(b) Upon notice to the Commissioner that any person is acting in a fiduciary capacity for a person subject to the liability specified in section 316, the fiduciary shall assume on behalf of such person the powers, rights, duties, and privileges of such person under such section (except that the liability shall be collected from the estate of such person), until notice is given that the fiduciary capacity has terminated.

Notice of assumption of powers, etc., as fiduciary.

(c) Notice under subdivision (a) or (b) shall be given in accordance with regulations prescribed by the Commissioner with the approval of the Secretary.

Manner of notice.

(d) In the absence of any notice to the Commissioner under subdivision (a) or (b), notice under this title of a deficiency or other liability, if addressed in the name of the decedent or other person subject to liability and mailed to his last known address, shall be sufficient for the purposes of this title.

Mailing of deficiency notices.

SEC. 318. (a) If after the enactment of this Act the Commissioner determines that any assessment should be made in respect of any estate or gift tax imposed by the Revenue Act of 1917, the Revenue Act of 1918, the Revenue Act of 1921, or the Revenue Act of 1924, or by any such Act as amended, the Commissioner is authorized to send by registered mail to the person liable for such tax notice of the amount proposed to be assessed, which notice shall, for the purposes of this Act, be considered a notice under subdivision (a) of section 308 of this Act. In the case of any such determination the amount which should be assessed (whether as deficiency or additional tax or as interest, penalty, or other addition to the tax) shall be computed as if this Act had not been enacted, but the amount so computed shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including the provisions in case of delinquency in payment after notice and demand and the provisions prohibiting claims and suits for refund) as in the case of a deficiency in the tax imposed by this title, except that in the case of an estate tax imposed by the

Taxes under prior Acts.

Notice of proposed assessment hereafter of estate, etc., taxes. Vol. 39, pp. 777-780; Vol. 40, pp. 1096-1101; Vol. 42, pp. 277-284; Vol. 43, pp. 303-313.

Tax computed as if this Act had not passed.

Limitation of assessment.

ESTATE TAX.

Revenue Act of 1917, the Revenue Act of 1918, or the Revenue Act of 1921, or by any such Act as amended, the period of limitation prescribed in section 1109 of this Act shall be applied in lieu of the period prescribed in subdivision (a) of section 310.

Post, p. 114.

Jurisdiction of Board continued on appeals prior to this Act for tax not assessed before June 3, 1924.

(b) If before the enactment of this Act any person has appealed to the Board of Tax Appeals under subdivision (a) of section 308 of the Revenue Act of 1924 (if such appeal relates to a tax imposed by Title III of such Act or to so much of an estate tax imposed by any of the prior Acts enumerated in subdivision (a) of this section as was not assessed before June 3, 1924), and the appeal is pending before the Board at the time of the enactment of this Act, the Board shall have jurisdiction of the appeal. In all such cases the powers, duties, rights, and privileges of the Commissioner and of the person who has brought the appeal, and the jurisdiction of the Board and of the courts, shall be determined, and the computation of the tax shall be made, in the same manner as provided in subdivision (a) of this section, except as provided in subdivision (h) of this section and except that the person liable for the tax shall not be subject to the provisions of subdivision (a) of section 319.

Powers, etc., determined according to prior Acts.

Computation, etc.

Executor may file appeal, if notice of deficiency etc., under Act of 1924, has not expired.

(c) If before the enactment of this Act the Commissioner has mailed to any person a notice under subdivision (a) of section 308 of the Revenue Act of 1924 (whether in respect of a tax imposed by Title III of such Act or in respect of so much of an estate tax imposed by any of the prior Acts enumerated in subdivision (a) of this section as was not assessed before June 3, 1924), and if the 60-day period referred to in such subdivision has not expired before the enactment of this Act and no appeal has been filed before the enactment of this Act, such person may file a petition with the Board in the same manner as if a notice of deficiency had been mailed after the enactment of this Act in respect of a deficiency in a tax imposed by this title. In such cases the 60-day period referred to in subdivision (a) of section 308 of this Act shall begin on the date of the enactment of this Act, and the powers, duties, rights, and privileges of the Commissioner and of the person entitled to file the petition, and the jurisdiction of the Board and of the courts, shall, whether or not the petition is filed, be determined, and the computation of the tax shall be made, in the same manner as provided in subdivision (a) of this section.

Period to begin on date of this Act.

Jurisdiction of Board and courts.

Notice of deficiency under prior Acts assessed but not paid hitherto.

(d) If any deficiency in any estate tax imposed by the Revenue Act of 1917, the Revenue Act of 1918, or the Revenue Act of 1921, or by any such Act as amended, was assessed before June 3, 1924, but was not paid in full before the date of the enactment of this Act, and if the Commissioner, after the enactment of this Act, finally determines the amount of the deficiency, he is authorized to send by registered mail to the person liable for such tax notice of such deficiency, which notice shall, for the purposes of this Act, be considered a notice under subdivision (a) of section 308 of this Act. In the case of any such final determination the amount of the tax (whether as deficiency or additional tax or as interest, penalty, or other addition to the tax) shall be computed as if this Act had not been enacted, but the amount so computed shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including the provisions in cases of delinquency in payment after notice and demand, and the provisions relating to claims and suits for refund) as in the case of a deficiency in the tax imposed by this title, except as otherwise provided in subdivision (g) of this section, and except that the period of limitation prescribed in section 1109 of this Act shall be applied in lieu of the period prescribed in subdivision (a) of section 310.

Tax computed under former Acts.

Assessment, collection and payment.

Post, pp. 83, 114.

ESTATE TAX.

Jurisdiction of Board on appeals for deficiency under former assessments and not paid June 3, 1924.

(e) If any deficiency in any estate tax imposed by the Revenue Act of 1917, the Revenue Act of 1918, or the Revenue Act of 1921, or by any such Act as amended, was assessed before June 3, 1924, but was not paid in full before that date, and if the Commissioner after June 2, 1924, but before the enactment of this Act, finally determined the amount of the deficiency, and if the person liable for such tax appealed before the enactment of this Act to the Board of Tax Appeals and the appeal is pending before the Board at the time of the enactment of this Act, the Board shall have jurisdiction of the appeal. In all such cases the powers, duties, rights, and privileges of the Commissioner and of the person who has brought the appeal, and the jurisdiction of the Board and of the courts, shall be determined, and the computation of the tax shall be made, in the same manner as provided in subdivision (d) of this section, except as provided in subdivision (h) of this section and except that the person liable for the tax shall not be subject to the provisions of subdivision (a) of section 319.

Determination, etc., under former Acts.

Credits and refunds.

Appeals allowed to Board for deficiency under former assessment, and not paid hitherto.

(f) If any deficiency in any estate tax imposed by the Revenue Act of 1917, the Revenue Act of 1918, or the Revenue Act of 1921, or by any such Act as amended, was assessed before June 3, 1924, but was not paid in full before the date of the enactment of this Act, and if the Commissioner after June 2, 1924, finally determined the amount of the deficiency, and notified the person liable for such tax to that effect less than 60 days prior to the enactment of this Act and no appeal has been filed before the enactment of this Act, the person so notified may file a petition with the Board in the same manner as if a notice of deficiency had been mailed after the enactment of this Act in respect of a deficiency in a tax imposed by this title. In such cases the 60-day period referred to in subdivision (a) of section 308 of this Act shall begin on the date of the enactment of this Act, and, whether or not the petition is filed, the powers, duties, rights, and privileges of the Commissioner and of the person who is so notified, and the jurisdiction of the Board and of the courts, shall be determined, and the computation of the tax be made, in the same manner as provided in subdivision (d) of this section.

Period of notice extended.

Immediate enforcement if collection jeopardized by delay.

(g) In cases within the scope of subdivision (d), (e), or (f), if the Commissioner believes that the collection of the deficiency will be jeopardized by delay, he may, despite the provisions of subdivision (a) of section 308 of this Act, instruct the collector to proceed to enforce the payment of the unpaid portion of the deficiency, and notice and demand shall be made by the collector for the payment thereof. Within 30 days after such jeopardy notice and demand the person liable for the tax may obtain a stay of collection of the whole or any part of the amount included in the notice and demand by filing with the collector a bond in like manner, under the same conditions, and with the same effect, as in the case of a bond to stay the collection of a jeopardy assessment under section 312 of this Act.

Stay of collection on filing a bond.

Ante, p. 77.

Finality of decisions of Board, after this Act, on hearings held before.

(h) In cases within the scope of subdivision (b) or (e) of this section where any hearing before the Board has been held before the enactment of this Act and the decision is rendered after the enactment of this Act, such decision shall, for the purposes of this title, be considered to have become final upon the date when it is rendered and neither party shall have any right to petition for a review of the decision. The Commissioner may, within one year from the time the decision is rendered, begin a proceeding in court for the collection of any part of the amount disallowed by the Board, unless the statutory period of limitations properly applicable thereto has expired before the appeal was taken to the Board. The court shall include in its judgment interest upon the amount thereof in the same cases, at the same rate, and for the same period, as if

Suit to collect amount disallowed by Board.

Jurisdiction of court.

ESTATE TAX.

such amount were collected otherwise than by proceeding in court. In any such proceeding by the Commissioner or in any suit by the taxpayer for a refund, the findings of the Board shall be prima facie evidence of the facts therein stated.

Jeopardy assessment procedure.

Vol. 43, p. 309.

(i) Where before the enactment of this Act a jeopardy assessment has been made under subdivision (d) of section 308 of the Revenue Act of 1924 (whether of a deficiency in the tax imposed by Title III of such Act or of a deficiency in an estate tax imposed by any of the prior Acts enumerated in subdivision (a) of this section) all proceedings after the enactment of this Act shall be the same as under the Revenue Act of 1924 as amended by this Act, except that—

Reviewal of subsequent decision of Board.

(1) A decision of the Board rendered after the enactment of this Act where no hearing has been held by the Board before the enactment of this Act may be reviewed in the same manner as provided in this Act in the case of a tax imposed by this title;

No court proceeding for disallowed deficiency.

(2) Where no hearing has been held by the Board before the enactment of this Act, the Commissioner shall have no right to begin a proceeding in court for the collection of any part of the deficiency disallowed by the Board; and

Jurisdiction, etc., of Board.

(3) In the consideration of the case the jurisdiction and powers of the Board shall be the same as provided in this Act in the case of a tax imposed by this title.

Suspension of statute of limitations on assessment, etc., on estate or gift tax under prior Acts.

(j) In the case of any estate or gift tax imposed by prior Act of Congress, in computing the period of limitations provided in section 310 or 311 of this Act on the making of assessments and the beginning of distraint or a proceeding in court, the running of the statute of limitations shall be considered to have been suspended (in addition to the period of suspension provided for in subdivision (b) of section 310) for any period prior to the enactment of this Act during which the Commissioner was prohibited from making the assessment or beginning distraint or proceeding in court.

Restriction on credit or refund if deficiency notice mailed executor, and petition filed with Board.

SEC. 319. (a) If the Commissioner has mailed to the executor a notice of deficiency under subdivision (a) of section 308 and if the executor after the enactment of this Act files a petition with the Board of Tax Appeals within the time prescribed in such subdivision, no refund in respect of the tax shall be allowed or made and no suit for the recovery of any part of such tax shall be instituted in any court, except—

Exceptions. Decision of Board.

(1) As provided in subdivision (c) of this section or in subdivision (i) of section 312 or in subdivision (b), (e), or (g) of section 318 or in subdivision (d) of section 1001; and

Excess collected.

(2) As to any amount collected in excess of an amount computed in accordance with the decision of the Board which has become final; and

Collection after statutory limitation.

(3) As to any amount collected after the statutory period of limitations upon the beginning of distraint or a proceeding in court for collection has expired; but in any such claim for refund or in any such suit for refund the decision of the Board which has become final, as to whether such period had expired before the notice of deficiency was mailed, shall be conclusive.

All claims for refunding tax to be made in three years.

(b) All claims for the refunding of the tax imposed by this title alleged to have been erroneously or illegally assessed or collected must be presented to the Commissioner within three years next after the payment of such tax.

Decision of overpayment by Board.

(c) If the Board finds that there is no deficiency and further finds that the executor has made an overpayment of tax, the Board shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Board has

become final, be credited or refunded to the executor as provided in section 3220 of the Revised Statutes, as amended. Such refund shall be made either (1) if claim therefor was filed within the period of limitation provided for by law, or (2) if the petition was filed with the Board within four years after the tax was paid, or, in the case of a tax imposed by this title, within three years after the tax was paid.

Refund or credit authorized.

SEC. 320. (a) Whoever knowingly makes any false statement in any notice or return required to be filed under this title shall be liable to a penalty of not exceeding $5,000, or imprisonment not exceeding one year, or both.

Punishment for false statements, etc.

(b) Whoever fails to comply with any duty imposed upon him by section 304, or, having in his possession or control any record, file, or paper, containing or supposed to contain any information concerning the estate of the decedent, or, having in his possession or control any property comprised in the gross estate of the decedent, fails to exhibit the same upon request to the Commissioner or any collector or law officer of the United States or his duly authorized deputy or agent, who desires to examine the same in the performance of his duties under this title, shall be liable to a penalty of not exceeding $500, to be recovered, with costs of suit, in a civil action in the name of the United States.

Penalty for not making returns, concealing information, etc.

SEC. 321. (a) The term "resident" as used in this title includes a citizen of the United States with respect to whose property any probate or administration proceedings are had in the United States Court for China. Where no part of the gross estate of such decedent is situated in the United States at the time of his death, the total amount of tax due under this title shall be paid to or collected by the clerk of such court, but where any part of the gross estate of such decedent is situated in the United States at the time of his death, the tax due under this title shall be paid to or collected by the collector of the district in which is situated the part of the gross estate in the United States, or, if such part is situated in more than one district, then the collector of such district as may be designated by the Commissioner.

Administration proceedings in United States Court for China.

Tax payable to clerk if no estate in United States.

For part in United States to collector of district.

(b) For the purpose of this section the clerk of the United States Court for China shall be a collector for the territorial jurisdiction of such court, and taxes shall be collected by and paid to him in the same manner and subject to the same provisions of law, including penalties, as the taxes collected by and paid to a collector in the United States.

Clerk of court to act as collector.

SEC. 322. (a) Subdivision (a) of section 301 of the Revenue Act of 1924 is amended to read as follows:

Amendment of Act of 1924. Vol. 43, p. 303, amended.

"SEC. 301. (a) In lieu of the tax imposed by Title IV of the Revenue Act of 1921, a tax equal to the sum of the following percentages of the value of the net estate (determined as provided in section 303) is hereby imposed upon the transfer of the net estate of every decedent dying after the enactment of this Act, whether a resident or nonresident of the United States:

Tax levied on transfers of estates hereafter. Vol. 42, p. 277, amended.

Rates.

"1 per centum of the amount of the net estate not in excess of $50,000;

"2 per centum of the amount by which the net estate exceeds $50,000 and does not exceed $150,000;

"3 per centum of the amount by which the net estate exceeds $150,000 and does not exceed $250,000;

"4 per centum of the amount by which the net estate exceeds $250,000 and does not exceed $450,000;

"6 per centum of the amount by which the net estate exceeds $450,000 and does not exceed $750,000;

ESTATE TAX.

"8 per centum of the amount by which the net estate exceeds $750,000 and does not exceed $1,000,000;

"10 per centum of the amount by which the net estate exceeds $1,000,000 and does not exceed $1,500,000;

"12 per centum of the amount by which the net estate exceeds $1,500,000 and does not exceed $2,000,000;

"14 per centum of the amount by which the net estate exceeds $2,000,000 and does not exceed $3,000,000;

"16 per centum of the amount by which the net estate exceeds $3,000,000 and does not exceed $4,000,000;

"18 per centum of the amount by which the net estate exceeds $4,000,000 and does not exceed $5,000,000;

"20 per centum of the amount by which the net estate exceeds $5,000,000 and does not exceed $8,000,000;

"22 per centum of the amount by which the net estate exceeds $8,000,000 and does not exceed $10,000,000; and

"25 per centum of the amount by which the net estate exceeds $10,000,000."

In effect as of June 2, 1924.

(b) Subdivision (a) of this section shall take effect as of June 2, 1924.

Deduction of charitable bequests, etc., from estate tax, repealed.

SEC. 323. (a) So much of paragraph (3) of subdivision (a) and of paragraph (3) of subdivision (b) of section 303 of the Revenue Act of 1924 as reads as follows: "If the tax imposed by section 301, or any estate, succession, legacy, or inheritance taxes, are, either by the terms of the will, by the law of the jurisdiction under which the estate is administered, or by the law of the jurisdiction imposing the particular tax, payable in whole or in part out of the bequests, legacies, or devises otherwise deductible under this paragraph, then the amount deductible under this paragraph shall be the amount of such bequests, legacies, or devises reduced by the amount of such taxes" is repealed.

Vol. 43, p. 305, repealed.

In effect as of June 2, 1924.

(b) Subdivision (a) of this section shall take effect as of June 2, 1924.

Gift tax.

SEC. 324. (a) Section 319 of the Revenue Act of 1924 is amended to read as follows:

Tax for 1924 and 1925 on transfer of property by gift.

Vol. 43, p. 313, amended.

"SEC. 319. For the calendar year 1924 and the calendar year 1925, a tax equal to the sum of the following is hereby imposed upon the transfer by a resident by gift during such calendar year of any property wherever situated, whether made directly or indirectly, and upon the transfer by a nonresident by gift during such calendar year of any property situated within the United States, whether made directly or indirectly:

"1 per centum of the amount of the taxable gifts not in excess of $50,000;

"2 per centum of the amount by which the taxable gifts exceed $50,000 and do not exceed $150,000;

"3 per centum of the amount by which the taxable gifts exceed $150,000 and do not exceed $250,000;

"4 per centum of the amount by which the taxable gifts exceed $250,000 and do not exceed $450,000;

"6 per centum of the amount by which the taxable gifts exceed $450,000 and do not exceed $750,000;

"8 per centum of the amount by which the taxable gifts exceed $750,000 and do not exceed $1,000,000;

"10 per centum of the amount by which the taxable gifts exceed $1,000,000 and do not exceed $1,500,000;

"12 per centum of the amount by which the taxable gifts exceed $1,500,000 and do not exceed $2,000,000;

"14 per centum of the amount by which the taxable gifts exceed $2,000,000 and do not exceed $3,000,000;

ESTATE TAX.

"16 per centum of the amount by which the taxable gifts exceed $3,000,000 and do not exceed $4,000,000;

"18 per centum of the amount by which the taxable gifts exceed $4,000,000 and do not exceed $5,000,000;

"20 per centum of the amount by which the taxable gifts exceed $5,000,000 and do not exceed $8,000,000;

"22 per centum of the amount by which the taxable gifts exceed $8,000,000 and do not exceed $10,000,000; and

"25 per centum of the amount by which the taxable gifts exceed $10,000,000."

In effect as of June 2, 1924.

(b) Subdivision (a) of this section shall take effect as of June 2, 1924.

Refund of excess of tax paid under Act of 1924.

SEC. 325. Any tax that has been paid under the provisions of Title III of the Revenue Act of 1924 prior to the enactment of this Act in excess of the tax imposed by such title as amended by this Act shall be refunded without interest.

TITLE IV.—TAX ON CIGARS, TOBACCO, AND MANUFACTURES THEREOF

TAX ON CIGARS AND TOBACCO.

Payable on sales by manufacturer or importer.

R. S., sec. 3394, p. 666, amended.

Vol. 43, p. 316, amended.

