

Payment for furnishing of blood for transfusion.

*Proviso.*  
Validation of expenditures heretofore made.

Civil government, Panama Canal and Canal Zone.

Availability.

Additional sums.

Disposition of net profits.

Waterworks, sewers, and pavements, Panama and Colon.

Short title.

officer, and payments of not to exceed \$50 in any one case to persons within the Government service who shall furnish blood from their veins for transfusion to the veins of patients in Panama Canal hospitals: *Provided*, That expenditures heretofore made to any person within the Government service for blood furnished to patients in Panama Canal hospitals are hereby validated; \$962,035.

For civil government of the Panama Canal and Canal Zone, including gratuities and necessary clothing for indigent discharged prisoners, \$1,180,802.

Total, Panama Canal, \$24,774,924, to be available until expended.

In addition to the foregoing sums there is appropriated for the fiscal year 1940 for expenditures and reinvestment under the several heads of appropriation aforesaid, without being covered into the Treasury of the United States, and to remain available until expended, all moneys received by the Panama Canal during the fiscal year 1940 and prior fiscal years (exclusive of net profits for such prior fiscal years) from services rendered or materials and supplies furnished to the United States, the Panama Railroad Company, the Canal Zone government, or to their employees, respectively, or to the Panama Government, from hotel and hospital supplies and services; from rentals, wharfage, and like service; from labor, materials, and supplies and other services furnished to vessels other than those passing through the Canal, and to others unable to obtain the same elsewhere; from the sale of scrap and other byproducts of manufacturing and shop operations; from the sale of obsolete and unserviceable materials, supplies, and equipment purchased or acquired for the operation, maintenance, protection, sanitation, and government of the Canal and Canal Zone; and any net profits accruing from such business to the Panama Canal shall annually be covered into the Treasury of the United States.

There is also appropriated for the fiscal year 1940 for the operation, maintenance, and extension of waterworks, sewers, and pavements in the cities of Panama and Colon, to remain available until expended, the necessary portions of such sums as shall be paid during that fiscal year as water rentals or directly by the Government of Panama for such expenses.

SEC. 2. This Act may be cited as the "War Department Civil Appropriation Act, 1940".

Approved, June 28, 1939.

#### [CHAPTER 247]

#### AN ACT

To provide revenue, equalize taxation, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Revenue Act of 1939".

### TITLE I—EXCISE TAXES AND POSTAL RATES

#### SEC. 1. CONTINUATION OF EXCISE TAXES AND POSTAL RATES.

Continuation until 1941.

*Ante*, pp. 189, 195, 196, 411, 420, 421, 422, 425.

I. R. C. §§ 1700 (a) (1), 1801, 1802, 3403 (f) (1), 3452, 3460 (a), 3465, 3481 (b), 3482.

50 Stat. 358.

39 U. S. C., Supp.

IV, § 280 (note).

48 Stat. 254.

Sections 1700 (a) (1), 1801, 1802, 3403 (f) (1), 3452, 3460 (a), 3465, 3481 (b), and 3482 of the Internal Revenue Code are amended by striking out "1939" wherever appearing therein and inserting in lieu thereof "1941". Section 1001 (a), as amended, of the Revenue Act of 1932, and section 2, as amended, of the Act entitled "An Act to extend the gasoline tax for one year, to modify postage rates on mail matter, and for other purposes", approved June 16, 1933, are further amended by striking out "1939" wherever appearing therein and inserting in lieu thereof "1941".



## SEC. 2. SPORTING ARMS AND AMMUNITION TAX.

Section 3407 of the Internal Revenue Code (relating to the tax on firearms, shells, and cartridges) is amended by adding at the end thereof the following new paragraph:

"The provisions of section 3452 (relating to expiration of taxes) shall not apply to the tax imposed by this section."

Firearms, shells, and cartridges.  
*Ante*, p. 412.  
I. R. C. § 3407.

Expiration of taxes.  
*Ante*, p. 420.  
I. R. C. § 3452.

## SEC. 3. TOILET PREPARATIONS TAX AMENDMENTS.

(a) Section 3401 of the Internal Revenue Code (relating to the tax on toilet preparations) is amended by inserting at the end thereof the following new paragraphs:

"In the case of a sale by a manufacturer to a selling corporation of an article to which the tax under this section applies, the transaction shall be prima facie presumed to be otherwise than at arm's length if either the manufacturer or the selling corporation owns more than 75 per centum of the outstanding stock of the other, or if more than 75 per centum of the outstanding stock of both corporations is owned by the same persons in substantially the same proportions. Sales by a manufacturer to a selling corporation shall in all other cases be prima facie presumed to be at arm's length.

"Notwithstanding section 3441 (a), in determining, for the purpose of this section, the price for which an article is sold, whether at arm's length or not, there shall be included any charge for coverings and containers of whatever nature, only if furnished by the actual manufacturer of the article, and any charge incident to placing the article in condition packed ready for shipment, only if performed by the actual manufacturer of the article, but there shall be excluded the amount of the tax imposed by this section, whether or not stated as a separate charge. Whether sold at arm's length or not, a transportation, delivery, insurance, or other charge, and the wholesaler's salesmen's commissions and costs and expenses of advertising and selling (not required by the foregoing sentence to be included), shall be excluded from the price only if the amount thereof is established to the satisfaction of the Commissioner, in accordance with the regulations."

(b) The amendments made by subsection (a) shall be effective only with respect to sales made after the date of the enactment of this Act.

Toilet preparations.  
*Ante*, p. 410.  
I. R. C. § 3401.

Transactions otherwise than at arm's length.

Presumption of sales at arm's length.

Charge for coverings and containers.  
*Ante*, p. 416.  
I. R. C. § 3441 (a).

Items excluded from price.

Effective date of amendments.

## TITLE II—INCOME TAX AMENDMENTS

## SEC. 201. CORPORATION TAX IN GENERAL.

Sections 13, 14, and 15 of the Internal Revenue Code are amended to read as follows:

*Ante*, pp. 7-9.  
I. R. C. §§ 13-15.