SEC. 400. (a) Upon cigars and cigarettes manufactured in or imported into the United States, which on or after the expiration of 30 days after the enactment of this Act are sold by the manufacturer or importer, or removed for consumption or sale, there shall be levied, collected, and paid under the provisions of existing law, in lieu of the internal-revenue taxes now imposed thereon by section 400 of the Revenue Act of 1924, the following taxes, to be paid by the manufacturer or importer thereof—

Rates.
Cigars.
Small.

On cigars of all descriptions made of tobacco, or any substitute therefor, and weighing not more than three pounds per thousand, 75 cents per thousand;

Basis, on retail price.

On cigars made of tobacco, or any substitute therefor, and weighing more than three pounds per thousand, if manufactured or imported to retail at not more than 5 cents each, $2 per thousand;

If manufactured or imported to retail at more than 5 cents each and not more than 8 cents each, $3 per thousand;

If manufactured or imported to retail at more than 8 cents each and not more than 15 cents each, $5 per thousand;

If manufactured or imported to retail at more than 15 cents each and not more than 20 cents each, $10.50 per thousand;

If manufactured or imported to retail at more than 20 cents each, $13.50 per thousand;

Cigarettes, on weight.

On cigarettes made of tobacco, or any substitute therefor, and weighing not more than three pounds per thousand, $3 per thousand;

Weighing more than three pounds per thousand, $7.20 per thousand.

Retail price defined.

(b) Whenever in this section reference is made to cigars manufactured or imported to retail at not over a certain price each, then in determining the tax to be paid regard shall be had to the ordinary retail price of a single cigar in its principal market.

Labels required.

(c) The Commissioner may, by regulation, require the manufacturer or importer to affix to each box, package, or container a conspicuous label indicating the clause of this section under which the cigars therein contained have been tax-paid, which must correspond with the tax-paid stamp on such box or container.

Packages authorized for cigarettes, etc.
Vol. 43, p. 317.

(d) Every manufacturer of cigarettes (including small cigars weighing not more than three pounds per thousand) shall put up all the cigarettes and such small cigars that he manufactures or has manufactured for him, and sells or removes for consumption or sale, in packages or parcels containing five, eight, ten, twelve, fifteen,

TAX ON CIGARS AND TOBACCO.

sixteen, twenty, twenty-four, forty, fifty, eighty, or one hundred cigarettes each, and shall securely affix to each of such packages or parcels a suitable stamp denoting the tax thereon and shall properly cancel the same prior to such sale or removal for consumption or sale under such regulations as the Commissioner, with the approval of the Secretary, shall prescribe; and all cigarettes imported from a foreign country shall be packed, stamped, and the stamps canceled in a like manner, in addition to the import stamp indicating inspection of the customhouse before they are withdrawn therefrom.

Stamps.

Imported.

Cigars.

(e) Section 3392 of the Revised Statutes, as amended, is re-enacted without change, as follows:

Packages required. R. S., sec. 3392, p. 666, amended. Vol. 43, p. 317.

"SEC. 3392. All cigars weighing more than three pounds per thousand shall be packed in boxes not before used for that purpose containing, respectively, three, five, seven, ten, twelve, thirteen, twenty-five, fifty, one hundred, two hundred, two hundred and fifty, or five hundred cigars each; and every person who sells, or offers for sale, or delivers, or offers to deliver, any cigars in any other form than in new boxes as above described, or who packs in any box any cigars in excess of or less than the number provided by law to be put in each box, respectively, or who falsely brands any box, or affixes a stamp on any box denoting a less amount of tax than that required by law, shall be fined for each offense not more than $1,000 and be imprisoned not more than two years: *Provided*, That nothing in this section shall be construed as preventing the sale of cigars at retail by retail dealers from boxes packed, stamped, and branded in the manner prescribed by law: *Provided further*, That each employee of a manufacturer of cigars shall be permitted to use, for personal consumption and for experimental purposes, not to exceed twenty-one cigars per week without the manufacturer of cigars being required to pack the same in boxes or to stamp or pay any internal-revenue tax thereon, such exemption to be allowed under such rules and regulations as the Secretary of the Treasury may prescribe."

Punishment for violations.

Provisos. Retail sales from boxes.

Number allowed each employee without stamps, etc.

Effective in 30 days.

(f) This section shall take effect on the expiration of 30 days after the enactment of this Act.

Manufactured tobacco and snuff. Tax on sales by manufacturer or importer. R. S., sec. 3368, p. 658, amended. Vol. 43, p. 317.

SEC. 401. (a) Upon all tobacco and snuff manufactured in or imported into the United States, and hereafter sold by the manufacturer or importer, or removed for consumption or sale, there shall be levied, collected, and paid, in lieu of the internal-revenue taxes now imposed thereon by section 401 of the Revenue Act of 1924, a tax of 18 cents per pound, to be paid by the manufacturer or importer thereof.

Packages.

(b) Section 3362 of the Revised Statutes, as amended by section 701 of the Revenue Act of 1918, is amended to read as follows:

Requirements. R. S., sec. 3362, p. 657, amended.

"SEC. 3362. All manufactured tobacco shall be put up and prepared by the manufacturer for sale, or removal for sale or consumption, in packages of the following description and in no other manner:

Sizes allowed. Vol. 43, p. 317, amended.

"All smoking tobacco, snuff, fine-cut chewing tobacco, all cut and granulated tobacco, all shorts, the refuse of fine-cut chewing, which has passed through a riddle of thirty-six meshes to the square inch, and all refuse scraps, clippings, cuttings, and sweepings of tobacco, and all other kinds of tobacco not otherwise provided for, in packages containing one-eighth of an ounce, three-eighths of an ounce, and further packages with a difference between each package and the one next smaller of one-eighth of an ounce up to and including two ounces, and further packages with a difference between each package and the one next smaller of one-fourth of an ounce up to and including four ounces, and further packages with a difference between

each package and the one next smaller of one ounce up to and including sixteen ounces: *Provided*, That snuff may, at the option of the manufacturer, be put up in bladders and in jars containing not exceeding twenty pounds.

Proviso. Additional for snuff.

"All cavendish, plug, and twist tobacco, in wooden packages not exceeding two hundred pounds net weight.

Wooden packages.

"And every such wooden package shall have printed or marked thereon the manufacturer's name and place of manufacture, the registered number of the manufactory, and the gross weight, the tare, and the net weight of the tobacco in each package: *Provided*, That these limitations and descriptions of packages and the provisions of sections 3364 of the Revised Statutes requiring a label to be affixed to each package, shall not apply to tobacco and snuff transported in bond for exportation and actually exported: *And provided further*, That perique tobacco, snuff flour, fine-cut shorts, the refuse of fine-cut chewing tobacco, refuse scraps, clippings, cuttings, and sweepings of tobacco, may be sold in bulk as material, and without the payment of tax, by one manufacturer directly to another manufacturer, or for export, under such restrictions, rules, and regulations as the Commissioner of Internal Revenue may prescribe: *And provided further*, That wood, metal, paper, or other materials may be used separately or in combination for packing tobacco, snuff, and cigars, under such regulations as the Commissioner of Internal Revenue may establish."

Marking, etc.

Provisos. Exports excepted.

Bulk sales without stamps of perique, etc., to manufacturer.

Materials for containers.

SEC. 402. There shall be levied, collected, and paid, in lieu of the taxes imposed by section 402 of the Revenue Act of 1924, upon cigarette paper made up into packages, books, sets, or tubes, made up in or imported into the United States and hereafter sold by the manufacturer or importer to any person (other than to a manufacturer of cigarettes for use by him in the manufacture of cigarettes), the following taxes, to be paid by the manufacturer or importer: On each package, book, or set containing more than twenty-five but not more than fifty papers, ½ cent; containing more than fifty but not more than one hundred papers, 1 cent; containing more than one hundred papers, ½ cent for each fifty papers or fractional part thereof; and upon tubes, 1 cent for each fifty tubes or fractional part thereof.

Cigarette paper and tubes.

Tax on sales to other than manufacturers.

Vol. 43, p. 138, amended.

Rates.

Every manufacturer of cigarettes purchasing any cigarette paper made up into tubes (a) shall give bond in an amount and with sureties satisfactory to the Commissioner that he will use such tubes in the manufacture of cigarettes or pay thereon a tax equivalent to the tax imposed by this section, and (b) shall keep such records and render under oath such returns as the Commissioner finds necessary to show the disposition of all tubes purchased or imported by such manufacturer of cigarettes.

Use of tubes by manufacturers.

Bond required.

SEC. 403. Section 3360 of the Revised Statutes, as amended, is re-enacted without change, as follows:

Leaf tobacco.

R. S., sec. 3360, p. 657.

"SEC. 3360. (a) Every dealer in leaf tobacco shall file with the collector of the district in which his business is carried on a statement in duplicate, subscribed under oath, setting forth the place, and, if in a city, the street and number of the street, where his business is to be carried on, and the exact location of each place where leaf tobacco is held by him on storage, and, whenever he adds to or discontinues any of his leaf tobacco storage places, he shall give immediate notice to the collector of the district in which he is registered.

Dealers.

Notice of business to be filed with collector.

Vol. 43, p. 318.

"Every such dealer shall give a bond with surety, satisfactory to, and to be approved by, the collector of the district, in such penal sum as the collector may require, not less than $500; and a new bond

Bond required.

TAX ON CIGARS AND TOBACCO.

may be required in the discretion of the collector, or under instructions of the Commissioner.

District number to be assigned.

"Every such dealer shall be assigned a number by the collector of the district, which number shall appear in every inventory, invoice and report rendered by the dealer, who shall also obtain certificates from the collector of the district setting forth the place where his business is carried on and the places designated by the dealer as the places of storage of his tobacco, which certificates shall be posted conspicuously within the dealer's registered place of business, and within each designated place of storage.

Certificates.

Inventory to be filed annually.

"(b) Every dealer in leaf tobacco shall make and deliver to the collector of the district a true inventory of the quantity of the different kinds of tobacco held or owned, and where stored by him, on the 1st day of January of each year, or at the time of commencing and at the time of concluding business, if before or after the 1st day of January, such inventory to be made under oath and rendered in such form as may be prescribed by the Commissioner.

Daily records of business, etc., to be kept.

"Every dealer in leaf tobacco shall render such invoices and keep such records as shall be prescribed by the Commissioner, and shall enter therein, day by day, and upon the same day on which the

Details.

circumstance, thing or act to be recorded is done or occurs, an accurate account of the number of hogsheads, tierces, cases and bales, and quantity of leaf tobacco contained therein, purchased or received by him, on assignment, consignment, for storage, by transfer or otherwise, and of whom purchased or received, and the number of hogsheads, tierces, cases and bales, and the quantity of leaf tobacco contained therein, sold by him, with the name and residence in each instance of the person to whom sold, and if shipped, to whom shipped, and to what district; such records shall be kept at his place of business at all times and preserved for a period of two years, and the same shall be open at all hours for the inspection of any internal-revenue officer or agent.

Monthly reports of transactions.

"Every dealer in leaf tobacco on or before the tenth day of each month, shall furnish to the collector of the district a true and complete report of all purchases, receipts, sales and shipments of leaf tobacco made by him during the month next preceding, which report shall be verified and rendered in such form as the Commissioner, with the approval of the Secretary, shall prescribe.

Restriction on sales or shipments.

"(c) Sales or shipments of leaf tobacco by a dealer in leaf tobacco shall be in quantities of not less than a hogshead, tierce, case, or bale, except loose leaf tobacco comprising the breaks on warehouse floors, and except to a duly registered manufacturer of cigars for use in his own manufactory exclusively.

Shipments limited.

"Dealers in leaf tobacco shall make shipments of leaf tobacco only to other dealers in leaf tobacco, to registered manufacturers of tobacco, snuff, cigars or cigarettes, or for export.

Penalty tax for violations.

"(d) Upon all leaf tobacco sold, removed or shipped by any dealer in leaf tobacco in violation of the provisions of subdivision (c), or in respect to which no report has been made by such dealer in accordance with the provisions of subdivision (b), there shall be levied, assessed, collected and paid a tax equal to the tax then in force upon manufactured tobacco, such tax to be assessed and collected in the same manner as the tax on manufactured tobacco.

Designated offenses.

"(e) Every dealer in leaf tobacco—

Failure to give bond, make returns, etc.

"(1) who neglects or refuses to furnish the statement, to give bond, to keep books, to file inventory or to render the invoices, returns or reports required by the Commissioner, or to notify the collector of the district of additions to his places of storage; or

Illegal shipments.

"(2) who ships or delivers leaf tobacco, except as herein provided; or

"(3) who fraudulently omits to account for tobacco purchased, received, sold, or shipped;
shall be fined not less than $100 or more than $500, or imprisoned not more than one year, or both.

TAX ON CIGARS AND TOBACCO.
Fraudulent omissions.
Punishment for.

"(f) For the purpose of this section a farmer or grower of tobacco or a tobacco growers' cooperative association shall not be regarded as a dealer in leaf tobacco in respect to the leaf tobacco produced by him or handled by such association: *Provided*, That such cooperative associations shall be required to keep available records of all purchases and sales of tobacco, such records to be open to inspection by the agents of the Government. As used in this section the term 'tobacco growers' cooperative association' means an association of farmers or growers of tobacco organized and operated as sales agent for the purpose of marketing the tobacco produced by its members and turning back to them the proceeds of sales, less the necessary selling expenses, on the basis of the quantity and quality of tobacco furnished by them."

Farmers, growers, etc., not included.
Vol. 43, p. 320.

Proviso.
Records required of growers' associations.

Purpose of growers' associations defined.

TITLE V.—TAX ON ADMISSIONS AND DUES

TAX ON ADMISSIONS AND DUES.

SEC. 500. (a) On and after the date this title takes effect, there shall be levied, assessed, collected, and paid, in lieu of the taxes imposed by section 500 of the Revenue Act of 1924—

Tax on admissions.

Vol. 43, p. 320.

(1) A tax of 1 cent for each 10 cents or fraction thereof of the amount paid for admission to any place on or after such date, including admission by season ticket or subscription, to be paid by the person paying for such admission; but where the amount paid for admission is 75 cents or less, no tax shall be imposed;

Rates.
Vol. 43, p. 320, amended.

(2) Upon tickets or cards of admission to theaters, operas, and other places of amusement, sold at news stands, hotels, and places other than the ticket offices of such theaters, operas, or other places of amusement, at not to exceed 50 cents in excess of the sum of the established price therefor at such ticket offices plus the amount of any tax imposed under paragraph (1), a tax equivalent to 5 per centum of the amount of such excess; and if sold for more than 50 cents in excess of the sum of such established price plus the amount of any tax imposed under paragraph (1), a tax equivalent to 50 per centum of the whole amount of such excess, such taxes to be returned and paid, in the manner and subject to the interest provided in section 602, by the person selling such tickets;

Additional, on sales at advanced prices at other than ticket offices

Post, p. 94.

(3) A tax equivalent to 50 per centum of the amount for which the proprietors, managers, or employees of any opera house, theater, or other place of amusement sell or dispose of tickets or cards of admission in excess of the regular or established price or charge therefor, such tax to be returned and paid, in the manner and subject to the interest provided in section 602, by the persons selling such tickets;

Sales by proprietors, etc., in excess of regular prices.

Post, p. 94.

(4) In the case of persons having the permanent use of boxes or seats in an opera house or any place of amusement or a lease for the use of such box or seat in such opera house or place of amusement (in lieu of the tax imposed by paragraph (1)), a tax equivalent to 10 per centum of the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by or for the lessee or holder, such tax to be paid by the lessee or holder; and

Payable by box holders, etc.

(5) A tax of 1½ cents for each 10 cents or fraction thereof of the amount paid for admission to any public performance for profit at any roof garden, cabaret, or other similar entertainment, to which the charge for admission is wholly or in part included in the price paid for refreshment, service, or merchandise; the amount paid for

Roof gardens, cabarets, etc.

TAX ON ADMISSIONS AND DUES.

such admission to be deemed to be 20 per centum of the amount paid for refreshment, service, and merchandise; such tax to be paid by the person paying for such refreshment, service, or merchandise. Where the amount paid for admission is 50 cents or less, no tax shall be imposed.

Exemptions.

(b) No tax shall be levied under this title in respect of—

Exempt entertainments.

Religious, educational, etc.

(1) Any admissions all the proceeds of which inure (A) exclusively to the benefit of religious, educational, or charitable institutions, societies, or organizations, societies for the prevention of cruelty to children or animals, or societies or organizations conducted for the sole purpose of maintaining symphony orchestras and receiving substantial support from voluntary contributions, or of improving any city, town, village, or other municipality, or of maintaining a cooperative or community center moving-picture theater—if no part of the net earnings thereof inures to the benefit of any private stockholder or individual; or (B) exclusively to the benefit of persons in the military or naval forces of the United States; or (C) exclusively to the benefit of persons who have served in such forces and are in need; or (D) exclusively to the benefit of National Guard organizations, Reserve Officers' associations or organizations, posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private stockholder or individual; or (E) exclusively to the benefit of members of the police or fire department of any city, town, village, or other municipality, or the dependents or heirs of such members; or

Conditions.

Additional exemptions.

For veterans, etc.

Municipal police and firemen.

Agricultural fairs, etc.

(2) Any admissions to agricultural fairs if no part of the net earnings thereof inures to the benefit of any stockholders or members of the association conducting the same, or admissions to any exhibit, entertainment, or other pay feature conducted by such association as part of any such fair—if the proceeds therefrom are used exclusively for the improvement, maintenance, and operation of such agricultural fairs.

Conditions.

Charges included in admissions.

(c) The term "admission" as used in this title includes seats and tables, reserved or otherwise, and other similar accommodations, and the charges made therefor.

Price, etc., to be printed on tickets.

(d) The price (exclusive of the tax to be paid by the person paying for admission) at which every admission ticket or card is sold shall be conspicuously and indelibly printed, stamped, or written on the face or back of that part of the ticket which is to be taken up by the management of the theater, opera, or other place of amusement, together with the name of the vendor if sold other than at the ticket office of the theater, opera, or other place of amusement. Whoever sells an admission ticket or card on which the name of the vendor and price is not so printed, stamped, or written, or at a price in excess of the price so printed, stamped, or written thereon, is guilty of a misdemeanor, and upon conviction thereof shall be fined not more than $100.

Penalty for failure.

Tax on club dues, etc. Vol. 43, p. 321.

SEC. 501. On and after the date this title takes effect there shall be levied, assessed, collected, and paid, in lieu of the taxes imposed by section 501 of the Revenue Act of 1924, a tax equivalent to 10 per centum of any amount paid on or after such date, for any period after such date, (a) as dues or membership fees (where the dues or fees of an active resident annual member are in excess of $10 per year) to any social, athletic, or sporting club or organization; or (b) as initiation fees to such a club or organization, if such fees amount to more than $10, or if the dues or membership fees (not including initiation fees) of an active resident annual

Initiation fees.

member are in excess of $10 per year; such taxes to be paid by the person paying such dues or fees: *Provided*, That there shall be exempted from the provisions of this section all amounts paid as dues or fees to a fraternal society, order, or association, operating under the lodge system, or to any local fraternal organization among the students of a college or university. In the case of life memberships a life member shall pay annually, at the time for the payment of dues by active resident annual members, a tax equivalent to the tax upon the amount paid by such a member, but shall pay no tax upon the amount paid for life membership.

TAX ON ADMISSIONS AND DUES
Proviso.
Fraternal lodges, etc., exempt.
Life membership payments.

SEC. 502. (a) Every person receiving any payments for such admission, dues or fees shall collect the amount of the tax imposed by section 500 or 501 from the person making such payments. Every club or organization having life members shall collect from such members the amount of the tax imposed by section 501. Such persons shall make monthly returns under oath, in duplicate, and pay the taxes so collected to the collector of the district in which the principal office or place of business is located.

Collection by receivers.
Monthly returns and payments.

(b) Any person making a refund of any payment upon which tax is collected under this section may repay therewith the amount of the tax collected on such payment; and the amount so repaid may be credited against amounts included in any subsequent monthly return.

Refunds may be included in subsequent returns.

(c) The returns required under this section shall contain such information, and be made at such times and in such manner, as the Commissioner, with the approval of the Secretary, may by regulation prescribe.

Information in returns, etc.

(d) The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 1 per centum a month from the time when the tax became due until paid.

Time of payment.
Penalty for failure.

SEC. 503. This title shall take effect on the expiration of thirty days after the enactment of this Act.

Effective in 30 days.

TITLE VI.—EXCISE TAXES

EXCISE TAXES.

SEC. 600. There shall be levied, assessed, collected, and paid upon the following articles sold or leased by the manufacturer, producer, or importer, a tax equivalent to the following percentage of the price for which so sold or leased—

Levied on sales by manufacturer, etc.
Vol. 43, s. 322, amended.

(1) Automobile chassis and bodies and motor cycles (including tires, inner tubes, parts, and accessories therefor sold on or in connection therewith or with the sale thereof), except automobile truck chassis and bodies, automobile wagon chassis and bodies, and tractors, 3 per centum. A sale or lease of an automobile shall, for the purposes of this subdivision, be considered to be a sale of the chassis and of the body. This subdivision shall take effect on the expiration of 30 days after the enactment of this Act;

Automobile chassis, etc.
Exceptions.
Effective in 30 days.

(2) Pistols and revolvers, except those sold for the use of the United States, any State, Territory, or possession of the United States, any political subdivision thereof, or the District of Columbia, 10 per centum.

Pistols and revolvers.

If any manufacturer, producer, or importer of any of the articles enumerated in this section customarily sells such articles both at wholesale and at retail, the tax in the case of any article sold by him at retail shall be computed on the price for which like articles are sold by him at wholesale.

Computation on retail sales by manufacturer, etc.

EXCISE TAXES.

In lieu of prior tax. Vol. 43, pp. 322, 323.

The taxes imposed by this section shall, in the case of any article in respect of which a corresponding tax is imposed by section 600 of the Revenue Act of 1924, be in lieu of such tax.

Computation if sold at less than market price to affiliated corporation.

Ante, p. 46.

SEC. 601. (a) If any person who manufactures, produces, or imports any article enumerated in section 600, sells or leases such article to a corporation affiliated with such person within the meaning of section 240 of this Act, at less than the fair market price obtainable therefor, the tax thereon shall be computed on the basis of the price at which such article is sold or leased by such affiliated corporation.

Sales to benefit interest of manufacturer.

(b) If any such person sells or leases such article whether through any agreement, arrangement, or understanding, or otherwise, at less than the fair market price obtainable therefor, either (1) in such manner as directly or indirectly to benefit such person or any person directly or indirectly interested in the business of such person, or (2) with intent to cause such benefit, the amount for which such article is sold or leased shall be taken to be the amount which would have been received from the sale or lease of such article if sold or leased at the fair market price.

Monthly returns and payments.

SEC. 602. Every person liable for any tax imposed by section 600 shall make monthly returns under oath in duplicate and pay the taxes imposed by such section to the collector for the district in which is located the principal place of business. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

Time for payment.

Penalty for failure.

The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 1 per centum a month from the time when the tax became due until paid.

Contracts for sales. Vendor to refund to lessee difference if former tax greater than herein, and deduction from price not permitted by contract.

SEC. 603. (a) If (1) any person has, prior to January 1, 1926, made a bona fide contract with any other person for the sale or lease, after the tax takes effect, of any article in respect of which a tax is imposed by section 600 of this Act, and in respect of which a corresponding but greater tax was imposed by section 600 of the Revenue Act of 1924, (2) the contract price includes the amount of the tax imposed by section 600 of the Revenue Act of 1924, and (3) such contract does not permit the deduction, from the amount to be paid thereunder, of the whole of the difference between the corresponding tax imposed by section 600 of the Revenue Act of 1924 and the tax imposed by section 600 of this Act, then the vendor or lessor shall refund to the vendee or lessee so much of the amount of such difference as is not so permitted to be deducted from the contract price.

Previously taxed and not hereby.

(b) If (1) any person has, prior to January 1, 1926, made a bona fide contract with any other person for the sale or lease, after the date of the enactment of this Act, of any article in respect of which a tax was imposed by section 600 of the Revenue Act of 1924, and in respect of which no corresponding tax is imposed by section 600 of this Act, (2) the contract price includes the amount of the tax imposed by section 600 of the Revenue Act of 1924, and (3) such contract does not permit deduction, from the amount to be paid thereunder, of the tax imposed by section 600 of the Revenue Act of 1924, then the vendor or lessor shall refund to the vendee or lessee so much of the amount of such tax as is not so permitted to be deducted from the contract price.

Vendor to refund tax not permitted to be deducted from contract price.

Refund when sale consummated.

(c) Any refund by the vendor or lessor under subdivision (a) or (b) shall be made at the time the sale or lease is consummated.

Upon the failure of the vendor or lessor so to refund, he shall be liable to the vendee or lessee for damages in the amount of three times the amount of such refund, and the court shall include in any judgment in favor of the vendee or lessee in any suit for the recovery of such damages, costs of the suit and a reasonable attorney's fee to be fixed by the court.

Treble damages on failure.

TITLE VII.—SPECIAL TAXES

CAPITAL STOCK TAX

Capital stock tax.

SEC. 700. In any proceeding in court in respect of any tax imposed by section 700 of the Revenue Act of 1924 or by any prior capital stock tax law—

Under Act of 1924.
Vol. 43, p. 325.

(1) The determination by the Commissioner as to the fair average value of the capital stock of a domestic corporation shall be only prima facie evidence of the facts on which such determination was based; and

Determination by Commissioner of average value of stock of domestic corporation.

(2) The determination by the Commissioner as to the average amount of capital employed in the transaction of business in the United States by a foreign corporation shall be only prima facie evidence of the facts on which such determination was based.

Of capital of foreign corporation employed in United States.

MISCELLANEOUS OCCUPATIONAL TAXES

Occupational tax.

SEC. 701. On and after July 1, 1926, there shall be levied, collected, and paid annually, in lieu of the tax imposed by section 701 of the Revenue Act of 1924, a special excise tax of $1,000, in the case of every person carrying on the business of a brewer, distiller, wholesale liquor dealer, retail liquor dealer, wholesale dealer in malt liquor, retail dealer in malt liquor, or manufacturer of stills, as defined in section 3244 as amended and section 3247 of the Revised Statutes, in any State, Territory, or District of the United States contrary to the laws of such State, Territory, or District, or in any place therein in which carrying on such business is prohibited by local or municipal law. The payment of the tax imposed by this section shall not be held to exempt any person from any penalty or punishment provided for by the laws of any State, Territory, or District for carrying on such business in such State, Territory, or District, or in any manner to authorize the commencement or continuance of such business contrary to the laws of such State, Territory, or District, or in places prohibited by local or municipal law.

Brewers, distillers, liquor dealers, etc.

Tax on, if business prohibited by State.

Vol. 43, p. 327.

R. S., secs. 3244, 3247, pp. 622, 626.

Payment no exemption from punishment under State laws.

Any person who carries on any business or occupation for which a special tax is imposed by this section, without having paid such special tax, shall, besides being liable for the payment of such special tax, be subject to a penalty of not more than $1,000 or to imprisonment for not more than one year, or both.

Punishment for conducting business without paying tax.
Vol. 43, p. 328, amended.

SPECIAL TAX ON USE OF FOREIGN BUILT BOATS

Foreign built boats.

SEC. 702. On and after July 1, 1926, and thereafter on July 1 in each year, and also at the time of the original purchase of a new yacht or other boat by a user, if on any other date than July 1, there shall be levied, assessed, collected, and paid, in lieu of the tax imposed by section 703 of the Revenue Act of 1924, upon the use of yachts, pleasure boats, power boats, sailing boats, and motor boats with fixed engines, if foreign built and if of over five net tons and over thirty-two feet in length, not used exclusively for trade, fishing, or national defense, a special excise tax to be based on each such yacht or other boat, at rates as follows: Yachts, pleasure boats,

Annual tax on use of specified pleasure boats, etc.
Vol. 43, p. 328, amended.

Rates.

SPECIAL TAXES.

power boats, motor boats with fixed engines, and sailing boats, of over five net tons, length over thirty-two feet and not over fifty feet, $2 for each foot; length over fifty feet, and not over one hundred feet, $4 for each foot; length over one hundred feet, $8 for each foot.

Measurements.

In determining the length of such yachts, pleasure boats, power boats, motor boats with fixed engines, and sailing boats, the measurement of over-all length shall govern.

On a new boat for part of a year.

In the case of a tax imposed at the time of the original purchase of a new yacht or boat on any other date than July 1, the amount to be paid shall be the same number of twelfths of the amount of the tax as the number of calendar months (including the month of sale) remaining prior to the following July 1.

Exemptions. Used for aid to seamen.

This section shall not apply to any yacht or other boat (1) which is used without profit by any benevolent, charitable, or religious organization, exclusively for furnishing aid, comfort, or relief to seamen, or (2) which was owned on January 1, 1926, by a citizen of the United States or by a domestic partnership or corporation.

Owned January 1, 1926, by citizen, etc.

Tax on narcotics.

TAX ON NARCOTICS

Former legislation amended. Vol. 38, p. 785.

SEC. 703. Section 1 of the Act entitled "An Act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes," approved December 17, 1914, as amended by section 1006 of the Revenue Act of 1918, is amended to read as follows:

Vol. 40, p. 1130. Vol. 43, p. 328, amended.

Opium, coca leaves, etc. Importers, manufacturers, dealers, etc., required to register.

"SECTION 1. That on or before July 1 of each year every person who imports, manufactures, produces, compounds, sells, deals in, dispenses, or gives away opium or coca leaves, or any compound, manufacture, salt, derivative, or preparation thereof, shall register with the collector of internal revenue of the district his name or style, place of business and place or places where such business is to be carried on, and pay the special taxes hereinafter provided;

Registration of persons in business January 1, 1919.

"Every person who on January 1, 1919, is engaged in any of the activities above enumerated, or who between such date and the passage of this Act first engaged in any of such activities, shall within thirty days after the passage of this Act make like registration; and shall pay the proportionate part of the tax for the period ending June 30, 1919; and

Engaging in business hereafter.

"Every person who first engages in any of such activities after the passage of this Act shall immediately make like registration and pay the proportionate part of the tax for the period ending on the following June 30th;

Rates of taxes.

"Importers, manufacturers, producers, or compounders, $24 per annum; wholesale dealers, $12 per annum; retail dealers, $6 per annum; physicians, dentists, veterinary surgeons, and other practitioners lawfully entitled to distribute, dispense, give away, or administer any of the aforesaid drugs to patients upon whom they in the course of their professional practice are in attendance, shall pay $1 per annum.

Vol. 43, p. 329, amended.

Classification. Importers, manufacturers, and producers.

"Every person who imports, manufactures, compounds, or otherwise produces for sale or distribution any of the aforesaid drugs shall be deemed to be an importer, manufacturer, or producer.

Wholesale dealers.

"Every person who sells or offers for sale any of said drugs in the original stamped packages, as hereinafter provided, shall be deemed a wholesale dealer.

Retail dealers.

"Every person who sells or dispenses from original stamped packages, as hereinafter provided, shall be deemed a retail dealer: *Provided*, That the office, or if none, the residence, of any person shall be

Provisos. Place of business.

considered for the purpose of this Act his place of business; but no employee of any person who has registered and paid special tax as herein required, acting within the scope of his employment, shall be required to register and pay special tax provided by this section: *Provided further*, That officials of the United States, Territorial, District of Columbia, or insular possessions, State or municipal governments, who in the exercise of their official duties engage in any of the business herein described, shall not be required to register, nor pay special tax, nor stamp the aforesaid drugs as hereinafter prescribed, but their right to this exemption shall be evidenced in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulations prescribe.

Employees exempt.

Officials not taxed.

Evidence of right required.

"It shall be unlawful for any person required to register under the provisions of this Act to import, manufacture, produce, compound, sell, deal in, dispense, distribute, administer, or give away any of the aforesaid drugs without having registered and paid the special tax as imposed by this section.

Importing, selling, etc., without registration, etc., unlawful.

"That the word 'person' as used in this Act shall be construed to mean and include a partnership, association, company, or corporation, as well as a natural person; and all provisions of existing law relating to special taxes, as far as necessary are hereby extended and made applicable to this section.

Meaning of "person."

"That there shall be levied, assessed, collected, and paid upon opium, coca leaves, any compound, salt, derivative, or preparation thereof, produced in or imported into the United States, and sold, or removed for consumption or sale, an internal-revenue tax at the rate of 1 cent per ounce, and any fraction of an ounce in a package shall be taxed as an ounce, such tax to be paid by the importer, manufacturer, producer, or compounder thereof, and to be represented by appropriate stamps, to be provided by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury; and the stamps herein provided shall be so affixed to the bottle or other container as to securely seal the stopper, covering, or wrapper thereof.

Internal revenue stamp on product.

Affixing.

"The tax imposed by this section shall be in addition to any import duty imposed on the aforesaid drugs.

Additional to import duty.

"It shall be unlawful for any person to purchase, sell, dispense, or distribute any of the aforesaid drugs except in the original stamped package or from the original stamped package; and the absence of appropriate tax-paid stamps from any of the aforesaid drugs shall be prima facie evidence of a violation of this section by the person in whose possession same may be found; and the possession of any original stamped package containing any of the aforesaid drugs by any person who has not registered and paid special taxes as required by this section shall be prima facie evidence of liability to such special tax: *Provided*, That the provisions of this paragraph shall not apply to any person having in his or her possession any of the aforesaid drugs which have been obtained from a registered dealer in pursuance of a prescription, written for legitimate medical uses, issued by a physician, dentist, veterinary surgeon, or other practitioner registered under this Act; and where the bottle or other container in which such drug may be put up by the dealer upon said prescription bears the name and registry number of the druggist, serial number of prescription, name and address of the patient, and name, address, and registry number of the person writing said prescription; or to the dispensing, or administration, or giving away of any of the aforesaid drugs to a patient by a registered physician, dentist, veterinary surgeon, or other practitioner in the course of his professional practice, and where said drugs are dispensed or administered to the patient for legitimate medical pur-

Disposal of any drug unstamped, etc., unlawful.

Unlawful possession.

Proviso.
Not applicable to valid prescriptions.

Container requirements.

Professional administration, etc.

SPECIAL TAXES.

poses, and the record kept as required by this Act of the drugs so dispensed, administered, distributed, or given away.

All stamp regulations applicable.

"And all the provisions of existing laws relating to the engraving, issuance, sale, accountability, cancellation, and destruction of tax-paid stamps provided for in the internal-revenue laws are, in so far as necessary, hereby extended and made to apply to stamps provided by this section.

Seizure of unstamped packages.

"That all unstamped packages of the aforesaid drugs found in the possession of any person, except as herein provided, shall be subject to seizure and forfeiture, and all the provisions of existing internal-revenue laws relating to searches, seizures, and forfeiture of unstamped articles are hereby extended to and made to apply to the articles taxed under this Act and the persons upon whom these taxes are imposed.

Records, returns, etc., required.

"Importers, manufacturers, and wholesale dealers shall keep such books and records and render such monthly returns in relation to the transactions in the aforesaid drugs as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulations require.

Regulations to be made.

"The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make all needful rules and regulations for carrying the provisions of this Act into effect."

Text reenacted.

Vol. 43, p. 330.

SEC. 704. Section 6 of such Act of December 17, 1914, as amended by section 1007 of the Revenue Act of 1918, is reenacted without change, as follows:

Drugs not affected by Act.

"SEC. 6. That the provisions of this Act shall not be construed to apply to the manufacture, sale, distribution, giving away, dispensing, or possession of preparations and remedies which do not contain more than two grains of opium, or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them in one fluid ounce, or, if a solid or semisolid preparation, in one avoirdupois ounce; or to liniments, ointments, or other preparations which are prepared for external use, only, except liniments, ointments, and other preparations which contain cocaine or any of its salts or alpha or beta eucaine or any of their salts or any synthetic substitute for them: *Provided*, That such remedies and preparations are manufactured, sold, distributed, given away, dispensed, or possessed as medicines and not for the purpose of evading the intentions and provisions of this Act: *Provided further*, That any manufacturer, producer, compounder, or vendor (including dispensing physicians) of the preparations and remedies mentioned in this section shall keep a record of all sales, exchanges, or gifts of such preparations and remedies in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall direct. Such record shall be preserved for a period of two years in such a way as to be readily accessible to inspection by any officer, agent or employee of the Treasury Department duly authorized for that purpose, and the State, Territorial, District, municipal, and insular officers named in section 5 of this Act, and every such person so possessing or disposing of such preparations and remedies shall register as required in section 1 of this Act and, if he is not paying a tax under this Act, he shall pay a special tax of $1 for each year, or fractional part thereof, in which he is engaged in such occupation, to the collector of internal revenue of the district in which he carries on such occupation as provided in this Act. The provisions of this Act as amended shall not apply to decocainized coca leaves or preparations made therefrom, or to other preparations of coca leaves which do not contain cocaine."

Provisos.
If used as medicines.

Records of sales, etc., to be kept.

Preservation for inspection.

Vol. 38, p. 788.

Registration and payment of special tax required.

Decocainized preparations, etc., not affected.

SPECIAL TAXES.
Confiscation of seized narcotics.
Vol. 43, p. 331.

SEC. 705. All opium, its salts, derivatives, and compounds, and coca leaves, salts, derivatives, and compounds thereof, which may now be under seizure or which may hereafter be seized by the United States Government from any person or persons charged with any violation of the Act of October 1, 1890, as amended by the Acts of March 3, 1897, February 9, 1909, and January 17, 1914, or the Act of December 17, 1914, as amended, shall upon conviction of the person or persons from whom seized be confiscated by and forfeited to the United States; and the Secretary is hereby authorized to deliver for medical or scientific purposes to any department, bureau, or other agency of the United States Government, upon proper application therefor under such regulation as may be prescribed by the Commissioner, with the approval of the Secretary, any of the drugs so seized, confiscated, and forfeited to the United States.

Vol. 26, p. 621.

Vol. 29, p. 695; Vol 35, p. 614; Vol. 38, pp. 275, 785; Vol. 40, p. 1130; Vol. 42, p. 298.

Delivery for Government use.

Applicable to seizures from unknown owners.

The provisions of this section shall also apply to any of the aforesaid drugs seized or coming into the possession of the United States in the enforcement of any of the above-mentioned Acts where the owner or owners thereof are unknown. None of the aforesaid drugs coming into possession of the United States under the operation of said Acts, or the provisions of this section, shall be destroyed without certification by a committee appointed by the Commissioner, with the approval of the Secretary, that they are of no value for medical or scientific purposes.

Destruction restricted.

TITLE VIII.—STAMP TAXES

STAMP TAXES.

Levied on bonds, documents, etc., in Schedule A.
Vol. 43, p. 331.

Post, p. 101.

SEC. 800. On and after the expiration of thirty days after the enactment of this Act there shall be levied, collected, and paid, for and in respect of the several bonds, debentures, or certificates of stock and of indebtedness, and other documents, instruments, matters, and things mentioned and described in Schedule A of this title, or for or in respect of the vellum, parchment, or paper upon which such instruments, matters, or things, or any of them, are written or printed, by any person who makes, signs, issues, sells, removes, consigns, or ships the same, or for whose use or benefit the same are made, signed, issued, sold, removed, consigned, or shipped, the several taxes specified in such schedule. The taxes imposed by this section shall, in the case of any article upon which a corresponding stamp tax is now imposed by law, be in lieu of such tax.