## "SEC. 13. TAX ON CORPORATIONS IN GENERAL.

"(a) DEFINITIONS.—For the purposes of this chapter—

"(1) ADJUSTED NET INCOME.—The term 'adjusted net income' means the net income minus the credit provided in section 26 (a), relating to interest on certain obligations of the United States and Government corporations.

"(2) NORMAL-TAX NET INCOME.—The term 'normal-tax net income' means the adjusted net income minus the credit for dividends received provided in section 26 (b).

"(b) IMPOSITION OF TAX.—There shall be levied, collected, and paid for each taxable year upon the normal-tax net income of every corporation the normal-tax net income of which is more than \$25,000

Definitions.

"Adjusted net income."  
*Ante*, p. 18.  
I. R. C. § 26 (a).

"Normal-tax net income."  
*Ante*, p. 19.  
I. R. C. § 26 (b).

Imposition of tax.



*Ante*, pp. 78, 71-75, 98, 99.  
I. R. C. § 231 (a),  
Supp. G, Supp. Q.

General rule.

Alternative tax; normal-tax net income in excess of \$25,000.

Exempt corporations.

*Ante*, p. 33.

I. R. C. § 101.

Personal holding companies.

*Ante*, p. 104.

I. R. C. § 500.

Improper accumulation of surplus.

*Ante*, p. 35.

I. R. C. § 102.

Imposition of tax.

*Ante*, p. 863.

Normal-tax net incomes, not more than \$25,000.

Foreign corporations.

*Ante*, p. 78.

I. R. C. § 231 (a).

Insurance companies.

*Ante*, pp. 71-75.

I. R. C., Supp. G.

Mutual investment companies.

*Ante*, pp. 98, 99.

I. R. C., Supp. Q.

Exempt corporations.

*Ante*, p. 33.

I. R. C. § 101.

Personal holding companies.

*Ante*, p. 104.

I. R. C. § 500.

Improper accumulation of surplus.

*Ante*, p. 35.

I. R. C. § 102.

(except a corporation subject to the tax imposed by section 14, section 231 (a), Supplement G, or Supplement Q) whichever of the following taxes is the lesser:

"(1) GENERAL RULE.—A tax of 18 per centum of the normal-tax net income; or

"(2) ALTERNATIVE TAX (CORPORATIONS WITH NORMAL-TAX NET INCOME SLIGHTLY MORE THAN \$25,000).—A tax of \$3,525, plus 32 per centum of the amount of the normal-tax net income in excess of \$25,000.

"(c) EXEMPT CORPORATIONS.—

"For corporations exempt from taxation under this chapter, see section 101.

"(d) TAX ON PERSONAL HOLDING COMPANIES.—

"For surtax on personal holding companies, see section 500.

"(e) IMPROPER ACCUMULATION OF SURPLUS.—

"For surtax on corporations which accumulate surplus to avoid surtax on shareholders, see section 102.

#### "SEC. 14. TAX ON SPECIAL CLASSES OF CORPORATIONS.

"(a) IMPOSITION OF TAX.—There shall be levied, collected, and paid for each taxable year upon the normal-tax net income of the following corporations (in lieu of the tax imposed by section 13) the tax hereinafter in this section specified.

"(b) CORPORATIONS WITH NORMAL-TAX NET INCOMES OF NOT MORE THAN \$25,000.—If the normal-tax net income of the corporation is not more than \$25,000, and if the corporation does not come within one of the classes specified in subsection (c), (d), or (e) of this section, the tax shall be as follows:

"Upon normal-tax net incomes not in excess of \$5,000, 12½ per centum.

"\$625 upon normal-tax net incomes of \$5,000, and upon normal-tax net incomes in excess of \$5,000 and not in excess of \$20,000, 14 per centum in addition of such excess.

"\$2,725 upon normal-tax net incomes of \$20,000, and upon normal-tax net incomes in excess of \$20,000, 16 per centum in addition of such excess.

"(c) FOREIGN CORPORATIONS.—

"(1) In the case of a foreign corporation engaged in trade or business within the United States or having an office or place of business therein, the tax shall be an amount equal to 18 per centum of the normal-tax net income, regardless of the amount thereof.

"(2) In the case of a foreign corporation not engaged in trade or business within the United States and not having an office or place of business therein, the tax shall be as provided in section 231 (a).

"(d) INSURANCE COMPANIES.—In the case of insurance companies, the tax shall be as provided in Supplement G.

"(e) MUTUAL INVESTMENT COMPANIES.—In the case of mutual investment companies, as defined in Supplement Q, the tax shall be as provided in such Supplement.

"(f) EXEMPT CORPORATIONS.—

"For corporations exempt from taxation under this chapter, see section 101.

"(g) TAX ON PERSONAL HOLDING COMPANIES.—

"For surtax on personal holding companies, see section 500.

"(h) IMPROPER ACCUMULATION OF SURPLUS.—

"For surtax on corporations which accumulate surplus to avoid surtax on shareholders, see section 102."



**SEC. 202. TAX ON BANKS AND TRUST COMPANIES.**

Section 104 (b) of the Internal Revenue Code (relating to the tax on banks) is amended to read as follows:

"(b) **RATE OF TAX.**—Banks shall be subject to tax under section 13 or section 14 (b)."

Banks and trust companies.  
*Ante*, p. 36.  
I. R. C. § 104 (b).  
Rate of tax.  
*Ante*, pp. 863, 864.  
I. R. C. §§ 13, 14 (b).

**SEC. 203. TAX ON LIFE INSURANCE COMPANIES.**

Section 201 (b) of the Internal Revenue Code (relating to the tax on life insurance companies) is amended to read as follows:

"(b) **IMPOSITION OF TAX.**—

"(1) **IN GENERAL.**—In lieu of the tax imposed by sections 13 and 14, there shall be levied, collected, and paid for each taxable year upon the normal-tax net income of every life insurance company a tax at the rates provided in section 13 or section 14 (b).

"(2) **NORMAL-TAX NET INCOME OF FOREIGN LIFE INSURANCE COMPANIES.**—In the case of a foreign life insurance company, the normal-tax net income shall be an amount which bears the same ratio to the normal-tax net income, computed without regard to this paragraph, as the reserve funds required by law and held by it at the end of the taxable year upon business transacted within the United States bear to the reserve funds held by it at the end of the taxable year upon all business transacted.