In lieu of present tax.

Exceptions.
Government, State, etc., securities.

SEC. 801. There shall not be taxed under this title any bond, note, or other instrument, issued by the United States, or by any foreign Government, or by any State, Territory, or the District of Columbia, or local subdivision thereof, or municipal or other corporation exercising the taxing power; or any bond of indemnity required to be filed by any person to secure payment of any pension, allowance, allotment, relief, or insurance by the United States, or to secure a duplicate for, or the payment of, any bond, note, certificate of indebtedness, war-savings certificate, warrant or check, issued by the United States; or stocks and bonds issued by domestic building and loan associations substantially all the business of which is confined to making loans to members, or by mutual ditch or irrigation companies.

Bonds of indemnity to United States.

Of domestic building and loan associations.

Offenses designated.

SEC. 802. Whoever—

Issuing unstamped papers, etc.

(a) Makes, signs, issues, or accepts, or causes to be made, signed, issued, or accepted, any instrument, document, or paper of any kind or description whatsoever without the full amount of tax thereon being duly paid;

STAMP TAXES.
Dealing in articles not fully stamped.

(b) Manufactures or imports and sells, or offers for sale, or causes to be manufactured or imported and sold, or offered for sale, any playing cards, package, or other article without the full amount of tax being duly paid;

Using uncanceled, etc., stamps.

(c) Makes use of any adhesive stamp to denote any tax imposed by this title without canceling or obliterating such stamp as prescribed in section 804;

Penalty.

Is guilty of a misdemeanor and upon conviction thereof shall pay a fine of not more than $100 for each offense.

Other offenses.

SEC. 803. Whoever—

Fraudulently removing, etc., stamps.

(a) Fraudulently cuts, tears, or removes from any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title, any adhesive stamp or the impression of any stamp, die, plate, or other article provided, made, or used in pursuance of this title;

Reusing stamps.

(b) Fraudulently uses, joins, fixes, or places to, with, or upon any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title, (1) any adhesive stamp, or the impression of any stamp, die, plate, or other article, which has been cut, torn, or removed from any other vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title; or (2) any adhesive stamp or the impression of any stamp, die, plate, or other article of insufficient value; or (3) any forged or counterfeited stamp, or the impression of any forged or counterfeited stamp, die, plate, or other article;

Using insufficient stamps.

Counterfeits, etc.

Removing, etc., stamps for unlawful uses.

(c) Willfully removes, or alters the cancellation or defacing marks of, or otherwise prepares, any adhesive stamp, with intent to use, or cause the same to be used, after it has been already used, or knowingly or willfully buys, sells, offers for sale, or gives away, any such washed or restored stamp to any person for use, or knowingly uses the same;

Possessing washed, etc., stamps knowingly.

(d) Knowingly and without lawful excuse (the burden of proof of such excuse being on the accused) has in possession any washed, restored, or altered stamp, which has been removed from any vellum, parchment, paper, instrument, writing, package, or article;

Punishment for.

Is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than $1,000, or by imprisonment for not more than five years, or both, and any such reused, canceled, or counterfeit stamp and the vellum, parchment, document, paper, package, or article upon which it is placed or impressed shall be forfeited to the United States.

Forfeiture of articles, etc.

Method of cancellation.

SEC. 804. Whenever an adhesive stamp is used for denoting any tax imposed by this title, except as hereinafter provided, the person using or affixing the same shall write or stamp or cause to be written or stamped thereupon the initials of his or its name and the date upon which the same is attached or used, so that the same may not again be used: *Provided*, That the Commissioner may prescribe such other method for the cancellation of such stamps as he may deem expedient.

Proviso.
Other means authorized.

Preparation of stamps.

SEC. 805. (a) The Commissioner shall cause to be prepared and distributed for the payment of the taxes prescribed in this title suitable stamps denoting the tax on the document, articles, or thing to which the same may be affixed, and shall prescribe such method for the affixing of said stamps in substitution for or in addition to the method provided in this title, as he may deem expedient.

Method of affixing.

General revenue laws applicable for mistakes, etc.

(b) All internal revenue laws relating to the assessment and collection of taxes are hereby extended to and made a part of this title, so far as applicable, for the purpose of collecting stamp taxes

omitted through mistake or fraud from any instrument, document, paper, writing, parcel, package, or article named herein.

Sales of stamps by postmasters.

SEC. 806. The Commissioner shall furnish to the Postmaster General without prepayment a suitable quantity of adhesive stamps to be distributed to and kept on sale by the various postmasters in the United States. The Postmaster General may require each such postmaster to give additional or increased bond as postmaster for the value of the stamps so furnished, and each such postmaster shall deposit the receipts from the sale of such stamps to the credit of and render accounts to the Postmaster General at such times and in such form as he may by regulations prescribe. The Postmaster General shall at least once monthly transfer all collections from this source to the Treasury as internal-revenue collections.

Post, p. 554.

Accountability.

Monthly transfer of collections.

Sales by designated depositaries.

SEC. 807. (a) Each collector shall furnish, without prepayment, to any designated depositary of the United States, located in the district of such collector, a suitable quantity of adhesive stamps to be kept on sale by such designated depositary.

Sales by designated State agents for stock transfers.

(b) Each collector shall furnish, without prepayment, to any person who is (1) located in the district of such collector, (2) duly appointed and acting as agent of any State for the sale of stock transfer stamps of such State, and (3) designated by the Commissioner for the purpose, a suitable quantity of such adhesive stamps as are required by subdivisions 2, 3, and 4 of Schedule A of this title, to be kept on sale by such person.

Infra.

Surety bonds may be required.

(c) In such cases the collector may require a bond, with sufficient sureties, in a sum to be fixed by the Commissioner, conditioned for the faithful return, whenever so required, of all quantities or amounts undisposed of, and for the payment monthly of all quantities or amounts sold or not remaining on hand. The Secretary may from time to time make such regulations as he may find necessary to insure the safe-keeping or prevent the illegal use of all such adhesive stamps.

Regulations for safe-keeping.

Schedule A.

SCHEDULE A.—STAMP TAXES

Bonds of indebtedness.

1. Bonds of indebtedness: On all bonds, debentures, or certificates of indebtedness issued by any corporation, and all instruments, however termed, issued by any corporation with interest coupons or in registered form, known generally as corporate securities, on each $100 of face value or fraction thereof, 5 cents: *Provided*, That every renewal of the foregoing shall be taxed as a new issue: *Provided further*, That when a bond conditioned for the repayment or payment of money is given in a penal sum greater than the debt secured, the tax shall be based upon the amount secured.

Provisos.
Renewals.
Basis of tax.

Capital stock.
Original issue.

2. Capital stock, issue: On each original issue, whether on organization or reorganization, of certificates of stock, or of profits, or of interest in property or accumulations, by any corporation, on each $100 of face value or fraction thereof, 5 cents: *Provided*, That where a certificate is issued without face value, the tax shall be 5 cents per share, unless the actual value is in excess of $100 per share, in which case the tax shall be 5 cents on each $100 of actual value or fraction thereof, or unless the actual value is less than $100 per share, in which case the tax shall be 1 cent on each $20 of actual value, or fraction thereof.

Proviso.
Without face value.

Attached to stock books.

The stamps representing the tax imposed by this subdivision shall be attached to the stock books and not to the certificates issued.

Sales or transfers of stock, etc.

3. Capital stock, sales or transfers: On all sales, or agreements to sell, or memoranda of sales or deliveries of, or transfers of legal title to shares or certificates of stock or of profits or of interest in property or accumulations in any corporation, or to rights to subscribe for or to receive such shares or certificates, whether made upon

STAMP TAXES.

or shown by the books of the corporation, or by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale, whether entitling the holder in any manner to the benefit of such stock, interest, or rights, or not, on each $100 of face value or fraction thereof, 2 cents, and where such shares are without par or face value, the tax shall be 2 cents on the transfer or sale or agreement to sell on each share:

Provisos.
Deposits as collateral exempt.

Provided, That it is not intended by this title to impose a tax upon an agreement evidencing a deposit of certificates as collateral security for money loaned thereon, which certificates are not actually sold, nor upon the delivery or transfer for such purpose of certificates so deposited, nor upon mere loans of stock nor upon the return of stock so loaned: *Provided further*, That the tax shall not be imposed upon deliveries or transfers to a broker for sale, nor upon deliveries or transfers by a broker to a customer for whom and upon whose order he has purchased same, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided further*, That in case of sale where the evidence of transfer is shown only by the books of the corporation the stamp shall be placed upon such books; and where the change of ownership is by transfer of the certificate the stamp shall be placed upon the certificate; and in cases of an agreement to sell or where the transfer is by delivery of the certificate assigned in blank there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale or agreement to sell before mentioned shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers. Any person liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person, who makes any such sale, or who in pursuance of any such sale delivers any certificate or evidence of the sale of any stock, interest or right, or bill or memorandum thereof, as herein required, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding $1,000, or be imprisoned not more than six months, or both.

Brokers' deliveries, etc., exempt.

Placing stamps on books of corporation.

On certificates.

On bills of sale.

Details required.

Punishment for sales without stamps, etc.

Exchange sales, etc., of produce for future delivery.

4. Produce, sales of, on exchange: Upon each sale, agreement of sale, or agreement to sell (not including so-called transferred or scratch sales), any products or merchandise at, or under the rules or usages of, any exchange, or board of trade, or other similar place, for future delivery, for each $100 in value of the merchandise covered by said sale or agreement of sale or agreement to sell, 1 cent, and for each additional $100 or fractional part thereof in excess of $100, 1 cent: *Provided*, That on every sale or agreement of sale or agreement to sell as aforesaid there shall be made and delivered by the seller to the buyer a bill, memorandum, agreement, or other evidence of such sale, agreement of sale, or agreement to sell, to which there shall be affixed a lawful stamp or stamps in value equal to the amount of the tax on such sale: *Provided further*, That sellers of commodities described herein, having paid the tax provided by this subdivision, may transfer such contracts to a clearing-house corporation or association, and such transfer shall not be deemed to be a sale, or agreement of sale, or an agreement to sell within the provisions of this Act, provided that such transfer shall not vest any beneficial interest in such clearing-house association but shall be made for the sole purpose of enabling such clearing-house association to adjust and balance the accounts of the members of such clearing-house association on their several contracts. Every such bill, memorandum, or other evidence of sale or agreement to sell

Provisos.
Stamped bill of sale required.

Clearing house transfers not again stamped.

Condition.

Contents of bills of sale.

STAMP TAXES.

shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers; and any person liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person, who makes any such sale or agreement of sale, or agreement to sell, or who, in pursuance of any such sale, agreement of sale, or agreement to sell, delivers any such products or merchandise without a bill, memorandum, or other evidence thereof as herein required, or who delivers such bill, memorandum, or other evidence of sale, or agreement to sell, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding $1,000 or be imprisoned not more than six months, or both.

Punishment for delivery without stamped bill, etc.

No bill, memorandum, agreement, or other evidence of such sale, or agreement of sale, or agreement to sell, in case of cash sales of products or merchandise for immediate or prompt delivery which in good faith are actually intended to be delivered shall be subject to this tax.

Cash sales for immediate delivery not taxable.

This subdivision shall not affect but shall be in addition to the provisions of the "United States cotton futures Act," approved August 11, 1916, as amended, and "The Future Trading Act," approved August 24, 1921.

Additional to specified taxes.
Vol. 39, p. 476.
Vol. 42, p. 187.

5. Passage ticket, one way or round trip, for each passenger, sold or issued in the United States for passage by any vessel to a port or place not in the United States, Canada, or Mexico, if costing not exceeding $30, $1; costing more than $30 and not exceeding $60, $3; costing more than $60, $5. This subdivision shall not apply to passage tickets costing $10 or less.

Foreign passage tickets.

Exemption.

6. Playing cards: Upon every pack of playing cards containing not more than fifty-four cards, manufactured or imported, and sold, or removed for consumption or sale, a tax of 10 cents per pack.

Playing cards.

7. On each policy of insurance, or certificate, binder, covering note, memorandum, cablegram, letter, or other instrument by whatever name called whereby insurance is made or renewed upon property within the United States (including rents and profits) against peril by sea or on inland waters or in transit on land (including transshipments and storage at termini or way points) or by fire, lightning, tornado, windstorm, bombardment, invasion, insurrection or riot, issued to or for or in the name of a domestic corporation or partnership or an individual resident of the United States by any foreign corporation or partnership or any individual not a resident of the United States, when such policy or other instrument is not signed or countersigned by an officer or agent of the insurer in a State, Territory, or District of the United States within which such insurer is authorized to do business, a tax of 3 cents on each dollar, or fractional part thereof of the premium charged: *Provided*, That policies of reinsurance shall be exempt from the tax imposed by this subdivision.

Insurance policies on property.

Proviso.
Reinsurance exempt.

Any person to or for whom or in whose name any such policy or other instrument is issued, or any solicitor or broker acting for or on behalf of such person in the procurement of any such policy or other instrument, shall affix the proper stamps to such policy or other instrument, and for failure to affix such stamps with intent to evade the tax shall, in addition to other penalties provided therefor, pay a fine of double the amount of the tax

Affixing stamps required.

Penalty for failure.

DISTILLED SPIRITS AND CEREAL BEVERAGES.

TITLE IX.—TAX ON DISTILLED SPIRITS AND CEREAL BEVERAGES

TAX ON DISTILLED SPIRITS

Tax on distilled spirits.

Vol. 42, p. 285.

SEC. 900. Subdivision (a) of section 600 of the Revenue Act of 1918, as amended, is amended to read as follows:

Spirits in bond, produced or imported hereafter, when withdrawn.

Vol. 40, p. 1105, amended.

"SEC. 600. (a) There shall be levied and collected on all distilled spirits now in bond or that have been or that may be hereafter produced in or imported into the United States, in lieu of the internal-revenue taxes now imposed thereon by law, an internal-revenue tax at the following rates, to be paid by the distiller or importer when withdrawn, and collected under the provisions of existing law:

Rates.

Until January 1, 1927.

"(1) Until January 1, 1927, $2.20 on each proof gallon or wine gallon when below proof and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon;

Until January 1, 1928.

"(2) On and after January 1, 1927, and until January 1, 1928, $1.65 on each proof gallon or wine gallon when below proof and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon; and

On and after January 1, 1928.

"(3) On and after January 1, 1928, $1.10 on each proof gallon or wine gallon when below proof and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon.

Tax if diverted to beverage purposes, etc.

"(4) On and after the enactment of the Revenue Act of 1926, on all distilled spirits which are diverted to beverage purposes or for use in the manufacture or production of any article used or intended for use as a beverage there shall be levied and collected a tax of $6.40 on each proof gallon or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon, to be paid by the person responsible for such diversion. If a tax at the rate of $2.20, $1.65, or $1.10 per proof or wine gallon has been paid upon such distilled spirits a credit of the tax so paid shall be allowed in computing the tax imposed by this paragraph.

Credit allowed for tax already paid.

Collection and deposit of internal revenue tax on imported spirits.

"(5) The internal revenue tax imposed by this subdivision upon distilled spirits heretofore or hereafter imported into the United States shall, under regulations prescribed by the Commissioner, with the approval of the Secretary, be collected and deposited in the same manner as other internal revenue taxes, except that such collection and depositing shall be by the collector of customs instead of by the collector of internal revenue. Such tax shall be in addition to any customs duty imposed under the Tariff Act of 1922 or any subsequent Act.

Additional to customs duty.
Vol. 42, p. 897.

Smuggled, etc., spirits held to be imported.
Sales.
R. S., sec. 3334, p. 649.

"(6) Distilled spirits smuggled or brought into the United States unlawfully shall, for the purpose of this subdivision, be held to be imported into the United States, and section 3334 of the Revised Statutes, as amended, shall be applicable to any sale thereof.

Allowance for loss on withdrawal of reimported spirits from bond for bottling.

"(7) When any distilled spirits exported free of tax and reimported in the original packages prior to January 1, 1926, are after the enactment of the Revenue Act of 1926 withdrawn from any internal-revenue bonded warehouse for tax payment or for bottling in bond, an allowance may be made for actual loss by leakage or evaporation not exceeding one proof gallon as to each cask or package of a capacity of not less than 40 wine gallons for each period of six months or fraction thereof from the date of official regauge after reimportation, and such distilled spirits may be bottled in accordance with the provisions of the Act of March 3, 1897, entitled 'An Act to allow the bottling of distilled spirits in bond,' as amended. The

Vol. 29, p. 626.

Conditions.

allowance for losses provided in this paragraph shall be made subject to the conditions of section 50 of the Act of August 27, 1894, entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,' as amended."

DISTILLED SPIRITS AND CEREAL BEVERAGES.

Vol. 28, p. 564.
Vol 43, p. 308.

SEC. 901. Notwithstanding the provisions of section 3334 of the Revised Statutes, as amended, or section 492 of the Tariff Act of 1922, any distilled spirits forfeited or abandoned to the United States may be sold, in such cases as the Commissioner of Internal Revenue may by regulation provide, to the proprietor of any industrial alcohol plant for denaturation, or redistillation and denaturation, without the payment of the internal-revenue tax thereon.

Sale of forfeited, etc., spirits for denaturing without paying tax.

R. S., sec. 3334, p. 649.
Vol. 20, p. 340.
Vol. 42, p. 963.

LIENS ON DISTILLERIES

Liens on distilleries.

SEC. 902. (a) Any lien, under section 3251 of the Revised Statutes, as amended, on any land or any building thereon shall be held to be extinguished, if (1) such land and building are no longer used for distillery purposes, and (2) there is no outstanding liability for taxes or penalties imposed by law on the distilled spirits produced therein, and (3) no litigation is pending in respect of any such tax or penalty.

Extinguished if no longer used for distilling.

R. S., sec. 3251, p. 627

Condition.

(b) Any person claiming any interest in any such land or building may apply to the collector for a duly acknowledged certificate to the effect that such lien is discharged and, if the Commissioner determines that any such lien is extinguished, the collector shall issue such certificate, and any such certificate may be recorded.

Certificate of discharge to be issued by collector.

TAX ON CEREAL BEVERAGES

Cereal beverages.

SEC. 903. There shall be levied, assessed, collected, and paid upon all beverages derived wholly or in part from cereals or substitutes therefor, and containing less than one-half of 1 per centum of alcohol by volume, sold by the manufacturer, producer, or importer, a tax of one-tenth of 1 cent per gallon or fraction thereof.

Tax on sales by manufacturer, etc.

SEC. 904. (a) Each manufacturer, producer, or importer of any of the beverages enumerated in section 903 shall make monthly returns under oath in duplicate and pay the taxes imposed in respect of such beverages by such section to the collector for the district in which is located the principal place of business. Such returns shall contain such information necessary for the assessment of the tax, and shall be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulation prescribe.

Monthly returns and payments.

(b) The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 1 per centum a month, from the time when the tax became due until paid.

Payment without assessment.

Penalty for nonpayment.

TITLE X.—BOARD OF TAX APPEALS

BOARD OF TAX APPEALS.

SEC. 1000. Title IX of the Revenue Act of 1924 is amended to read as follows:

Vol. 43, p. 336, amended.

"TITLE IX.—BOARD OF TAX APPEALS

"MEMBERSHIP OF BOARD

Membership of Board.

"SEC. 900. The Board of Tax Appeals (hereinafter referred to as the 'Board') is hereby continued as an independent agency in

Continued as an independent executive agency.

BOARD OF TAX APPEALS.
Composition.

the Executive Branch of the Government. The Board shall be composed of 16 members; except that such limitation shall not be held applicable to any member holding office under an appointment made before the enactment of the Revenue Act of 1926, in accordance with the law in force prior to the enactment of such Act.

Appointments based on fitness.

"SEC. 901. (a) Members of the Board shall be appointed by the President, by and with the advice and consent of the Senate, solely on the grounds of fitness to perform the duties of the office.

Removal restricted.

Members of the Board may be removed by the President, after notice and opportunity for public hearing, for inefficiency, neglect of duty, or malfeasance in office, but for no other cause.

Salary

Each member shall receive salary at the rate of $10,000 per annum.

Expiration of term of present members.

"(b) The terms of office of all members who are to compose the Board prior to June 2, 1926, shall expire at the close of business on June 1, 1926.

Tenure of members to be appointed.

The terms of office of the sixteen members first taking office after such date shall expire, as designated by the President at the time of nomination, four at the end of the sixth year, four at the end of the eighth year, four at the end of the tenth year, and four at the end of the twelfth year, after June 2, 1926.

Successors to fill terms of predecessors.

The terms of office of all successors shall expire twelve years after the expiration of the terms for which their predecessors were appointed; but any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the unexpired term of his predecessor.

Removed members not permitted to practice before Board.

"SEC. 902. A member of the Board removed from office in accordance with subdivision (a) of section 901 shall not be permitted at any time to practice before the Board.

Organization, etc.

"ORGANIZATION AND PROCEDURE

Chairman and seal.

"SEC. 903. The Board shall at least biennially designate a member to act as chairman. The Board shall have a seal which shall be judicially noticed.

Jurisdiction as to income and estate taxes.

"SEC. 904. The Board and its divisions shall have such jurisdiction as is conferred on them by Title II and Title III of the Revenue Act of 1926 or by subsequent laws.

Fees for filing petitions in, etc.

The Board is authorized to impose a fee in an amount not in excess of $10 to be fixed by the Board for the filing of any petition for the redetermination of a deficiency after the enactment of the Revenue Act of 1926 and for the hearing of any proceeding pending at the time of such enactment.

Quorum, etc.

"SEC. 905. A majority of the members of the Board or of any division thereof shall constitute a quorum for the transaction of the business of the Board or of the division, respectively. A vacancy in the Board or in any division thereof shall not impair the powers nor affect the duties of the Board or division nor of the remaining members of the Board or division, respectively.

Divisions to be assigned.

"SEC. 906. (a) The chairman may from time to time divide the Board into divisions of one or more members, assign the members of the Board thereto, and in case of a division of more than one member, designate the chief thereof. If a division, as a result of a vacancy or the absence or inability of a member assigned thereto to serve thereon, is composed of less than the number of members designated for the division, the chairman may assign other members to the division or direct the division to proceed with the transaction of business without awaiting any additional assignment of members thereto.

Duties of divisions.

A division shall hear and decide any proceeding instituted before the Board and any motion thereon assigned to such division by the chairman.

Effect of decisions by a division.

"(b) In case of a decision by a division, the decision and the findings of fact made in connection therewith shall become the decision

BOARD OF TAX APPEALS.

and the findings of the Board within 30 days after such decision by the division, unless within such period the chairman has directed that such decision shall be reviewed by the Board.

On dismissal of petition for redetermination, if deficiency considered correct.

"(c) If a petition for a redetermination of a deficiency has been filed by the taxpayer, a decision of the Board dismissing the proceeding shall, for the purposes of this title and of the Revenue Act of 1926, be considered as its decision that the deficiency is the amount determined by the Commissioner. An order specifying such amount shall be entered in the records of the Board unless the Board can not determine such amount from the pleadings.

Date of decision, etc.

"(d) A decision of the Board shall be held to be rendered upon the date that an order specifying the amount of the deficiency is entered in the records of the Board. If the Board dismisses a proceeding and is unable from the pleadings to determine the amount of the deficiency determined by the Commissioner, an order to that effect shall be entered in the records of the Board, and the decision of the Board shall be held to be rendered upon the date of such entry.

Decision if assessment barred by limitation.

"(e) If the assessment or collection of any tax is barred by any statute of limitations, the decision of the Board to that effect shall, for the purposes of this title and of the Revenue Act of 1926, be considered as its decision that there is no deficiency in respect of such tax.

Effect of prior findings.

"(f) The findings of the Board made in any decision prior to the enactment of the Revenue Act of 1926 shall, notwithstanding the enactment of such Act, continue to be prima facie evidence of the facts therein stated.

Hearings and procedure.

"SEC. 907. (a) Notice and an opportunity to be heard shall be given to the taxpayer and the Commissioner and a decision shall be made as quickly as practicable. Hearings before the Board and its divisions shall be open to the public and shall be stenographically reported. The Board is authorized to contract for the reporting of such hearings, and in such contract to fix the terms and conditions under which transcripts will be supplied by the contractor to the Board and to other persons and agencies. The proceedings of the Board and its divisions shall be conducted in accordance with such rules of practice and procedure (other than rules of evidence) as the Board may prescribe and in accordance with the rules of evidence applicable in courts of equity of the District of Columbia. The mailing by registered mail of any pleading, order, notice, or process in respect of proceedings before the Board shall be held sufficient service of such pleading, order, notice, or process.

Rules to be prescribed.

Findings and decision in each case to be made.

"(b) It shall be the duty of the Board and of each division to make findings of fact and a decision in each case before it, and report thereon in writing; except that the findings of fact and report thereon may be omitted in case of a decision dismissing any proceeding upon motion either of the taxpayer, the Commissioner, or the Board. Whenever the Board deems it advisable, the report shall contain an opinion in writing in addition to the findings of fact and decision.

Report of opinion.

Reports, etc., open to public inspection.

"(c) All reports of the Board and all evidence received by the Board and its divisions, including a transcript of the stenographic report of the hearings, shall be public records open to the inspection of the public; except that after the decision of the Board in any proceeding has become final the Board may, upon motion of the taxpayer or the Commissioner, permit the withdrawal by the party entitled thereto of originals of books, documents, and records, and of models, diagrams, and other exhibits, introduced in evidence

Return of original papers.

BOARD OF TAX APPEALS.

before the Board or any division; or the Board may, on its own motion, make such other disposition thereof as it deems advisable.

Publication of reports.

"(d) The Board shall provide for the publication of its reports at the Government Printing Office in such form and manner as may be best adapted for public information and use, and such authorized publication shall be competent evidence of the reports of the Board therein contained in all courts of the United States and of the several States without any further proof or authentication thereof. Such reports shall be subject to sale in the same manner and upon the same terms as other public documents.

Effect as evidence.

Principal office in the District.

"(e) The principal office of the Board shall be in the District of Columbia, but the Board or any of its divisions may sit at any place within the United States. The times and places of the meetings of the Board and of its divisions shall be prescribed by the chairman with a view to securing reasonable opportunity to taxpayers to appear before the Board or any of its divisions, with as little inconvenience and expense to taxpayers as is practicable.

Meetings elsewhere.

Rooms in public buildings.

"(f) The Secretary of the Treasury shall provide the Board with suitable rooms in courthouses or other buildings when necessary for hearings by the Board, or any division thereof, outside the District of Columbia.

Witnesses.

"WITNESSES

Authority to secure testimony, etc.

"SEC. 908. For the efficient administration of the functions vested in the Board or any division thereof, any member of the Board, or any employee of the Board designated in writing for the purpose by the chairman, may administer oaths, and any member of the Board may examine witnesses and require, by subpœna ordered by the Board or any division thereof and signed by the member, (1) the attendance and testimony of witnesses, and the production of all necessary returns, books, papers, documents, correspondence, and other evidence, from any place in the United States at any designated place of hearing, or (2) the taking of a deposition before any designated individual competent to administer oaths under this Act. In the case of a deposition the testimony shall be reduced to writing by the individual taking the deposition or under his direction and shall then be subscribed by the deponent.

Depositions.

Witness fees, etc.

"SEC. 909. (a) Any witness summoned or whose deposition is taken under section 908 shall receive the same fees and mileage as witnesses in courts of the United States. Such fees and mileage and the expenses of taking any such deposition shall be paid as follows:

Mode of payment.

Witnesses for Commissioner.

"(1) In the case of witnesses for the Commissioner, such payments shall be made by the Secretary out of any moneys appropriated for the collection of internal-revenue taxes, and may be made in advance.

Other witnesses.

"(2) In the case of any other witnesses, such payments shall be made, subject to rules prescribed by the Board, by the party at whose instance the witness appears or the deposition is taken.

Effective as of June 2, 1924, for unpaid expenses.

"(b) This section shall take effect as of June 2, 1924, in the case of fees, mileage, or expenses accrued prior to, but remaining unpaid at the time of, the enactment of the Revenue Act of 1926.

Expenditures and personnel.

"EXPENDITURES AND PERSONNEL

Traveling, etc., expenses allowed.

Post, p. 1072.

"SEC. 910. The members of the Board shall receive necessary traveling expenses, and expenses actually incurred for subsistence while traveling on duty and away from their designated stations, subject to the same limitations in amount as are now or may hereafter be applicable to the Board of General Appraisers. The

BOARD OF TAX APPEALS.

employees of the Board shall receive their necessary traveling expenses, and expenses actually incurred for subsistence while traveling on duty and away from their designated stations, in an amount not to exceed $5 per day. The Board is authorized in accordance with the civil service laws to appoint, and in accordance with the Classification Act of 1923 to fix the compensation of, such employees, and to make such expenditures (including expenditures for personal services and rent at the seat of Government and elsewhere, and for law books, books of reference, and periodicals), as may be necessary efficiently to execute the functions vested in the Board. All expenditures of the Board shall be allowed and paid, out of any moneys appropriated for the purposes of the Board, upon presentation of itemized vouchers therefor signed by the chairman. All fees received by the Board shall be covered into the Treasury as miscellaneous receipts. Section 3709 of the Revised Statutes of the United States shall not be construed to apply to any purchase or service rendered for the Board when the aggregate amount involved does not exceed the sum of $25.

Authority for personal services, supplies, etc.
Vol. 42, p. 1488.

Approval of expenditures.

Minor purchases.
R. S., sec. 3709, p. 733.

"FRIVOLOUS APPEALS TO BOARD

Frivolous appeals.

"SEC. 911. Whenever it appears to the Board that proceedings before it have been instituted by the taxpayer merely for delay, damages in an amount not in excess of $500 shall be awarded to the United States by the Board in its decision. Damages so awarded shall be assessed at the same time as the deficiency and shall be paid upon notice and demand from the collector, and shall be collected as a part of the tax."

Damages awarded for cases instituted merely for delay.

COURT REVIEW OF BOARD'S DECISION

Review of decisions of Board.

SEC. 1001. (a) The decision of the Board rendered after the enactment of this Act (except as provided in subdivision (j) of section 283 and in subdivision (h) of section 318) may be reviewed by a Circuit Court of Appeals, or the Court of Appeals of the District of Columbia, as hereinafter provided, if a petition for such review is filed by either the Commissioner or the taxpayer within six months after the decision is rendered.

Jurisdiction of courts of appeals, if petition filed.

(b) Such courts are authorized to adopt rules for the filing of such petition, the preparation of the record for review, and the conduct of proceedings upon such review and, until the adoption of such rules, the rules of such courts relating to appellate proceedings upon a writ of error, so far as applicable, shall govern.

Procedure of courts.

(c) Despite the provisions of sections 274 and 308, such review shall not operate as a stay of assessment or collection of any portion of the amount of the deficiency determined by the Board unless a petition for review in respect of such portion is filed by the taxpayer, and then only if the taxpayer (1) on or before the time his petition for review is filed (and in any event before the expiration of six months after the decision of the Board is rendered) has filed with the Board a bond in a sum fixed by the Board not exceeding double the amount of the portion of the deficiency in respect of which the petition for review is filed, and with surety approved by the Board, conditioned upon the payment of the deficiency as finally determined, together with any interest, additional amounts, or additions to the tax provided for by law, or (2) has filed a jeopardy bond under Title II or Title III of the Revenue Act of 1924 or of this Act. If as a result of a waiver under subdivision (d) of section 274 or subdivision (d) of section 308 any part of the amount determined

No stay of collection unless petition for appeal filed with bond.

Conditions.

Jeopardy bond.
Ante, p. 60.

BOARD OF TAX APPEALS.

by the Board is paid after the filing of the review bond such bond shall, at the request of the taxpayer, be proportionately reduced.

Refund of deficiency disallowed by court.

(d) In cases where assessment or collection has not been stayed by the filing of a bond, then if the amount of the deficiency determined by the Board is disallowed in whole or in part by the court, the amount so disallowed shall be credited or refunded to the taxpayer, or, if collection has not been made, shall be abated.

Other security.

(e) Nothing in subdivision (c) shall be construed as relieving the petitioner from making or filing such undertakings as the court may require as a condition of or in connection with the review.

Venue.

VENUE

Review of decisions. In case of an individual.

SEC. 1002. Such decision may be reviewed—

(a) In the case of an individual, by the Circuit Court of Appeals for the circuit whereof he is an inhabitant, or if not an inhabitant of any circuit, then by the Court of Appeals of the District of Columbia.

Other than an individual.

(b) In the case of a person (other than an individual), except as provided in subdivision (c), by the Circuit Court of Appeals for the circuit in which is located the office of the collector to whom such person made the return, or in case such person made no return, then by the Court of Appeals of the District of Columbia.

Corporation with no United States office.

(c) In the case of a corporation which had no principal place of business or principal office or agency in the United States, then by the Court of Appeals of the District of Columbia.

By agreement of Commissioner and taxpayer.

(d) In the case of an agreement between the Commissioner and the taxpayer, then by the Circuit Court of Appeals for the circuit, or the Court of Appeals of the District of Columbia, as stipulated in such agreement.

Jurisdiction.

JURISDICTION

Courts of appeals given exclusive, to review decisions of Board.

SEC. 1003. (a) The Circuit Courts of Appeals and the Court of Appeals of the District of Columbia shall have exclusive jurisdiction to review the decisions of the Board (except as provided in section 239 of the Judicial Code, as amended); and the judgment of any such court shall be final, except that it shall be subject to review by the Supreme Court of the United States upon certiorari, in the manner provided in section 240 of the Judicial Code, as amended.

Certiorari.

Vol. 43, p. 938.

Power of courts to affirm, modify, or reverse.

(b) Upon such review, such courts shall have power to affirm or, if the decision of the Board is not in accordance with law, to modify or to reverse the decision of the Board, with or without remanding the case for a rehearing, as justice may require.

To impose damages if petition merely for delay.

SEC. 1004. (a) The Circuit Courts of Appeals, the Court of Appeals of the District of Columbia, and the Supreme Court shall have power to impose damages in any case where the decision of the Board is affirmed and it appears that the petition was filed merely for delay.

Fees authorized.

(b) The Board is authorized to fix a fee, not in excess of the fee fixed by law to be charged and collected therefor by the clerks of the district courts, for comparing, or for preparing and comparing, a transcript of the record.

Decisions of Board.

DATE ON WHICH BOARD'S DECISION BECOMES FINAL

Final date.

SEC. 1005. (a) The decision of the Board shall become final—

If no petition for review filed.

(1) Upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time; or

BOARD OF TAX APPEALS.

If no certiorari petition filed.

(2) Upon the expiration of the time allowed for filing a petition for certiorari, if the decision of the Board has been affirmed or the petition for review dismissed by the Circuit Court of Appeals and no petition for certiorari has been duly filed; or

Denial of certiorari, and decision affirmed.

(3) Upon the denial of a petition for certiorari, if the decision of the Board has been affirmed or the petition for review dismissed by the Circuit Court of Appeals; or

After issue of mandate of Supreme Court.

(4) Upon the expiration of 30 days from the date of issuance of the mandate of the Supreme Court, if such Court directs that the decision of the Board be affirmed or the petition for review dismissed.

When decision modified by Supreme Court, etc.

(b) If the Supreme Court directs that the decision of the Board be modified or reversed, the decision of the Board rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of 30 days from the time it was rendered, unless within such 30 days either the Commissioner or the taxpayer has instituted proceedings to have such decision corrected to accord with the mandate, in which event the decision of the Board shall become final when so corrected.

When decision modified by circuit court of appeals.

(c) If the decision of the Board is modified or reversed by the Circuit Court of Appeals, and if (1) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the Court has been affirmed by the Supreme Court, then the decision of the Board rendered in accordance with the mandate of the Circuit Court of Appeals shall become final on the expiration of 30 days from the time such decision of the Board was rendered, unless within such 30 days either the Commissioner or the taxpayer has instituted proceedings to have such decision corrected so that it will accord with the mandate, in which event the decision of the Board shall become final when so corrected.

Upon orders for a rehearing by Supreme Court, or circuit court of appeals.

(d) If the Supreme Court orders a rehearing; or if the case is remanded by the Circuit Court of Appeals to the Board for a rehearing, and if (1) the time allowed for filing a petition for certiorari has expired, and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the decision of the Board rendered upon such rehearing shall become final in the same manner as though no prior decision of the Board had been rendered.

Terms construed.

(e) As used in this section—

"Circuit Court of Appeals."

(1) The term "Circuit Court of Appeals" includes the Court of Appeals of the District of Columbia;

"Mandate."

(2) The term "mandate," in case a mandate has been recalled prior to the expiration of 30 days from the date of issuance thereof, means the final mandate.

TITLE XI.—GENERAL ADMINISTRATIVE PROVISIONS

ADMINISTRATIVE PROVISIONS.

LAWS MADE APPLICABLE

Laws made applicable.

General internal revenue laws. Vol. 42, p. 308.

SEC. 1100. All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are hereby extended to and made a part of this Act.

RULES AND REGULATIONS

Rules and regulations.

Authorized for enforcement.

SEC. 1101. The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this Act.

REVENUE ACT OF 1926.

RECORDS, STATEMENTS, AND SPECIAL RETURNS

Records, etc.
Taxpayers to keep prescribed records, etc.

SEC. 1102. (a) Every person liable to any tax imposed by this Act, or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

Any person may be required to make returns, etc.

(b) Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records as the Commissioner deems sufficient to show whether or not such person is liable to tax.

Returns without oath if tax under $10.

(c) The Commissioner, with the approval of the Secretary, may by regulation prescribe that any return required by any internal revenue law (except returns required under income or estate tax laws) to be under oath may, if the amount of the tax covered thereby is not in excess of $10, be signed or acknowledged before two witnesses instead of under oath.

Officers authorized to administer oaths.

(d) Any oath or affirmation required by the provisions of this Act or regulations made under authority thereof may be administered by any officer authorized to administer oaths for general purposes by the law of the United States or of any State, Territory, or possession of the United States, wherein such oath or affirmation is administered, or by any consular officer of the United States.

Returns.
R. S., sec. 3176, p. 610, amended.

SEC. 1103. Section 3176 of the Revised Statutes, as amended, is amended to read as follows:

Returns by collector if none or a false one made by the taxpayer.
Vol. 43, p. 339, amended.

"SEC. 3176. If any person, corporation, company, or association fails to make and file a return or list at the time prescribed by law or by regulation made under authority of law, or makes, willfully or otherwise, a false or fraudulent return or list, the collector or deputy collector shall make the return or list from his own knowledge and from such information as he can obtain through testimony or otherwise. In any such case the Commissioner of Internal Revenue may, from his own knowledge and from such information as he can obtain through testimony or otherwise, make a return or amend any return made by a collector or deputy collector. Any return or list so made and subscribed by the Commissioner, or by a collector or deputy collector and approved by the Commissioner, shall be prima facie good and sufficient for all legal purposes.