"(3) **NO UNITED STATES INSURANCE BUSINESS.**—Foreign life insurance companies not carrying on an insurance business within the United States and holding no reserve funds upon business transacted within the United States, shall not be taxable under this section but shall be taxable as other foreign corporations."

Life insurance companies.  
*Ante*, p. 71.  
I. R. C. § 201 (b).  
Imposition of tax.  
In general.  
*Ante*, pp. 863, 864.  
I. R. C. §§ 13, 14.

Normal-tax net income of foreign companies.

No United States business.

**SEC. 204. TAX ON INSURANCE COMPANIES OTHER THAN LIFE OR MUTUAL.**

Section 204 (a) of the Internal Revenue Code (relating to the tax on insurance companies other than life or mutual) is amended to read as follows:

"(a) **IMPOSITION OF TAX.**—

"(1) **IN GENERAL.**—In lieu of the tax imposed by sections 13 and 14, there shall be levied, collected, and paid for each taxable year upon the normal-tax net income of every insurance company (other than a life or mutual insurance company) a tax at the rates provided in section 13 or section 14 (b).

"(2) **NORMAL-TAX NET INCOME OF FOREIGN COMPANIES.**—In the case of a foreign insurance company (other than a life or mutual insurance company), the normal-tax net income shall be the net income from sources within the United States minus the sum of—

"(A) **INTEREST ON OBLIGATIONS OF THE UNITED STATES AND ITS INSTRUMENTALITIES.**—The credit provided in section 26 (a).

"(B) **DIVIDENDS RECEIVED.**—The credit provided in section 26 (b).

"(3) **NO UNITED STATES INSURANCE BUSINESS.**—Foreign insurance companies not carrying on an insurance business within the United States shall not be taxable under this section but shall be taxable as other foreign corporations."

Insurance companies other than life or mutual.  
*Ante*, p. 72.  
I. R. C. § 204 (a).  
Imposition of tax.

In general.  
*Ante*, pp. 863, 864.  
I. R. C. §§ 13, 14.

Normal-tax net income of foreign companies.

Interest on obligations of United States and its instrumentalities.

*Ante*, p. 18.  
I. R. C. § 26 (a).  
Dividends received.  
*Ante*, p. 19.  
I. R. C. § 26 (b).  
No United States insurance business.

**SEC. 205. TAX ON MUTUAL INSURANCE COMPANIES OTHER THAN LIFE.**

Section 207 (a) of the Internal Revenue Code (relating to the tax on mutual insurance companies other than life) is amended to read as follows:

"(a) **IMPOSITION OF TAX.**—

"(1) **IN GENERAL.**—There shall be levied, collected, and paid for each taxable year upon the normal-tax net income of every

Mutual companies other than life.  
*Ante*, p. 74.  
I. R. C. § 207 (a).

Imposition of tax.  
In general.



*Ante*, pp. 863, 864.  
I. R. C. §§ 13, 14 (b).

Foreign corporations.

mutual insurance company (other than a life insurance company) a tax at the rates provided in section 13 or section 14 (b).

"(2) FOREIGN CORPORATIONS.—The tax imposed by paragraph (1) shall apply to foreign corporations as well as domestic corporations; but foreign insurance companies not carrying on an insurance business within the United States shall be taxable as other foreign corporations."

#### SEC. 206. TAX ON RESIDENT FOREIGN CORPORATIONS.

Resident foreign corporations.

*Ante*, p. 78.  
I. R. C. § 231 (b).

*Ante*, p. 864.  
I. R. C. § 14 (c) (1).

Section 231 (b) of the Internal Revenue Code (relating to the tax on resident foreign corporations) is amended to read as follows:

"(b) RESIDENT CORPORATIONS.—A foreign corporation engaged in trade or business within the United States or having an office or place of business therein shall be taxable as provided in section 14 (c) (1)."

#### SEC. 207. TAX ON CORPORATIONS ENTITLED TO THE BENEFITS OF SECTION 251.

Income from sources within a United States possession.

*Ante*, p. 80.  
I. R. C. § 251 (c) (1).  
Corporation tax.  
*Ante*, pp. 863, 864.  
I. R. C. §§ 13, 14 (b).

Section 251 (c) (1) of the Internal Revenue Code (relating to tax on corporations deriving a large part of their income from sources within a possession) is amended to read as follows:

"(1) CORPORATION TAX.—A domestic corporation entitled to the benefits of this section shall be subject to tax under section 13 or section 14 (b)."

#### SEC. 208. TAX ON CHINA TRADE ACT CORPORATIONS.

China Trade Act corporations.

*Ante*, p. 81.  
I. R. C. § 261 (a).  
Corporation tax.  
42 Stat. 849.  
15 U. S. C. ch. 4.  
*Ante*, pp. 863, 864.  
I. R. C. §§ 13, 14 (b).

Section 261 (a) of the Internal Revenue Code (relating to the tax on China Trade Act corporations) is amended to read as follows:

"(a) CORPORATION TAX.—A corporation organized under the China Trade Act, 1922, 42 Stat. 849 (U. S. C., 1934 ed., title 15, chap. 4), shall be subject to tax under section 13 or section 14 (b)."

#### SEC. 209. TAX ON MUTUAL INVESTMENT COMPANIES.

Mutual investment companies.

*Ante*, p. 99.  
I. R. C. § 362 (b).  
Imposition of tax.

Section 362 (b) of the Internal Revenue Code (relating to the tax on mutual investment companies) is amended to read as follows:

"(b) IMPOSITION OF TAX.—There shall be levied, collected, and paid for each taxable year upon the Supplement Q net income of every mutual investment company a tax equal to 18 per centum of the amount thereof."

#### SEC. 210. TECHNICAL AMENDMENTS MADE NECESSARY BY CHANGE IN CORPORATION TAX.

Technical amendments.

*Ante*, p. 9.  
I. R. C. § 21 (b).  
Cross references.

*Ante*, p. 863.  
I. R. C. § 13.

Bankruptcy or receivership.

*Ante*, p. 59.  
I. R. C. § 141 (j).

China Trade Act corporations, additional credits.