By Commissioner.

Legal effect.

Extension allowed to returns, except income, for sickness, etc.

"If the failure to file a return (other than a return under Title II of the Revenue Act of 1924 or Title II of the Revenue Act of 1926) or a list is due to sickness or absence, the collector may allow such further time, not exceeding 30 days, for making and filing the return or list as he deems proper.

Assessment of tax by Commissioner.

"The Commissioner of Internal Revenue shall determine and assess all taxes, other than stamp taxes, as to which returns or lists are so made under the provisions of this section. In case of any failure to make and file a return or list within the time prescribed by law, or prescribed by the Commissioner of Internal Revenue or the collector in pursuance of law, the Commissioner shall add to the tax 25 per centum of its amount, except that when a return is filed after such time and it is shown that the failure to file it was due to a reasonable cause and not to willful neglect, no such addition shall be made to the tax. In case a false or fraudulent return or list is willfully made, the Commissioner shall add to the tax 50 per centum of its amount.

Additional tax imposed.

Exception if failure not willful.

Increased rate for fraudulent returns.

Collection, etc., of added tax.

"The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax."

EXAMINATION OF BOOKS AND WITNESSES

Examination of books and witnesses.

Powers conferred on revenue officers to secure information.

Vol. 43, p. 340.

SEC. 1104. The Commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making a return where none has been made, is hereby authorized, by any revenue agent or inspector designated by him for that purpose, to examine any books, papers, records, or memoranda bearing upon the matters required to be included in the return, and may require the attendance of the person rendering the return or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter required by law to be included in such return, with power to administer oaths to such person or persons.

UNNECESSARY EXAMINATIONS

Unnecessary examinations.

Restriction on making.

SEC. 1105. No taxpayer shall be subjected to unnecessary examinations or investigations, and only one inspection of a taxpayer's books of account shall be made for each taxable year unless the taxpayer requests otherwise or unless the Commissioner, after investigation, notifies the taxpayer in writing that an additional inspection is necessary.

FINAL DETERMINATIONS AND ASSESSMENTS

Final determinations and assessments.

Effect of statute of limitations against United States.

SEC. 1106. (a) The bar of the statute of limitations against the United States in respect of any internal-revenue tax shall not only operate to bar the remedy but shall extinguish the liability; but no credit or refund in respect of such tax shall be allowed unless the taxpayer has overpaid the tax. The bar of the statute of limitations against the taxpayer in respect of any internal-revenue tax shall not only operate to bar the remedy but shall extinguish the liability; but no collection in respect of such tax shall be made unless the taxpayer has underpaid the tax.

Against taxpayer.

Cases settled without protest not to be reopened.

(b) If after a determination and assessment in any case the taxpayer has paid in whole any tax or penalty, or accepted any abatement, credit, or refund based on such determination and assessment, and an agreement is made in writing between the taxpayer and the Commissioner, with the approval of the Secretary, that such determination and assessment shall be final and conclusive, then (except upon a showing of fraud or malfeasance or misrepresentation of fact materially affecting the determination or assessment thus made) (1) the case shall not be reopened or the determination and assessment modified by any officer, employee, or agent of the United States, and (2) no suit, action, or proceeding to annul, modify, or set aside such determination or assessment shall be entertained by any court of the United States.

Fraud, etc., excepted.

No suit to be entertained by any United States court.

ADMINISTRATIVE REVIEW

Administrative review.

Findings of facts and decisions of Commissioner not subject to review by any other officer.

SEC. 1107. In the absence of fraud or mistake in mathematical calculation, the findings of facts in and the decision of the Commissioner upon (or in case the Secretary is authorized to approve the same, then after such approval) the merits of any claim presented under or authorized by the internal-revenue laws shall not, except as provided in Title IX of the Revenue Act of 1924, as amended, be subject to review by any other administrative or accounting officer, employee, or agent of the United States.

By Board of Tax Appeals excepted.

Ante, p. 105.

REVENUE ACT OF 1926.

Retroactive regulations.

RETROACTIVE REGULATIONS

Reversed Treasury decision not retroactive, except by order of court.

SEC. 1108. (a) In case a regulation or Treasury decision relating to the internal-revenue laws, made by the Commissioner or the Secretary, or by the Commissioner with the approval of the Secretary, is reversed by a subsequent regulation or Treasury decision, and such reversal is not immediately occasioned or required by a decision of a court of competent jurisdiction, such subsequent regulation or Treasury decision may, in the discretion of the Commissioner, with the approval of the Secretary, be applied without retroactive effect.

No excise tax levied on articles if not taxable under Treasury ruling, etc.

(b) No tax shall be levied, assessed, or collected under the provisions of Title VI of this Act on any article sold or leased by the manufacturer, producer, or importer, if at the time of the sale or lease there was an existing ruling, regulation, or Treasury decision holding that the sale or lease of such article was not taxable, and the manufacturer, producer, or importer parted with possession or ownership of such article, relying upon the ruling, regulation, or Treasury decision.

Assessments.

LIMITATION ON ASSESSMENTS AND SUITS BY THE UNITED STATES

Vol. 43, p. 341, amended.

SEC. 1109. (a) Except as provided in sections 277, 278, 310, and 311—

Limited to four years, except income and estate taxes.

(1) Notwithstanding the provisions of section 3182 of the Revised Statutes or any other provision of law, all internal-revenue taxes shall (except as provided in paragraph (2) or (3) of this subdivision) be assessed within four years after such taxes became due, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of five years after such taxes became due.

No court proceeding for collection after five years.

Fraudulent returns, etc., may be assessed at any time.

(2) In case of a false or fraudulent return with intent to evade tax, of a failure to file a return within the time required by law, or of a willful attempt in any manner to defeat or evade tax, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

Collection by distraint, etc., within six years after assessment.

(3) Where the assessment of any tax imposed by this Act or by prior Act of Congress has been made (whether before or after the enactment of this Act) within the statutory period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court (begun before or after the enactment of this Act), but only if begun (A) within six years after the assessment of the tax, or (B) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the taxpayer.

Subject to statutory limitations, etc.

(b) This section shall not bar a distraint or proceeding in court begun before the enactment of the Revenue Act of 1924; nor shall it authorize the assessment of a tax or the collection thereof by distraint or by proceeding in court if at the time of the enactment of this Act such assessment, distraint, or proceeding was barred by the statutory period of limitation properly applicable thereto, unless prior to the enactment of this Act the Commissioner and the taxpayer agreed in writing thereto.

Prosecutions.

LIMITATION ON PROSECUTIONS BY THE UNITED STATES

Limit of time for.

Vol. 23, p. 122, amended.

Vol. 43, p. 341.

SEC. 1110. (a) The Act entitled "An Act to limit the time within which prosecutions may be instituted against persons charged with violating internal-revenue laws," approved July 5, 1884, as amended, is reenacted without change, as follows:

"That no person shall be prosecuted, tried, or punished for any of the various offenses arising under the internal revenue laws of the United States unless the indictment is found or the information instituted within three years next after the commission of the offense: *Provided*, That for offenses involving the defrauding or attempting to defraud the United States or any agency thereof, whether by conspiracy or not, and in any manner, the period of limitation shall be six years, but this proviso shall not apply to acts, offenses, or transactions which were barred by law at the time of the enactment of the Revenue Act of 1924: *Provided further*, That the time during which the person committing the offense is absent from the district wherein the same is committed shall not be taken as any part of the time limited by law for the commencement of such proceedings: *Provided further*, That the provisions of this Act shall not apply to offenses committed prior to its passage: *Provided further*, That where a complaint shall be instituted before a commissioner of the United States within the period above limited, the time shall be extended until the discharge of the grand jury at its next session within the district: *And provided further*, That this Act shall not apply to offenses committed by officers of the United States."

REVENUE ACT OF 1926.
Prosecutions to be instituted within three years after offense committed.
Provisos.
Six years, if offense to defraud the Government, etc.
Barred by limitation excepted.
Absence from district not included.
Not applicable to prior offenses.
Extended, if before a commissioner.
Government officers not affected.

(b) Any prosecution or proceeding under an indictment found or information instituted prior to the enactment of the Revenue Act of 1921 shall not be affected in any manner by this section, nor by the amendment by the Revenue Act of 1921 of such Act of July 5, 1884, but such prosecution or proceeding shall be subject to the limitations imposed by law prior to the enactment of the Revenue Act of 1921.

Prior proceedings not affected.

REFUNDS

Refunds.

SEC. 1111. Section 3220 of the Revised Statutes, as amended, is amended to read as follows:

"SEC. 3220. Except as otherwise provided in sections 284 and 319 of the Revenue Act of 1926 the Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, is authorized to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected; also to repay to any collector or deputy collector the full amount of such sums of money as may be recovered against him in any court, for any internal-revenue taxes collected by him, with the cost and expenses of suit; also all damages and costs recovered against any assessor, assistant assessor, collector, deputy collector, agent, or inspector, in any suit brought against him by reason of anything done in the due performance of his official duty, and shall make report to Congress at the beginning of each regular session of Congress of all transactions under this section."

Law amended.
Vol. 43, p. 342, amended.
Erroneously collected taxes, penalties, etc., to be refunded.
R. S., sec. 3220, p. 618, amended.
Repayment of judgments against collectors.
Damages against officers.
Report to Congress.

SEC. 1112. Section 3228 of the Revised Statutes, as amended, is amended to read as follows:

"SEC. 3228. (a) All claims for the refunding or crediting of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty alleged to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected must, except as provided in sections 284 and 319 of the Revenue Act of 1926, be presented to the Commissioner of Internal Revenue within four years next after the payment of such tax, penalty, or sum.

Erroneously collected taxes.
R. S., sec. 3228, p. 620, amended.
Time limit for presenting claims for.
Vol. 43, p. 342, amended.
Exception.
Ante, pp. 66, 84.

REVENUE ACT OF 1926.
Claims barred by limitation.
Vol. 39, p. 756; Vol. 40, pp. 300, 1057.

"(b) Except as provided in section 284 of the Revenue Act of 1926, claims for credit or refund (other than claims in respect of taxes imposed by the Revenue Act of 1916, the Revenue Act of 1917, or the Revenue Act of 1918) which at the time of the enactment of the Revenue Act of 1921 were barred from allowance by the period of limitation then in existence, shall not be allowed."

Suits, etc., by taxpayers.

LIMITATIONS UPON SUITS AND PROCEEDINGS BY THE TAXPAYER

Law reenacted.
Vol. 43, p. 343.

SEC. 1113. (a) Section 3226 of the Revised Statutes, as amended, is reenacted without change, as follows:

Suits for recovery of erroneously collected taxes, etc., not allowed until claim therefor filed.
R. S., sec. 3226, p. 619.

"SEC. 3226. No suit or proceeding shall be maintained in any court for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected until a claim for refund or credit has been duly filed with the Commissioner of Internal Revenue, according to the provisions of law in that regard, and the regulations of the Secretary of the Treasury established in pursuance thereof; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress. No such suit or proceeding shall be begun before the expiration of six months from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of five years from the date of the payment of such tax, penalty, or sum, unless such suit or proceeding is begun within two years after the disallowance of the part of such claim to which such suit or proceeding relates. The Commissioner shall within 90 days after any such disallowance notify the taxpayer thereof by mail."

If paid under protest, etc., allowed.

Time limitation extended.

Notification of disallowance.

Proceedings prior to Act of 1924 not affected.

(b) This section shall not affect any proceeding in court instituted prior to the enactment of the Revenue Act of 1924.

Penalties.

PENALTIES

For willful failure to pay tax, make returns, etc.
Vol. 43, p. 343, amended.

SEC. 1114. (a) Any person required under this Act to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this Act, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

Punishment for.

For willful failure to collect tax, evading payment, etc.

(b) Any person required under this Act to collect, account for and pay over any tax imposed by this Act, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this Act or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

Punishment for.

Assisting in preparation of fraudulent returns, etc.

(c) Any person who willfully aids or assists in, or procures, counsels, or advises, the preparation or presentation under, or in connection with any matter arising under, the internal-revenue laws, of a false or fraudulent return, affidavit, claim, or document, shall

(whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document) be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

Punishment for.

(d) Any person who willfully fails to pay, collect, or truthfully account for and pay over, any tax imposed by Titles IV, V, VI, VII, VIII, and IX, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty of the amount of the tax evaded, or not paid, collected or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected. No penalty shall be assessed under this subdivision for any offense for which a penalty may be assessed under authority of section 3176 of the Revised Statutes, as amended, or for any offense for which a penalty has been recovered under section 3256 of the Revised Statutes.

Additional penalty for refusal to pay, etc., other than income and estate tax.

Exceptions.
Ante, p. 112.
Distilled spirits.
R. S., sec. 3256, p. 627.

(e) Any person in possession of property, or rights to property, subject to distraint, upon which a levy has been made, shall, upon demand by the collector or deputy collector making such levy, surrender such property or rights to such collector or deputy, unless such property or right is, at the time of such demand, subject to an attachment or execution under any judicial process. Any person who fails or refuses to so surrender any of such property or rights shall be liable in his own person and estate to the United States in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of the taxes (including penalties and interest) for the collection of which such levy has been made, together with costs and interest from the date of such levy.

Property levied upon, to be surrendered to collector.

Liability incurred for refusal.

(f) The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

"Person" liable for acts.

REVISED STATUTES

Revised Statutes.

SEC. 1115. Sections 3164, 3165, 3167, 3172, and 3173 of the Revised Statutes, as amended, are reenacted without change, as follows:

Amendments by Act of 1918 reenacted.
Vol. 40, pp. 1146, 1147.

"SEC. 3164. It shall be the duty of every collector of internal revenue having knowledge of any willful violation of any law of the United States relating to the revenue, within thirty days after coming into possession of such knowledge, to file with the district attorney of the district in which any fine, penalty, or forfeiture may be incurred, a statement of all the facts and circumstances of the case within his knowledge, together with the names of the witnesses, setting forth the provisions of law believed to be so violated on which reliance may be had for condemnation or conviction.

Collectors to report violations of revenue laws to district attorney within 30 days.
R. S., sec. 3164, p. 606.
Vol. 43, p. 344.

"SEC. 3165. Every collector, deputy collector, internal-revenue agent, and internal-revenue officer assigned to duty under an internal-revenue agent, is authorized to administer oaths and to take evidence touching any part of the administration of the internal-revenue laws with which he is charged, or where such oaths and evidence are authorized by law or regulation authorized by law to be taken.

Revenue officials authorized to administer oaths, etc.
R. S., sec. 3165, p. 606.
Vol. 43, p. 344.

"SEC. 3167. It shall be unlawful for any collector, deputy collector, agent, clerk, or other officer or employee of the United States to divulge or to make known in any manner whatever not provided by law to any person the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of

Divulging information received by revenue officials, unlawful.
R. S., sec. 3167, p. 606.
Vol. 43, p. 345.

REVENUE ACT OF 1926.
From income returns.

his official duties, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any income return, or to permit any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; and it shall be unlawful for any person to print or publish in any manner whatever not provided by law any income return, or any part thereof or source of income, profits, losses, or expenditures appearing in any income return; and any offense against the foregoing provision shall be a misdemeanor and be punished by a fine not exceeding $1,000 or by imprisonment not exceeding one year, or both, at the discretion of the court; and if the offender be an officer or employee of the United States he shall be dismissed from office or discharged from employment.

Unauthorized publication of income returns.

Punishment for.

Inquiries by deputy collectors.
R. S., sec. 3172, p. 608.
Vol. 43, p. 345.

"SEC. 3172. Every collector shall, from time to time, cause his deputies to proceed through every part of his district and inquire after and concerning all persons therein who are liable to pay any internal-revenue tax, and all persons owning or having the care and management of any objects liable to pay any tax, and to make a list of such persons and enumerate said objects.

Taxpayers to make yearly returns.
R. S., sec. 3173, p. 609.
Vol. 43, p. 345.

"SEC. 3173. It shall be the duty of any person, partnership, firm, association, or corporation, made liable to any duty, special tax, or other tax imposed by law, when not otherwise provided for, (1) in case of a special tax, on or before the thirty-first day of July in each year, and (2) in other cases before the day on which the taxes accrue, to make a list or return, verified by oath, to the collector or a deputy collector of the district where located, of the articles or objects, including the quantity of goods, wares, and merchandise, made or sold and charged with a tax, the several rates and aggregate amount, according to the forms and regulations to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, for which such person, partnership, firm, association, or corporation is liable: *Provided*, That if any person liable to pay any duty or tax, or owning, possessing, or having the care or management of property, goods, wares, and merchandise, article or objects liable to pay any duty, tax, or license, shall fail to make and exhibit a list or return required by law, but shall consent to disclose the particulars of any and all the property, goods, wares, and merchandise, articles, and objects liable to pay any duty or tax, or any business or occupation liable to pay any tax as aforesaid, then, and in that case, it shall be the duty of the collector or deputy collector to make such list or return, which, being distinctly read, consented to, and signed and verified by oath by the person so owning, possessing, or having the care and management as aforesaid, may be received as the list of such person: *Provided further*, That in case no annual list or return has been rendered by such person to the collector or deputy collector as required by law, and the person shall be absent from his or her residence or place of business at the time the collector or a deputy collector shall call for the annual list or return, it shall be the duty of such collector or deputy collector to leave at such place of residence or business, with some one of suitable age and discretion, if such be present, otherwise to deposit in the nearest post office, a note or memorandum addressed to such person, requiring him or her to render to such collector or deputy collector the list or return required by law within ten days from the date of such note or memorandum, verified by oath. And if any person, on being notified or required as aforesaid, shall refuse or neglect to render such list or return within the time required as aforesaid, or whenever any person who is required to deliver a monthly or other return of objects subject to

Details specified.

Provisos.
By revenue officers with consent of party in default.

Notice to taxpayer not making returns, etc.

Summons on refusal, for not making returns, etc.

tax fails to do so at the time required, or delivers any return which, in the opinion of the collector, is erroneous, false, or fraudulent, or contains any undervaluation or understatement, or refuses to allow any regularly authorized Government officer to examine the books of such person, firm, or corporation, it shall be lawful for the collector to summon such person, or any other person having possession, custody, or care of books of account containing entries relating to the business of such person or any other person he may deem proper, to appear before him and produce such books at a time and place named in the summons, and to give testimony or answer interrogatories, under oath, respecting any objects or income liable to tax or the returns thereof. The collector may summon any person residing or found within the State or Territory in which his district lies; and when the person intended to be summoned does not reside and can not be found within such State or Territory, he may enter any collection district where such person may be found and there make the examination herein authorized. And to this end he may there exercise all the authority which he might lawfully exercise in the district for which he was commissioned: *Provided*, That 'person,' as used in this section, shall be construed to include any corporation, joint-stock company or association, or insurance company when such construction is necessary to carry out its provisions."

Testimony to be procured.

Authority of district collector.

Corporations, etc., included in "person."

INTEREST ON REFUNDS AND CREDITS

Interest allowances.

SEC. 1116. (a) Upon the allowance of a credit or refund of any internal-revenue tax erroneously or illegally assessed or collected, or of any penalty collected without authority, or of any sum which was excessive or in any manner wrongfully collected, interest shall be allowed and paid on the amount of such credit or refund at the rate of 6 per centum per annum from the date such tax, penalty, or sum was paid to the date of the allowance of the refund, or in the case of a credit, to the due date of the amount against which the credit is taken, but if the amount against which the credit is taken is an additional assessment made under the Revenue Act of 1921, the Revenue Act of 1924, or this Act, then to the date of the assessment of that amount.

Rate on claims for credits or refunds.