*Ante*, p. 81.  
I. R. C. § 262.

*Ante*, pp. 863, 864, 111.  
I. R. C. §§ 13, 14, 600.

(a) Section 21 (b) of the Internal Revenue Code is amended to read as follows:

"(b) CROSS REFERENCES.—For definition of 'adjusted net income' and 'normal-tax net income', see section 13."

(b) Section 141 (j) of the Internal Revenue Code (relating to affiliated corporations in bankruptcy or receivership) shall not apply with respect to a taxable year beginning after December 31, 1939.

(c) Section 262 of the Internal Revenue Code (relating to additional credits of China Trade Act corporations) is amended by striking out "sections 14 and 600" and inserting in lieu thereof "sections 13, 14, and 600"; and by striking out "section 14" wherever it appears and inserting in lieu thereof "section 13 or 14".



## SEC. 211. NET OPERATING LOSSES.

(a) Section 23 of the Internal Revenue Code (relating to deductions from gross income) is amended by inserting at the end thereof the following:

"(s) NET OPERATING LOSS DEDUCTION.—For any taxable year beginning after December 31, 1939, the net operating loss deduction computed under section 122."

(b) The Internal Revenue Code is amended by inserting after section 121 the following new section:

## "SEC. 122. NET OPERATING LOSS DEDUCTION.

"(a) DEFINITION OF NET OPERATING LOSS.—As used in this section, the term 'net operating loss' means the excess of the deductions allowed by this chapter over the gross income, with the exceptions and limitations provided in subsection (d).

"(b) AMOUNT OF CARRY-OVER.—The term 'net operating loss carry-over' means in the case of any taxable year the sum of:

"(1) The amount, if any, of the net operating loss for the first preceding taxable year; and

"(2) The amount of the net operating loss, if any, for the second preceding taxable year reduced by the excess, if any, of the net income (computed with the exceptions and limitations provided in subsection (d) (1), (2), (3), and (4)) for the first preceding taxable year over the net operating loss for the third preceding taxable year.

"(c) AMOUNT OF NET OPERATING LOSS DEDUCTION.—The amount of the net operating loss deduction shall be the amount of the net operating loss carry-over reduced by the amount, if any, by which the net income (computed with the exceptions and limitations provided in subsection (d) (1), (2), (3), and (4)) exceeds, in the case of a taxpayer other than a corporation, the net income (computed without such deduction), or, in the case of a corporation, the normal-tax net income (computed without such deduction);

"(d) EXCEPTIONS AND LIMITATIONS.—The exceptions and limitations referred to in subsections (a), (b), and (c) shall be as follows:

"(1) The deduction for depletion shall not exceed the amount which would be allowable if computed without reference to discovery value or to percentage depletion under section 114 (b) (2), (3), or (4);

"(2) There shall be included in computing gross income the amount of interest received which is wholly exempt from the taxes imposed by this chapter, decreased by the amount of interest paid or accrued which is not allowed as a deduction by section 23 (b), relating to interest on indebtedness incurred or continued to purchase or carry certain tax-exempt obligations;

"(3) No net operating loss deduction shall be allowed;

"(4) Long-term capital gains and long-term capital losses shall be taken into account without regard to the provisions of section 117 (b). As so computed the amount deductible on account of long-term capital losses shall not exceed the amount includible on account of the long-term capital gains, and the amount deductible on account of short-term capital losses shall not exceed the amount includible on account of the short-term capital gains;

Deductions from gross income.  
*Ante*, p. 12.  
I. R. C. § 23.

Net operating loss deduction.

*Ante*, p. 56.

"Net operating loss" defined.

Amount of carry-over.

Amount of net operating loss deduction.

Exceptions and limitations.

Depletion.

*Ante*, p. 45.  
I. R. C. § 114 (b) (2), (3), (4).  
Interest.

*Ante*, p. 12.  
I. R. C. § 23 (b).

No net operating loss deduction allowed.  
Long-term capital gains and losses.  
*Ante*, p. 51.  
I. R. C. § 117 (b).



"(5) Deductions otherwise allowed by law not attributable to the operation of a trade or business regularly carried on by the taxpayer shall (in the case of a taxpayer other than a corporation) be allowed only to the extent of the amount of the gross income not derived from such trade or business. For the purposes of this paragraph deductions and gross income shall be computed with the exceptions and limitations specified in paragraphs (1) to (4) of this subsection.

No carry-over from year prior to 1939.

"(e) No CARRY-OVER FROM YEAR PRIOR TO 1939.—As used in this section, the terms 'third preceding taxable year', 'second preceding taxable year', and 'first preceding taxable year' do not include any taxable year beginning prior to January 1, 1939."

Estates, trusts, and participants in common trust funds.  
*Ante*, p. 68.

(c) ALLOWANCE OF DEDUCTION TO ESTATES, TRUSTS, AND PARTICIPANTS IN COMMON TRUST FUNDS.—The Internal Revenue Code is amended by inserting after the section 169 the following new section:

**"SEC. 170. NET OPERATING LOSSES.**

Allowance of deduction for net operating losses.  
*Ante*, p. 867.

"The benefit of the deduction for net operating losses allowed by section 23 (s) shall be allowed to estates and trusts under regulations prescribed by the Commissioner with the approval of the Secretary. The benefit of such deduction shall not be allowed to a common trust fund, but shall be allowed to the participants in the common trust fund under regulations prescribed by the Commissioner with the approval of the Secretary."

Partners.  
*Ante*, p. 71.

(d) ALLOWANCE OF DEDUCTION TO PARTNERS.—The Internal Revenue Code is amended by inserting after section 188 the following new section:

**"SEC. 189. NET OPERATING LOSSES.**

Net operating loss deduction.  
*Ante*, p. 867.

"The benefit of the deduction for net operating losses allowed by section 23 (s) shall not be allowed to a partnership but shall be allowed to the members of the partnership under regulations prescribed by the Commissioner with the approval of the Secretary."

Life insurance companies, deductions.  
*Ante*, p. 71.  
I. R. C. § 203 (a).