Vol. 43, p. 346, amended.

Date allowed.

After additional assessment.

(b) As used in this section—

Meanings of terms.

(1) The term "additional assessment" means a further assessment for a tax of the same character previously paid in part, and includes the assessment of a deficiency under Title II or Title III of the Revenue Act of 1924 or of this Act;

"Additional assessment."

(2) The term "date of the allowance of the refund" means, in the case of any income, war-profits, or excess-profits tax, the first date on which the Commissioner signs the schedule of overassessments in respect thereof.

"Date of the allowance of the refund."

(c) This section shall be applicable to any refund paid, and to any credit taken, on or after the date of the enactment of this Act, even though such refund or credit was allowed prior to such date.

Application to prior refunds, etc.

INTEREST ON JUDGMENTS

Interest on judgments.

Judicial Code.

SEC. 1117. Section 177 of the Judicial Code, as amended, is amended to read as follows:

Vol. 36, p. 1141, amended.

"SEC. 177. (a) No interest shall be allowed on any claim up to the time of the rendition of judgment by the Court of Claims, unless upon a contract expressly stipulating for the payment of interest, except as provided in subdivision (b).

Allowance restricted on Court of Claims judgments.

Vol. 43, p. 346, amended.

REVENUE ACT OF 1926.
Rate on judgments hereafter by any court, for erroneous revenue collections, etc.

"(b) In any judgment of any court rendered after the enactment of the Revenue Act of 1926 (whether against the United States, a collector or deputy collector of internal revenue, a former collector or deputy collector, or the personal representative in case of death) for any internal-revenue tax erroneously or illegally assessed or collected, or for any penalty collected without authority or for any sum which was excessive or in any manner wrongfully collected, under the internal-revenue laws, interest shall be allowed at the rate of 6 per centum per annum upon the amount of such tax, penalty, or sum, from the date of the payment or collection thereof to the date of entry of such judgment or, if such judgment is reviewed by an appellate court, to the date of entry of final judgment."

Payment of taxes.

PAYMENT OF AND RECEIPTS FOR TAXES

Federal notes, and uncertified checks, accepted for other than stamp taxes.
Vol. 43, p. 347.

SEC. 1118. (a) Collectors may receive, at par with an adjustment for accrued interest, notes or certificates of indebtedness issued by the United States and uncertified checks in payment of income, war-profits, and excess-profits taxes and any other taxes payable other than by stamp, during such time and under such rules and regulations as the Commissioner, with the approval of the Secretary, shall prescribe; but if a check so received is not paid by the bank on which it is drawn the person by whom such check has been tendered shall remain liable for the payment of the tax and for all legal penalties and additions to the same extent as if such check had not been tendered.

Liability for checks.

Receipts for taxes to be given by collector on request.

(b) Every collector to whom any payment of any income tax is made shall upon request give to the person making such payment a full written or printed receipt, stating the amount paid and the particular account for which such payment was made; and whenever any debtor pays taxes on account of payments made or to be made by him to separate creditors the collector shall, if requested by such debtor, give a separate receipt for the tax paid on account of each creditor in such form that the debtor can conveniently produce such receipts separately to his several creditors in satisfaction of their respective demands up to the amounts stated in the receipts; and such receipt shall be sufficient evidence in favor of such debtor to justify him in withholding from his next payment to his creditor the amount therein stated; but the creditor may, upon giving to his debtor a full written receipt acknowledging the payment to him of any sum actually paid and accepting the amount of tax paid as aforesaid (specifying the same) as a further satisfaction of the debt to that amount, require the surrender to him of such collector's receipt.

Evidence of tax paid.

Surrender to creditor as a payment on debt.

Fractions of a cent.

(c) In the payment of any tax under this Act not payable by stamp a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

Collecting taxes.

METHOD OF COLLECTING TAX

Discretionary methods allowed for other than income, estate, and stamp taxes.
Vol. 43, p. 347.

SEC. 1119. Whether or not the method of collecting any tax imposed by Titles IV, V, VI, or VII is specifically provided therein, any such tax may, under regulations prescribed by the Commissioner with the approval of the Secretary, be collected by stamp, coupon, serial-numbered ticket, or such other reasonable device or method as may be necessary or helpful in securing a complete and prompt collection of the tax. All administrative and penalty provisions of Title VIII, in so far as applicable, shall apply to the collection of any tax which the Commissioner determines or prescribes shall be collected in such manner.

Penalties applicable.
Ante, p. 99.

OVERPAYMENTS AND OVERCOLLECTIONS

Overpayments and overcollections.

Credits and refunds allowed for, of admission and excise taxes.

Ante, pp. 91, 93.

SEC. 1120. In the case of any overpayment or overcollection of any tax imposed by Title V or VI, the person making such overpayment or overcollection may take credit therefor against taxes due upon any monthly return, and shall make refund of any excessive amount collected by him upon proper application by the person entitled thereto.

ARTICLES EXPORTED

Articles exported.

Tobacco and excise taxes not applicable to exports.

Ante, pp. 87, 93, 105.

SEC. 1121. Under such rules and regulations as the Commissioner with the approval of the Secretary may prescribe, the taxes imposed under the provisions of Title IV or VI or of section 903 shall not apply in respect of articles sold or leased for export or for shipment to a possession of the United States and in due course so exported or shipped. Under such rules and regulations the amount of any internal-revenue tax erroneously or illegally collected in respect of such articles so exported or shipped may be refunded to the exporter or shipper of the articles, instead of to the manufacturer, if the manufacturer waives any claim for the amount so to be refunded.

Refund to exporter.

JURISDICTION OF COURTS

Jurisdiction of courts.

Power to secure testimony, etc.

SEC. 1122. (a) If any person is summoned under this Act to appear, to testify, or to produce books, papers, or other data, the district court of the United States for the district in which such person resides shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, or other data.

District courts to issue orders and processes, render judgment, etc.

(b) The district courts of the United States at the instance of the United States are hereby invested with such jurisdiction to make and issue, both in actions at law and suits in equity, writs and orders of injunction, and of ne exeat republica, orders appointing receivers, and such other orders and process, and to render such judgments and decrees, granting in proper cases both legal and equitable relief together, as may be necessary or appropriate for the enforcement of the provisions of this Act. The remedies hereby provided are in addition to and not exclusive of any and all other remedies of the United States in such courts or otherwise to enforce such provisions.

Additional to other remedies.

District courts.
Vol. 42, p. 311.
Vol. 36, p. 1093.

(c) The paragraph added by section 1310 of the Revenue Act of 1921 at the end of paragraph Twentieth of section 24 of the Judicial Code, relating to the jurisdiction of district courts, as amended, is reenacted without change, as follows:

Concurrent jurisdiction of, with Court of Claims for recovery of erroneously collected taxes, etc., if collector dead.
Vol. 43, p. 972.

"Concurrent with the Court of Claims, of any suit or proceeding, commenced after the passage of the Revenue Act of 1921, for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority or any sum alleged to have been excessive or in any manner wrongfully collected, under the internal-revenue laws, even if the claim exceeds $10,000, if the collector of internal revenue by whom such tax, penalty, or sum was collected is dead or is not in office as collector of internal revenue at the time such suit or proceeding is commenced."

FRAUDS ON PURCHASERS

Frauds on purchasers.

False statement as to effect of tax on price of article sold, a misdemeanor.
Vol. 43, p. 348.

SEC. 1123. Whoever in connection with the sale or lease, or offer for sale or lease, of any article, or for the purpose of making such sale or lease, makes any statement, written or oral, (1) intended or calculated to lead any person to believe that any part of the

REVENUE ACT OF 1926.

price at which such article is sold or leased, or offered for sale or lease, consists of a tax imposed under the authority of the United States, or (2) ascribing a particular part of such price to a tax imposed under the authority of the United States, knowing that such statement is false or that the tax is not so great as the portion of such price ascribed to such tax, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $1,000 or by imprisonment not exceeding one year, or both.

Punishment for.

Lost stamps.

LOST STAMPS FOR TOBACCO, CIGARS, AND SO FORTH

Restamping packages, etc.

SEC. 1124. Section 3315 of the Revised Statutes, as amended, is reenacted without change, as follows:

Issue authorized to replace stamps unavoidably lost, etc.
R. S., sec. 3315, p. 643.
Vol. 43, p. 349.

"SEC. 3315. The Commissioner of Internal Revenue may, under regulations prescribed by him with the approval of the Secretary of the Treasury, issue stamps for restamping packages of distilled spirits, tobacco, cigars, snuff, cigarettes, fermented liquors, and wines which have been duly stamped but from which the stamps have been lost or destroyed by unavoidable accident."

Liberty bonds, etc.

CONSOLIDATION OF LIBERTY BOND TAX EXEMPTIONS

Consolidation of tax exemptions.
Vol. 43, p. 349, amended.

SEC. 1125. The various Acts authorizing the issues of Liberty bonds are amended and supplemented as follows:

Modification of allowance from graduated income taxes.

(a) On and after January 1, 1921, 4 per centum and 4¼ per centum Liberty bonds shall be exempt from graduated additional income taxes, commonly known as surtaxes, and excess-profits and war-profits taxes, now or hereafter imposed by the United States upon the income or profits of individuals, partnerships, corporations, or associations, in respect to the interest on aggregate principal amounts thereof as follows:

Until two years after end of World War.

Until the expiration of two years after the date of the termination of the war between the United States and the German Government, as fixed by proclamation of the President, on $125,000 aggregate principal amount; and for three years more on $50,000 aggregate principal amount.

For three years more.

Additional to prior exemptions.
Vol. 40, p. 291.

(b) The exemptions provided in subdivision (a) shall be in addition to the exemptions provided in section 7 of the Second Liberty Bond Act, and in addition to the exemption provided in subdivision (3) of section 1 of the Supplement to the Second Liberty Bond Act in respect to bonds issued upon conversion of 3½ per centum bonds, but shall be in lieu of the exemptions provided and free from the conditions and limitations imposed in subdivisions (1) and (2) of section 1 of the Supplement to the Second Liberty Bond Act and in section 2 of the Victory Liberty Loan Act.

Vol. 40, p. 966.

In lieu of exemptions during the war.
Vol. 40, pp. 965, 1310.

Federal bonds or notes.

DEPOSIT OF UNITED STATES BONDS OR NOTES IN LIEU OF SURETY

Accepted as penal bonds in lieu of personal sureties.
Vol. 42, p. 318.

SEC. 1126. Wherever by the laws of the United States or regulations made pursuant thereto, any person is required to furnish any recognizance, stipulation, bond, guaranty, or undertaking, hereinafter called "penal bond," with surety or sureties, such person may, in lieu of such surety or sureties, deposit as security with the official having authority to approve such penal bond, United States Liberty bonds or other bonds or notes of the United States in a sum equal at their par value to the amount of such penal bond required to be furnished, together with an agreement authorizing such official to collect or sell such bonds or notes so deposited in case of any default in the performance of any of the conditions or stipulations of such penal bond. The acceptance of such United States bonds or notes in

Legal effect.

lieu of surety or sureties required by law shall have the same force and effect as individual or corporate sureties, or certified checks, bank drafts, post-office money orders, or cash, for the penalty or amount of such penal bond. The bonds or notes deposited hereunder and such other United States bonds or notes as may be substituted therefor from time to time as such security, may be deposited with the Treasurer of the United States, a Federal reserve bank, or other depositary duly designated for that purpose by the Secretary, which shall issue receipt therefor, describing such bonds or notes so deposited. As soon as security for the performance of such penal bond is no longer necessary, such bonds or notes so deposited shall be returned to the depositor: *Provided*, That in case a person or persons supplying a contractor with labor or material as provided by the Act of Congress, approved February 24, 1905 (33 Stat. 811), entitled "An Act to amend an Act approved August thirteenth, eighteen hundred and ninety-four, entitled 'An Act for the protection of persons furnishing materials and labor for the construction of public works,'" shall file with the obligee, at any time after a default in the performance of any contract subject to said Acts, the application and affidavit therein provided, the obligee shall not deliver to the obligor the deposited bonds or notes nor any surplus proceeds thereof until the expiration of the time limited by said Acts for the institution of suit by such person or persons, and, in case suit shall be instituted within such time, shall hold said bonds or notes or proceeds subject to the order of the court having jurisdiction thereof: *Provided further*, That nothing herein contained shall affect or impair the priority of the claim of the United States against the bonds or notes deposited or any right or remedy granted by said Acts or by this section to the United States for default upon any obligation of said penal bond: *Provided further*, That all laws inconsistent with this section are hereby so modified as to conform to the provisions hereof: *And provided further*, That nothing contained herein shall affect the authority of courts over the security, where such bonds are taken as security in judicial proceedings, or the authority of any administrative officer of the United States to receive United States bonds for security in cases authorized by existing laws. The Secretary may prescribe rules and regulations necessary and proper for carrying this section into effect.

Depositaries.

Return to taxpayer.

Provisos.
Retention on default of contractor for public works.
Vol. 33, p. 811.
Vol. 28, p. 278.

Application to subcontractor, etc.

Priority of United States not affected.

Inconsistent laws modified.

Judicial authority not affected.

Rules to be prescribed.

ENFORCEMENT OF TAX LIENS

Enforcement of tax liens.

SEC. 1127. Section 3207 of the Revised Statutes, as amended, is reenacted without change, as follows:

Law reenacted.
Vol. 43, p. 350.

"SEC. 3207. (a) In any case where there has been a refusal or neglect to pay any tax, and it has become necessary to seize and sell real estate to satisfy the same, the Commissioner of Internal Revenue may direct a bill in chancery to be filed, in a district court of the United States, to enforce the lien of the United States for tax upon any real estate, or to subject any real estate owned by the delinquent, or in which he has any right, title, or interest, to the payment of such tax. All persons having liens upon or claiming any interest in the real estate sought to be subjected as aforesaid, shall be made parties to such proceedings, and be brought into court as provided in other suits in chancery therein. And the said court shall, at the term next after the parties have been duly notified of the proceedings, unless otherwise ordered by the court, proceed to adjudicate all matters involved therein, and finally determine the merits of all claims to and liens upon the real estate in

Bill in chancery authorized to enforce lien on real estate for unpaid taxes.
R. S., sec. 3207, p. 616.

Persons claiming interest made parties.

Determination of merits by court.

REVENUE ACT OF 1926.

Sale and distribution of proceeds if United States claim established.

question, and, in all cases where a claim or interest of the United States therein is established, shall decree a sale of such real estate, by the proper officer of the court, and a distribution of the proceeds of such sale according to the findings of the court in respect to the interests of the parties and of the United States.

Persons having lien, etc., on such real estate may request Commissioner to file bill.
R. S., sec. 3186, p. 612.
Vol. 24, p. 331.

"(b) Any person having a lien upon or any interest in such real estate, notice of which has been duly filed of record in the jurisdiction in which the real estate is located, prior to the filing of notice of the lien of the United States as provided by section 3186 of the Revised Statutes as amended, or any person purchasing the real estate at a sale to satisfy such prior lien or interest, may make written request to the Commissioner of Internal Revenue to direct the filing of a bill in chancery as provided in subdivision (a), and if the Commissioner fails to direct the filing of such bill within six months after receipt of such written request, such person or purchaser may, after giving notice to the Commissioner, file a petition in the district court of the United States for the district in which the real estate is located, praying leave to file a bill for a final determination of all claims to or liens upon the real estate in question. After a full hearing in open court, the district court may in its discretion enter an order granting leave to file such bill, in which the United States and all persons having liens upon or claiming any interest in the real estate shall be made parties. Service on the United States shall be had in the manner provided by sections 5 and 6 of the Act of March 3, 1887, entitled 'An Act to provide for the bringing of suits against the Government of the United States.' Upon the filing of such bill the district court shall proceed to adjudicate the matters involved therein, in the same manner as in the case of bills filed under subdivision (a) of this section. For the purpose of such adjudication, the assessment of the tax upon which the lien of the United States is based shall be conclusively presumed to be valid, and all costs of the proceedings on the petition and the bill shall be borne by the person filing the bill."

On failure of Commissioner may petition leave of court to file a bill to determine all claims, etc.

United States made parties if petition granted.

Service on United States.
Vol. 24, p. 500.

Adjudication by court.

Tax conclusively presumed valid, etc.

Special deposits.

SPECIAL DEPOSITS

Laws reenacted.
Vol. 43, p. 351.

SEC. 1128. (a) Section 3195 of the Revised Statutes, as amended, is reenacted without change, as follows:

Whole of property, if not divisible, to be sold to pay tax.
R. S., sec. 3195, p. 614.

"SEC. 3195. When any property liable to distraint for taxes is not divisible, so as to enable the collector by sale of a part thereof to raise the whole amount of the tax, with all costs and charges, the whole of such property shall be sold, and the surplus of the proceeds of the sale, after making allowance for the amount of the tax, interest, penalties, and additions thereto, and for the costs and charges of the distraint and sale, shall be deposited with the Treasurer of the United States as provided in subdivision (b) of section 3210."

Special deposit of balance of proceeds.

Post, p. 125.

Vol. 43, p. 351.
R. S., sec. 3210, p. 616.

(b) Section 3210 of the Revised Statutes, as amended, is reenacted without change, as follows:

All enternal revenue tax collections, etc., to be deposited daily in the Treasury.
Except sums in compromise, etc.
Post, p. 125.

"SEC. 3210. (a) Except as provided in subdivision (b) the gross amount of all taxes and revenues received under the provisions of this Act, and collections of whatever nature received or collected by authority of any internal-revenue law, shall be paid daily into the Treasury of the United States under instructions of the Secretary of the Treasury as internal-revenue collections, by the officer receiving or collecting the same, without any abatement or deduction on account of salary, compensation, fees, costs, charges, expenses, or claims of any description. A certificate of such payment, stating the name of the depositor and the specific account on which the deposit was made, signed by the treasurer, assistant treasurer, desig-

Detailed certificate of, to be transmitted to Commissioner.

nated depositary, or proper officer of a deposit bank, shall be transmitted to the Commissioner of Internal Revenue.

"(b) Sums offered in compromise under the provisions of section 3229 of the Revised Statutes and section 35 of Title II of the National Prohibition Act, sums offered for the purchase of real estate under the provisions of section 3208 of the Revised Statutes, and surplus proceeds in any distraint sale, after making allowance for the amount of the tax, interest, penalties, and additions thereto, and for costs and charges of the distraint and sale, shall be deposited with the Treasurer of the United States in a special deposit account in the name of the collector making the deposit. Upon acceptance of such offer in compromise or offer for the purchase of such real estate, the amount so accepted shall be withdrawn by the collector from his special deposit account with the Treasurer of the United States and deposited in the Treasury of the United States as internal-revenue collections. Upon the rejection of any such offer, the Commissioner shall authorize the collector, through whom the amount of such offer was submitted, to refund to the maker of such offer the amount thereof. In the case of surplus proceeds from distraint sales the Commissioner shall, upon application and satisfactory proof in support thereof, authorize the collector through whom the amount was received to refund the same to the person or persons legally entitled thereto."

Special deposit account of collector for sums offered in compromise, for purchase of real estate, etc.
R. S., sec. 3229, p. 620.
Vol. 41, p. 318.
Vol. 20, p. 332.

Withdrawals from, if offers accepted.

Refunds.

Surplus from distraint sales.
Ante, p. 124.

SEIZURE OUTSIDE COLLECTION DISTRICT

Seizure outside collection district.

Law amended.
R. S., sec. 3200, p. 615, amended.

SEC. 1129. Section 3200 of the Revised Statutes is amended to read as follows:

"SEC. 3200. Any collector or deputy collector may, for the collection of taxes imposed upon any person, and committed to him for collection, seize and sell any of the property, real or personal (except property exempt from distraint and sale, under section 3187 of the Revised Statutes), or any right or interest therein, of such person situated in any other collection district within the State in which such officer resides, notwithstanding the provisions of section 3209 of the Revised Statutes; and his proceedings in relation thereto shall have the same effect as if the same were had in his proper collection district."

Real or personal property of delinquent taxpayer may be seized, etc., outside the district.
Exemption.
R. S., sec. 3187, p. 612.

R. S., sec. 3209, p. 616.

DATE ON WHICH DISTRAINT IS BEGUN

Distraints.

Period of limitation running on.

SEC. 1130. In determining the running of any period of limitation in respect of distraint, the distraint shall be held to have been begun (a) in the case of personal property, on the date on which the levy upon such property is made, or (b) in the case of real property, on the date on which notice of the time and place of sale is given to the person whose estate it is proposed to sell.

TITLE XII.—GENERAL PROVISIONS

GENERAL PROVISIONS.

REPEALS

Repeals.

Parts of Revenue Act of 1924 at specified dates.

SEC. 1200. (a) The following parts of the Revenue Act of 1924 are repealed, to take effect (except as otherwise provided in this Act) upon the enactment of this Act, subject to the limitations provided in subdivision (b):

Title II (called "Income Tax") as of January 1, 1925, except section 257 and sections 271 to 282, inclusive;

Income tax.
Vol. 43, pp. 254-303.

Section 257 and sections 271 to 282, inclusive (being certain administrative provisions of the income tax);

REVENUE ACT OF 1926.
Estate tax.
Vol. 43, pp. 303-313.
Gift tax.
Vol. 43, pp. 313-316.
Tax on cigars, etc.
Vol. 43, pp. 316-320.

Part I of Title III (called "Estate Tax");

Part II of Title III (called "Gift Tax") as of January 1, 1926;

Title IV (called "Tax on Cigars, Tobacco, and Manufactures Thereof") except section 400;

Section 400 (being the tax on cigars and cigarettes) effective on the expiration of 30 days after the enactment of this Act;

Tax on admissions.
Vol. 43, pp. 320-322.

Title V (called "Tax on Admissions and Dues"), effective on the expiration of 30 days after the enactment of this Act;

Excise taxes.
Vol. 43, pp. 322-325.

Title VI (called "Excise Taxes") except subdivision (2) of section 600;

Automobiles.

Subdivision (2) of section 600 (being the tax on certain automobiles) effective on the expiration of 30 days after the enactment of this Act;

Special taxes.
Vol. 43, pp. 325-331.
Stamp taxes.
Vol. 43, pp. 331-336.

Title VII (called "Special Taxes"), effective on June 30, 1926;

Title VIII (called "Stamp Taxes"), effective on the expiration of 30 days after the enactment of this Act;

Certain administrative provisions.
Vol. 43, pp. 340-343, 344-352.

Sections 1004, 1005, 1006, and 1007, subdivision (a) of section 1008, sections 1009, 1010, 1011, 1012, 1014, 1018, 1019, and 1020, subdivisions (a) and (b) of section 1021, subdivision (c) of section 1025, and sections 1026, 1027, 1028, 1029, 1030, and 1031 (being certain administrative provisions).

Repealed provisions continued for collecting accrued taxes, enforcing penalties, etc.
Exceptions.
Ante, pp. 63, 81.

(b) The parts of the Revenue Act of 1924 which are repealed by this Act shall (except as provided in sections 283 and 318 and except as otherwise specifically provided in this Act) remain in force for the assessment and collection of all taxes imposed by such Act, and for the assessment, imposition, and collection of all interest, penalties, or forfeitures which have accrued or may accrue in relation to any such taxes, and for the assessment and collection, to the extent provided in the Revenue Act of 1924, of all taxes imposed by prior income, war-profits, or excess-profits tax acts, and for the assessment, imposition, and collection of all interest, penalties, or forfeitures which have accrued or may accrue in relation to any such taxes. In the case of any tax imposed by any part of the Revenue Act of 1924 repealed by this Act, if there is a tax imposed by this Act in lieu thereof, the provision imposing such tax shall remain in force until the corresponding tax under this Act takes effect under the provisions of this Act.

Internal Revenue Bureau.

BUREAU OF INTERNAL REVENUE

Office of General Counsel created.

SEC. 1201. (a) There is hereby created in the Department of the Treasury the office of General Counsel for the Bureau of Internal Revenue. The General Counsel shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive a salary at the rate of $10,000 per annum, payable out of any appropriation available for the payment of expenses of assessing and collecting the internal-revenue taxes. He shall perform such duties as are now required under the internal revenue laws to be performed by the Solicitor of Internal Revenue, or as may be prescribed by the Secretary or required by law. Commencing at such time as the General Counsel first appointed under this section qualifies and takes office, the office of Solicitor of Internal Revenue in the Department of Justice shall cease to exist.

Appointment, salary, duties, etc.

Solicitor of Internal Revenue abolished.

New offices created, with designated salaries.

(b) There shall be in the Bureau of Internal Revenue the following officers who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such duties as may be prescribed by the Commissioner or required by law:

Four Assistant General Counsel.

(1) Four Assistant General Counsel each of whom shall receive a salary at the rate of $8,000 per annum.

(2) One Assistant to the Commissioner who shall receive a salary at the rate of $8,000 per annum. The office of Assistant to the Commissioner provided by existing law is abolished to take effect at such time as the Assistant to the Commissioner first appointed under this section takes office.

Assistant to the Commissioner.

Former office abolished.

(3) One Special Deputy Commissioner who shall receive a salary at the rate of $7,500 per annum.

Special Deputy Commissioner.

SEC. 1202. Under such regulations as the Commissioner, with the approval of the Secretary, may prescribe all internal-revenue agents and inspectors may be granted leave of absence with pay on account of sickness, not to exceed 30 days in any calendar year.

Sick leaves granted revenue agents and inspectors.

JOINT CONGRESSIONAL COMMITTEE ON INTERNAL-REVENUE TAXATION

Joint Committee on Internal Revenue Taxation.

SEC. 1203. (a) There is hereby established a joint congressional committee to be known as the Joint Committee on Internal Revenue Taxation (hereinafter in this section referred to as the "Joint Committee"), and to be composed of ten members as follows:

Established, of ten members.

(1) Five members who are members of the Committee on Finance of the Senate, three from the majority and two from the minority party, to be chosen by such Committee; and

Five from Senate Finance Committee.

(2) Five members who are members of the Committee on Ways and Means of the House of Representatives, three from the majority and two from the minority party, to be chosen by such Committee.

Five from House Ways and Means Committee.

(b) No person shall continue to serve as a member of the Joint Committee after he has ceased to be a member of the Committee by which he was chosen, except that the members chosen by the Committee on Ways and Means who have been re-elected to the House of Representatives may continue to serve as members of the Joint Committee notwithstanding the expiration of the Congress. A vacancy in the Joint Committee shall not affect the power of the remaining members to execute the functions of the Joint Committee, and shall be filled in the same manner as the original selection, except that (1) in case of a vacancy during an adjournment or recess of Congress for a period of more than two weeks, the members of the Joint Committee who are members of the Committee entitled to fill such vacancy may designate a member of such Committee to serve until his successor is chosen by such Committee, and (2) in the case of a vacancy after the expiration of a Congress which would be filled by the Committee on Ways and Means, the members of such Committee who are continuing to serve as members of the Joint Committee may designate a person who, immediately prior to such expiration, was a member of such Committee and who is re-elected to the House of Representatives, to serve until his successor is chosen by such Committee.

Service restrictions, etc.

Filling vacancies.

(c) It shall be the duty of the Joint Committee—

Investigations authorized.

(1) To investigate the operation and effects of the Federal system of internal-revenue taxes;

(2) To investigate the administration of such taxes by the Bureau of Internal Revenue or any executive department, establishment, or agency, charged with their administration;

(3) To make such other investigations in respect of such system of taxes as the Joint Committee may deem necessary;

(4) To investigate measures and methods for the simplification of such taxes, particularly the income tax;

(5) To publish, from time to time, for public examination and analysis, proposed measures and methods for the simplification of

Publish proposed methods for simplifying taxes.

REVENUE ACT OF 1926.

such taxes, and to make to the Senate and the House of Representatives, not later than December 31, 1927, a definite report thereon, together with such recommendations as it may deem advisable; and

Definite report by December 31, 1927.

(6) To report, from time to time, to the Committee on Finance and the Committee on Ways and Means and, in its discretion, to the Senate or the House of Representatives, or both, the results of its investigations, together with such recommendations as it may deem advisable.

Report of results from time to time.

(d) The Joint Committee shall have the same right to obtain data and to inspect returns as the Committee on Ways and Means or the Committee on Finance, and to submit any relevant or useful information thus obtained to the Senate, the House of Representatives, the Committee on Ways and Means, or the Committee on Finance. The Committee on Ways and Means or the Committee on Finance may submit such information to the House or to the Senate, or to both the House and the Senate, as the case may be.

Authority given to obtain data, inspect returns, etc.

(e) The Joint Committee shall meet and organize as soon as practicable after at least a majority of the members have been chosen, and shall elect a chairman and vice chairman from among its members and shall have power to appoint and fix the compensation of a clerk and such experts and clerical, stenographic, and other assistants, as it deems advisable.

Organization, personnel, etc.

(f) The Joint Committee, or any subcommittee thereof, is authorized to hold hearings and to sit and act at such places and times, to require by subpœna or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to have such printing and binding done, and to make such expenditures, as it deems advisable. The cost of stenographic services in reporting such hearings shall not be in excess of 25 cents per hundred words. Subpœnas for witnesses shall be issued under the signature of the chairman or vice chairman.

Hearings, etc.

Attendance of witnesses, etc.

(g) The members shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Joint Committee, other than expenses in connection with meetings of the Joint Committee held in the District of Columbia during such times as the Congress is in session.

Allowance only for expenses of travel, subistence, etc.

(h) The expenses of the Joint Committee shall be paid one-half from the contingent fund of the Senate and one-half from the contingent fund of the House of Representatives, upon vouchers signed by the chairman or vice chairman.

Expenses from contingent fund of both Houses.

Refund of automobile tax.

REFUND OF AUTOMOBILE TAX

Refund of difference in rate of tax on articles sold to a dealer, prior to new rate.

Vol. 43, p. 322.
Ante, p. 126.

SEC. 1204. (a) Where prior to the effective date of the repeal of subdivision (2) of section 600 of the Revenue Act of 1924 any article subject to the tax imposed by such subdivision has been sold by the manufacturer, producer, or importer, and is on such date held by a dealer and intended for sale, there shall be refunded to the manufacturer, producer, or importer an amount equal to 2 per centum of the price for which such article was sold by him, or, if the tax has not been paid, an amount equal to such 2 per centum shall be credited against the tax in respect of such article.

Meaning of "dealer."

(b) As used in this section the term "dealer" includes a wholesaler, jobber, or distributor. For the purposes of this section, an article shall be considered as "held by a dealer" if title thereto has passed to such dealer (whether or not delivery to him has been made), and if for purposes of consumption title to such article

"Held by a dealer," construed.

or possession thereof has not at any time been transferred to any person other than a dealer.

Application of refund.

(c) Under regulations prescribed by the Commissioner with the approval of the Secretary, the refund provided by this section (1) may be applied as a credit against the tax shown by subsequent returns of the manufacturer, producer, or importer, and (2) may be made to the dealer instead of to the manufacturer, producer or importer, if the manufacturer, producer or importer waives any claim for the amount so to be refunded.

As a credit.

Direct to dealer.

Manufacturer to remit amount to dealer.

(d) When the refund or credit provided for in this section has been allowed to the manufacturer, producer, or importer, he shall remit to the dealer to whom was sold the article in respect of which the refund or credit was allowed, so much of that amount of the tax corresponding to the refund or credit, as was paid or agreed to be paid by the dealer. Upon the failure of the manufacturer, producer or importer to make such remission he shall be liable to the dealer for damages in the amount of three times the amount thereof, and the court shall include in any judgment in favor of the dealer in any suit for the recovery of such damages, costs of the suit and a reasonable attorney's fee to be fixed by the court.

Treble damages on failure.

Refund of cigar tax.

REFUND OF CIGAR TAX

Difference between former and new tax on cigars, held in original packages, to be refunded.

Vol. 43, p. 316.

Ante, p. 126.

SEC. 1205. (a) In the case of all cigars and little cigars in original and unbroken statutory packages held and intended for sale by any person on the effective date of the repeal of section 400 of the Revenue Act of 1924, including those in customs custody or in transit from the insular possessions of the United States, which on such date have affixed thereto stamps purchased at the rates of tax imposed by section 400 of the Revenue Act of 1924, there shall be allowed a refund equal to the difference between the tax imposed by such section and the tax imposed by section 400 of this Act.

Time limit for presenting claims.

(b) No refund shall be allowed under this section unless claim therefor is presented within 60 days after the effective date of the repeal of section 400 of the Revenue Act of 1924. No refund shall be made to any person if the claim is for an amount less than $10.

Rules, etc., to be prescribed.

(c) The Commissioner, with the approval of the Secretary, shall adopt such rules and regulations and shall prescribe and furnish such blank forms as may be necessary to carry this section into effect.

Government Actuary.

GOVERNMENT ACTUARY

Pay of present incumbent.

Vol. 43, p. 353, amended.

SEC. 1206. The salary of the Government Actuary, so long as the position is held by the present incumbent, shall be at the rate of $10,000 a year.

Invested capital.

INVESTED CAPITAL

Computation of, for former years from books of taxpayer, accepted.

SEC. 1207. The computation of invested capital for any taxable year under the Revenue Act of 1917, the Revenue Act of 1918, and the Revenue Act of 1921, shall be considered as having been correctly made, so far as relating to the inclusion in invested capital for such year of income, war-profits, or excess-profits taxes for the preceding year, if made in accordance with the regulations in force in respect of such taxable year applicable to the relationship between invested capital of one year and taxes for the preceding year.

REVENUE ACT OF 1926.
Installment sales.

INSTALLMENT SALES

Income provisions as to, applied retroactively to returns under prior Acts.
Ante, p. 23.

SEC. 1208. The provisions of subdivision (d) of section 212 shall be retroactively applied in computing income under the provisions of the Revenue Act of 1916, the Revenue Act of 1917, the Revenue Act of 1918, the Revenue Act of 1921, or the Revenue Act of 1924, or any of such Acts as amended. Any tax that has been paid under such Acts prior to the enactment of this Act, if in excess of the tax imposed by such Acts as retroactively modified by this section, shall, subject to the statutory period of limitations properly applicable thereto, be credited or refunded to the taxpayer as provided in section 284.

Credit or refund.

Ante, p. 66.

Amortization deduction.

AMORTIZATION DEDUCTION

Allowance of claims for, on extra cost of plants, etc., for war uses.
Vol. 40, pp. 1067, 1078.

SEC. 1209. The deduction provided by paragraph (9) of subdivision (a) of section 214 or by paragraph (8) of subdivision (a) of section 234 of the Revenue Act of 1918 may (notwithstanding any provisions of the Revenue Act of 1921) be allowed for the taxable year 1918, 1919, or 1920 if claim therefor was made before June 15, 1924.

Personal service corporations.

PERSONAL SERVICE CORPORATIONS

Refund or credit of tax paid by stockholder of, under Acts of 1918 and 1921, if corporation tax paid thereby.
Vol. 40, pp. 1070, 1126; Vol. 42, p. 252.
Ante, p. 66.

SEC. 1210. Any individual who has paid a tax (in accordance with section 218 of the Revenue Act of 1918 or section 218 of the Revenue Act of 1921) as a stockholder of a personal service corporation shall be entitled to a credit or refund, in the manner provided in section 284, if (a) such corporation has been finally determined not to be a personal service corporation, and (b) such corporation has paid the tax imposed by Title II of the Revenue Act of 1918 or Title II of the Revenue Act of 1921, as the case may be, and (c) claim therefor is filed within one year after the enactment of this Act, or before the expiration of the period of limitations upon the filing of such claim, whichever is the later.

Claim to be filed.

State and municipal officers.

SALARIES OF STATE AND MUNICIPAL OFFICERS

Taxes imposed on State, etc., salaries received by, to be refunded, etc.

SEC. 1211. Any taxes imposed by the Revenue Act of 1924 or prior revenue Acts upon any individual in respect of amounts received by him as compensation for personal services as an officer or employee of any State or political subdivision thereof (except to the extent that such compensation is paid by the United States Government directly or indirectly), shall, subject to the statutory period of limitations properly applicable thereto, be abated, credited, or refunded.

Community property.

COMMUNITY PROPERTY

Returns of income of a marital community before January 1, 1925, accepted.

SEC. 1212. Income for any period before January 1, 1925, of a marital community in the income of which the wife has a vested interest as distinguished from an expectancy, shall be held to be correctly returned if returned by the spouse to whom the income belonged under the State law applicable to such marital community for such period. Any spouse who elected so to return such income shall not be entitled to any credit or refund on the ground that such income should have been returned by the other spouse.

Effect of return.

Saving clause.

SAVING CLAUSE IN EVENT OF UNCONSTITUTIONALITY

Invalidity of any provision not to affect remainder of Act.

SEC. 1213. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

EFFECTIVE DATE OF ACT

REVENUE ACT OF 1926.
Effective date.

SEC. 1214. Except as otherwise provided, this Act shall take effect upon its enactment. Upon enactment, etc.

Approved, February 26, 1926, 10.25 a. m.

February 26, 1926.
[H. R. 172.]
[Public, No. 21.]

CHAP. 28.—An Act To extend the time for the construction of a bridge across the Mississippi River at or near the village of Clearwater, Minnesota.

Mississippi River.
Time extended for bridging, at Clearwater, Minn.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the times for commencing and completing the construction of a bridge authorized by Act of Congress approved March 4, 1925, to be built by the State of Minnesota and the counties of Sherburne and Wright across the Mississippi River at or near the village of Clearwater in the county of Wright, in the State of Minnesota, are hereby extended to March 4, 1927, and March 4, 1929, respectively.

Vol. 43, p. 1302, amended.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Amendment.

Approved, February 26, 1926.

February 26, 1926.
[H. R. 173.]
[Public, No. 22.]

CHAP. 29.—An Act To extend the time for the construction of a bridge across the Rainy River between the village of Spooner, Minnesota, and Rainy River, Ontario.

Rainy River.
Time extended for bridging, from Spooner, Minn., to Rainy River, Ontario.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the times for commencing and completing the construction of a bridge authorized by Act of Congress approved March 4, 1925, to be built by the village of Spooner, in the county of Lake of the Woods, State of Minnesota, across the Rainy River between the village of Spooner, in the county of Lake of the Woods, State of Minnesota, and Rainy River, Ontario, are hereby extended to March 4, 1927, and March 4, 1929, respectively.

Vol. 43, p. 1285, amended.
Post, p. 1274.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Amendment.

Approved, February 26, 1926.

February 26, 1926.
[H. R. 3852.]
[Public, No. 23.]

CHAP. 30.—An Act To authorize the construction of a bridge over the Columbia River at a point within two miles downstream from the town of Brewster, Okanogan County, State of Washington.

Columbia River.
W. E. Buell may bridge, near Brewster, Wash.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby granted to W. E. Buell, his heirs, executors, administrators, or assigns, to construct, maintain, and operate a bridge and approaches thereto across the Columbia River, at a point suitable to the interests of navigation, within two miles downstream from the town of Brewster, in Okanogan County, State of Washington, in accordance with the provisions of the Act of Congress entitled "An Act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

Construction.
Vol. 34, p. 84.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Amendment.

Approved, February 26, 1926.