(e) ALLOWANCE OF DEDUCTION TO INSURANCE COMPANIES.—

(1) Section 203 (a) of the Internal Revenue Code (relating to deductions of life insurance companies) is amended by inserting at the end thereof the following new paragraph:

*Ante*, p. 867.

"(8) The amount of the net operating loss deduction provided in section 23 (s)."

*Ante*, p. 74.  
I. R. C. § 207.

(2) The Internal Revenue Code is amended by inserting after section 207 the following:

**"SEC. 208. NET OPERATING LOSSES.**

Insurance companies, net operating losses.  
*Ante*, p. 867.

"The benefit of the deduction for net operating losses allowed by section 23 (s) shall be allowed to insurance companies subject to the taxes imposed in this supplement under regulations prescribed by the Commissioner with the approval of the Secretary."

Section 102 net income, definition modified.  
*Ante*, p. 35.  
I. R. C. § 102 (d).

(f) DENIAL OF DEDUCTION TO SECTION 102 CORPORATIONS.—Section 102 (d) (1) of the Internal Revenue Code (relating to the definition of section 102 net income) is amended by striking out "The term 'section 102 net income' means the net income minus the sum of" and inserting in lieu thereof "The term 'section 102 net income' means the net income, computed without the net operating loss deduction provided in section 23 (s), minus the sum of".

*Ante*, p. 867.



(g) **DENIAL OF DEDUCTION TO FOREIGN PERSONAL HOLDING COMPANIES.**—Section 336 (b) of the Internal Revenue Code (relating to disallowed deductions in computing net income of foreign personal holding companies) is amended by inserting at the end thereof the following:

“(3) **NET LOSS CARRY-OVER DISALLOWED.**—The deduction for net operating losses provided in section 23 (s) shall not be allowed.”

(h) **DENIAL OF DEDUCTION TO MUTUAL INVESTMENT COMPANIES.**—Section 362 (a) of the Internal Revenue Code (relating to definition of Supplement Q net income) is amended to read as follows:

“(a) **SUPPLEMENT Q NET INCOME.**—For the purposes of this chapter the term ‘Supplement Q net income’ means the adjusted net income, computed without the net operating loss deduction provided in section 23 (s), minus the basic surtax credit computed under section 27 (b) without the application of paragraphs (2) and (3).”

(i) **DENIAL OF DEDUCTION TO DOMESTIC PERSONAL HOLDING COMPANIES.**—Section 505 of the Internal Revenue Code (relating to definition of subchapter A net income) is amended by inserting at the end thereof the following:

“(c) **NET LOSS CARRY-OVER DISALLOWED.**—The deduction for net operating losses provided in section 23 (s) shall not be allowed.”

(j) **TECHNICAL AMENDMENT.**—Section 26 (c) (2) of the Internal Revenue Code (relating to operating loss credit) is amended by striking out “chapter” and inserting in lieu thereof “section”.

#### SEC. 212. CORPORATION CAPITAL LOSSES.

(a) **LIMITATIONS.**—Section 117 (d) of the Internal Revenue Code (relating to limitation on capital losses) is amended to read as follows:

“(d) **LIMITATION ON CAPITAL LOSSES.**—Long-term capital losses shall be allowed, but short-term capital losses shall be allowed only to the extent of short-term capital gains.”

(b) **NET SHORT-TERM LOSS CARRY-OVER.**—Section 117 (e) of the Internal Revenue Code (relating to the one-year carry-over of net short-term capital loss) is amended to read as follows:

“(e) **NET SHORT-TERM CAPITAL LOSS CARRY-OVER.**—If any taxpayer sustains in any taxable year, beginning after December 31, 1937, in the case of a taxpayer other than a corporation, or beginning after December 31, 1939, in the case of a corporation, a net short-term capital loss, such loss (in an amount not in excess of the net income for such year) shall be treated in the succeeding taxable year as a short-term capital loss, except that it shall not be included in computing the net short-term capital loss for such year.”

(c) **CAPITAL LOSSES OF FOREIGN PERSONAL HOLDING COMPANIES.**—Section 336 of the Internal Revenue Code (relating to definition of Supplement P net income) is amended by inserting at the end thereof the following new subsection:

“(c) **CAPITAL LOSSES.**—The net income shall be computed without regard to section 117 (d) and (e), and losses from sales or exchanges of capital assets shall be allowed only to the extent of \$2,000 plus the gains from such sales or exchanges.”

(d) **CAPITAL LOSSES OF DOMESTIC PERSONAL HOLDING COMPANIES.**—Section 505 of the Internal Revenue Code (relating to definition of subchapter A net income) is amended by inserting at the end thereof the following new subsection:

“(d) **CAPITAL LOSSES.**—The net income shall be computed without regard to section 117 (d) and (e), and losses from sales or exchanges of capital assets shall be allowed only to the extent of \$2,000 plus the gains from such sales or exchanges.”

Foreign personal holding companies, disallowed deductions.

*Ante*, p. 96.  
I. R. C. § 336 (b).

*Ante*, p. 867.

Mutual investment companies, disallowed deductions.

*Ante*, p. 99.  
I. R. C. § 362 (a).

“Supplement Q net income”, defined.

*Ante*, p. 867.

*Ante*, p. 20.  
I. R. C. § 27 (b).

Subchapter A net income.

*Ante*, p. 108.  
I. R. C. § 505.

Disallowed deductions.

*Ante*, p. 867.

Operating loss credit, technical amendment.

*Ante*, p. 19.  
I. R. C. § 26 (c) (2).

Corporation capital losses.

*Ante*, p. 52.  
I. R. C. § 117 (d).

Limitation on capital losses.

Net short-term loss carry-over.

*Ante*, p. 52.  
I. R. C. § 117 (e).

Net short-term capital loss carry-over.

Supplement P net income.

*Ante*, p. 95.  
I. R. C. § 336.

Capital losses.

I. R. C. § 117 (d), (e).

Subchapter A net income.

*Ante*, p. 108.  
I. R. C. § 505.

Capital losses.

*Ante*, p. 52.  
I. R. C. § 117 (d), (e).



## SEC. 213. ASSUMPTION OF INDEBTEDNESS.

Recognition of gain or loss.

*Ante*, p. 37.  
I. R. C. § 112.

Assumption of liability.

*Ante*, p. 37.

*Ante*, p. 39.

If purpose was to avoid Federal income tax.

Not a bona fide transaction.

Burden of proof.

Reorganization, amendment to definition.

*Ante*, p. 40.  
I. R. C. § 112 (g) (1).

Requirement of substantially proportionate interests.

*Ante*, p. 37.  
I. R. C. § 112 (b) (5).  
Where transferee assumes liability of transferor.

(a) ASSUMPTION OF LIABILITY NOT RECOGNIZED.—Section 112 of the Internal Revenue Code (relating to recognition of gain or loss) is amended by adding at the end thereof the following new subsection:

“(k) ASSUMPTION OF LIABILITY NOT RECOGNIZED.—Where upon an exchange the taxpayer receives as part of the consideration property which would be permitted by subsection (b) (4) or (5) of this section to be received without the recognition of gain if it were the sole consideration, and as part of the consideration another party to the exchange assumes a liability of the taxpayer or acquires from the taxpayer property subject to a liability, such assumption or acquisition shall not be considered as ‘other property or money’ received by the taxpayer within the meaning of subsection (c), (d), or (e) of this section and shall not prevent the exchange from being within the provisions of subsection (b) (4) or (5); except that if, taking into consideration the nature of the liability and the circumstances in the light of which the arrangement for the assumption or acquisition was made, it appears that the principal purpose of the taxpayer with respect to the assumption or acquisition was a purpose to avoid Federal income tax on the exchange, or, if not such purpose, was not a bona fide business purpose, such assumption or acquisition (in the amount of the liability) shall, for the purposes of this section, be considered as money received by the taxpayer upon the exchange. In any suit or proceeding where the burden is on the taxpayer to prove that such assumption or acquisition is not to be considered as money received by the taxpayer, such burden shall not be considered as sustained unless the taxpayer sustains such burden by the clear preponderance of the evidence.”

(b) AMENDMENT TO DEFINITION OF REORGANIZATION.—Section 112 (g) (1) of the Internal Revenue Code (relating to definition of reorganization) is amended to read as follows:

“(1) The term ‘reorganization’ means (A) a statutory merger or consolidation, or (B) the acquisition by one corporation, in exchange solely for all or a part of its voting stock, 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 another corporation, or (C) the acquisition by one corporation, in exchange solely for all or a part of its voting stock, of substantially all the properties of another corporation, but in determining whether the exchange is solely for voting stock the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded, or (D) 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 shareholders or both are in control of the corporation to which the assets are transferred, or (E) a recapitalization, or (F) a mere change in identity, form, or place of organization, however effected.”

(c) REQUIREMENT OF SUBSTANTIALLY PROPORTIONATE INTERESTS.—Section 112 (b) (5) of the Internal Revenue Code (relating to requirement of substantially proportionate interests) is amended by adding at the end thereof the following new sentence: “Where the transferee assumes a liability of a transferor, or where the property of a transferor is transferred subject to a liability, then for the purpose only of determining whether the amount of stock or securities received by each of the transferors is in the proportion required by this paragraph, the amount of such liability (if under subsection (k) it is not to be considered as ‘other property or money’) shall be considered as stock or securities received by such transferor.”



(d) **BASIS OF PROPERTY.**—Section 113 (a) (6) of the Internal Revenue Code (relating to basis of property) is amended by inserting before the last sentence thereof the following: "Where as part of the consideration to the taxpayer another party to the exchange assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability, such assumption or acquisition (in the amount of the liability) shall, for the purposes of this paragraph, be considered as money received by the taxpayer upon the exchange."

(e) **TAXABLE YEARS TO WHICH APPLICABLE.**—The amendments made by subsections (a), (b), (c), and (d) shall be applicable to taxable years beginning after December 31, 1938.

(f) **ASSUMPTION OF LIABILITY NOT RECOGNIZED UNDER PRIOR ACTS.**—

(1) Where upon an exchange occurring in a taxable year ending after December 31, 1923, and beginning before January 1, 1939, the taxpayer received as part of the consideration property which would be permitted by subsection (b) (4) or (5) of section 112 of the Revenue Act of 1938, or the corresponding provisions of the Revenue Act of 1924 or subsequent revenue Acts, to be received without the recognition of gain if it were the sole consideration, and as part of the consideration another party to the exchange assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability, such assumption or acquisition shall not be considered as "other property or money" received by the taxpayer within the meaning of subsection (c), (d), or (e) of section 112 of the Revenue Act of 1938, or the corresponding provisions of the Revenue Act of 1924 or subsequent revenue Acts, and shall not prevent the exchange from being within the provisions of subsection (b) (4) or (5) of section 112 of the Revenue Act of 1938, or the corresponding provisions of the Revenue Act of 1924 or subsequent revenue Acts; except that if, in the determination of the tax liability of such taxpayer for the taxable year in which the exchange occurred, by a decision of the Board of Tax Appeals or of a court which became final before the ninetieth day after the date of enactment of the Revenue Act of 1939, or by a closing agreement, gain was recognized to such taxpayer by reason of such assumption or acquisition of property, then for the purposes of section 112 of the Revenue Act of 1938, and corresponding provisions of the Revenue Act of 1924 or subsequent revenue Acts, such assumption or acquisition (in the amount of the liability considered in computing the gain) shall be considered as money received by the taxpayer upon the exchange.

(2) Paragraph (1) shall be effective with respect to the Revenue Act of 1924 and subsequent revenue Acts as of the date of enactment of each such Act.

(g) **DEFINITION OF REORGANIZATION UNDER PRIOR ACTS.**—

(1) Section 112 (g) (1) of the Revenue Acts of 1938, 1936, and 1934 are amended to read as follows:

"(1) The term 'reorganization' means (A) a statutory merger or consolidation, or (B) the acquisition by one corporation, in exchange solely for all or a part of its voting stock, of substantially all the properties of another corporation, but in determining whether the exchange is solely for voting stock the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded; or the acquisition by one corporation in exchange solely for all or a part of its voting stock 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 another corporation, or (C) 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 shareholders or both are in control of the

Basis of property.  
*Ante*, p. 41.  
I. R. C. § 113 (a) (6).  
Money received by taxpayer upon the exchange.

Taxable years to which applicable.

Assumption of liability not recognized under prior Acts.  
*Post*, p. 1402.

52 Stat. 485.

43 Stat. 256.  
*Ante*, pp. 37, 870.  
I. R. C. § 112 (b) (4) (5).

Acquisition not considered as "other property or money" received by taxpayer.  
52 Stat. 488, 489; 43 Stat. 257.

Exception.

52 Stat. 485.

43 Stat. 256.  
*Ante*, pp. 37, 870.  
I. R. C. § 112.

Effective date of paragraph.

Definition of reorganization under prior Acts.  
52 Stat. 489; 49 Stat. 1681; 48 Stat. 705.



corporation to which the assets are transferred, or (D) a recapitalization, or (E) a mere change in identity, form, or place of organization, however effected."

Effective date.

(2) The amendments made by paragraph (1) to the respective Acts amended shall be effective as to each of such Acts as of the date of enactment of such Act.

Substantially proportionate interests under prior Acts.

52 Stat. 485; 49 Stat. 1679; 48 Stat. 704; 47 Stat. 196; 45 Stat. 816; 44 Stat. 12; 43 Stat. 256.

Assumption of transferor's liability by transferee; property transferred subject to a liability, etc.

(h) SUBSTANTIALLY PROPORTIONATE INTERESTS UNDER PRIOR ACTS.—

(1) Section 112 (b) (5) of the Revenue Acts of 1938, 1936, 1934, 1932, and 1928, and section 203 (b) (4) of the Revenue Acts of 1926 and 1924 are amended by inserting at the end thereof the following: "Where the transferee assumes a liability of a transferor, or where the property of a transferor is transferred subject to a liability, then for the purpose only of determining whether the amount of stock or securities received by each of the transferors is in the proportion required by this paragraph, the amount of such liability (if under section 213 of the Revenue Act of 1939 it is not considered as 'other property or money') shall be considered as stock or securities received by such transferor. If, as the result of a determination of the tax liability of the taxpayer for the taxable year in which the exchange occurred, by a decision of the Board of Tax Appeals or of a court which became final before the ninetieth day after the date of the enactment of the Revenue Act of 1939, or by a closing agreement, the treatment of the amount of such liability was different from the treatment which would result from the application of the preceding sentence, such sentence shall not apply and the result of such determination shall be deemed proper."

Effective date.

(2) The amendments made by paragraph (1) to the respective Acts amended shall be effective as to each of such Acts as of the date of enactment of such Act.

Basis under prior Acts.

52 Stat. 491; 49 Stat. 1682; 48 Stat. 706; 47 Stat. 199; 45 Stat. 819; 44 Stat. 15; 43 Stat. 258.

Where taxpayer's liability assumed by transferee, etc.

(i) BASIS UNDER PRIOR ACTS.—

(1) Section 113 (a) (6) of the Revenue Acts of 1938, 1936, 1934, 1932, and 1928, and section 204 (a) (6) of the Revenue Acts of 1926 and 1924 are amended by inserting before the last sentence thereof the following: "Where as part of the consideration to the taxpayer another party to the exchange assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability, such assumption or acquisition (in the amount of the liability) shall, for the purposes of this paragraph, be considered as money received by the taxpayer upon the exchange."

Effective date.

(2) The amendments made by paragraph (1) to the respective Acts amended shall be effective as to each of such Acts as of the date of enactment of such Act.

#### SEC. 214. BASIS OF STOCK DIVIDENDS AND STOCK RIGHTS.

Unadjusted basis of property.

*Ante*, p. 40.

I. R. C. § 113 (a).

Allocations of stock.

(a) BASIS UNDER INTERNAL REVENUE CODE.—Section 113 (a) of the Internal Revenue Code (relating to the unadjusted basis of property) is amended by inserting at the end thereof the following new paragraph:

"(19) (A) If the property was acquired by a shareholder in a corporation and consists of stock in such corporation, or rights to acquire such stock, acquired by him after February 28, 1913, in a distribution by such corporation (hereinafter in this paragraph called 'new stock'), or consists of stock in respect of which such distribution was made (hereinafter in this paragraph called 'old stock') and

"(i) the new stock was acquired in a taxable year beginning before January 1, 1936; or

"(ii) the new stock was acquired in a taxable year beginning after December 31, 1935, and its distribution did not



constitute income to the shareholder within the meaning of the Sixteenth Amendment to the Constitution; then the basis of the new stock and of the old stock, respectively, shall, in the shareholder's hands, be determined by allocating between the old stock and the new stock the adjusted basis of the old stock; such allocation to be made under regulations which shall be prescribed by the Commissioner with the approval of the Secretary.

"(B) Where the new stock consisted of rights to acquire stock and such rights were sold in a taxable year beginning before January 1, 1939, and there was included in the gross income for such year the entire amount of the proceeds of such sale, then, if before the date of the enactment of the Revenue Act of 1939 the taxpayer has not asserted (by claim for a refund or credit or otherwise) that any part of the proceeds of the sale of such new stock should be excluded from gross income for the year of its sale, the basis of the old stock shall be determined without regard to subparagraph (A); and no part of the proceeds of the sale of such new stock shall ever be excluded from the gross income of the year of such sale.

"(C) Subparagraph (A) shall not apply if the new stock was acquired in a taxable year beginning before January 1, 1936, and there was included, as a dividend, in gross income for such year an amount on account of such stock, and after such inclusion such amount was not (before the date of the enactment of the Revenue Act of 1939) excluded from gross income for such year.

"(D) Subparagraph (A) shall not apply if the new stock or the old stock was sold or otherwise disposed of in a taxable year beginning prior to January 1, 1936, and the basis (determined by a decision of a court or the Board of Tax Appeals, or a closing agreement, and the decision or agreement became final before the ninetieth day after the date of the enactment of the Revenue Act of 1939) for determining gain or loss on such sale or other disposition was ascertained by a method other than that of allocation of the basis of the old stock."

(b) DISTRIBUTIONS NOT TREATED AS DIVIDENDS.—Section 115 (d) of the Internal Revenue Code (relating to distributions applied in reduction of basis) is amended to read as follows:

"(d) OTHER DISTRIBUTIONS FROM CAPITAL.—If any distribution made by a corporation to its shareholders is not out of increase in value of property accrued before March 1, 1913, and is not a dividend, then the amount of such distribution shall be applied against and reduce the adjusted basis of the stock provided in section 113, 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. This subsection shall not apply to a distribution in partial or complete liquidation or to a distribution which, under subsection (f) (1), is not treated as a dividend, whether or not otherwise a dividend."

(c) DETERMINATION OF PERIOD FOR WHICH HELD.—Section 117 (h) of the Internal Revenue Code (relating to determination of period for which property is held) is amended by adding at the end thereof the following new paragraph:

"(5) In determining the period for which the taxpayer has held stock or rights to acquire stock received upon a distribution, if the basis of such stock or rights is determined under section 113 (a) (19) (A), there shall (under regulations prescribed by the Commissioner with the approval of the Secretary) be included the period for which he held the stock in the distributing corporation prior to the receipt of such stock or rights upon such distribution."

Basis.

Where proceeds of acquired stock, etc., were included in gross income before January 1, 1939.

Claim for refund, etc., not asserted.

Allocation inapplicable in certain cases.

Distributions not treated as dividends. *Ante*, p. 47. I. R. C. § 115 (d).

Other distributions from capital.

*Ante*, pp. 40, 871. I. R. C. § 113.

Distribution in liquidation, etc.

Determination of period for which held. *Ante*, p. 52. I. R. C. § 117 (h).

*Ante*, p. 872.



Taxable years to which applicable.

Basis under prior Acts.  
52 Stat. 447.

Determination of basis of new and of old stock.

Where entire proceeds of stock sale were included in gross income.

Claim for refund not asserted.

Allocation inapplicable in certain cases.

Determination under prior Acts of period for which held.

(d) **TAXABLE YEARS TO WHICH APPLICABLE.**—The amendments made by subsections (a), (b), and (c) shall be applicable to taxable years beginning after December 31, 1938.

(e) **BASIS UNDER PRIOR ACTS.**—The following rules shall be applied, for the purposes of the Revenue Act of 1938 or any prior revenue Act as if such rules were a part of each such Act when it was enacted, in determining the basis of property acquired by a shareholder in a corporation which consists of stock in such corporation, or rights to acquire such stock, acquired by him after February 28, 1913, in a distribution by such corporation (hereinafter in this subsection called "new stock"), or consisting of stock in respect of which such distribution was made (hereinafter in this subsection called "old stock") if the new stock was acquired in a taxable year beginning before January 1, 1936, or acquired in a taxable year beginning after December 31, 1935, and its distribution did not constitute income to the shareholder within the meaning of the Sixteenth Amendment to the Constitution:

(1) The basis of the new stock and of the old stock, respectively, shall, in the shareholder's hands, be determined by allocating between the old stock and the new stock the adjusted basis of the old stock; such allocation to be made under regulations which shall be prescribed by the Commissioner with the approval of the Secretary.

(2) Where the new stock consisted of rights to acquire stock and such rights were sold and there was included in the gross income for the taxable year of the sale the entire amount of the proceeds of such sale, then, if before the date of the enactment of this Act the taxpayer has not asserted (by claim for a refund or credit or otherwise) that any part of the proceeds of the sale of such new stock should be excluded from gross income for the year of its sale, the basis of the old stock shall be determined without regard to paragraph (1) and no part of the proceeds of the sale of such new stock shall ever be excluded from the gross income of the year of such sale.

(3) Paragraph (1) shall not apply if the new stock was acquired in a taxable year beginning before January 1, 1936, and there was included, as a dividend, in gross income for such year an amount on account of such stock, and after such inclusion such amount was not (before the date of the enactment of this Act) excluded from gross income for such year.

(4) Paragraph (1) shall not apply if the new stock or the old stock was sold or otherwise disposed of in a taxable year beginning before January 1, 1936, and the basis (determined by a decision of a court or the Board of Tax Appeals, or a closing agreement, and the decision or agreement became final before the ninetieth day after the date of the enactment of this Act) for determining gain or loss on such sale or other disposition was ascertained by a method other than that of allocation of the basis of the old stock.

(f) **DETERMINATION UNDER PRIOR ACTS OF PERIOD FOR WHICH HELD.**—For the purposes of the Revenue Act of 1938 or any prior revenue Act, in determining the period for which the taxpayer has held stock or rights to acquire stock, received upon a distribution, if the basis of such stock or rights is determined under section 214 (e) (1) of the Revenue Act of 1939, there shall (under regulations which shall be prescribed by the Commissioner with the approval of the Secretary) be included the period for which he held the stock in the distributing corporation prior to the receipt of such stock or rights upon such distribution. This subsection shall be applicable as if it were a part of each such Act when such Act was enacted.



## SEC. 215. DISCHARGE OF INDEBTEDNESS.

(a) **INCOME FROM DISCHARGE OF INDEBTEDNESS.**—Section 22 (b) of the Internal Revenue Code (relating to exclusions from gross income) is amended by adding at the end thereof the following new paragraph:

Exclusions from gross income.  
*Ante*, p. 10.  
I. R. C. § 22 (b).

“(9) **INCOME FROM DISCHARGE OF INDEBTEDNESS.**—In the case of a corporation, the amount of any income of the taxpayer attributable to the discharge, within the taxable year, of any indebtedness of the taxpayer or for which the taxpayer is liable evidenced by a security (as hereinafter in this paragraph defined) if—

Income from discharge of corporate indebtedness.

(A) it is established to the satisfaction of the Commissioner, or

(B) it is certified to the Commissioner by any Federal agency authorized to make loans on behalf of the United States to such corporation or by any Federal agency authorized to exercise regulatory power over such corporation,

that at the time of such discharge the taxpayer was in an unsound financial condition, and if the taxpayer makes and files at the time of filing the return, in such manner as the Commissioner, with the approval of the Secretary, by regulations prescribes, its consent to the regulations prescribed under section 113 (b) (3) then in effect. In such case the amount of any income of the taxpayer attributable to any unamortized premium (computed as of the first day of the taxable year in which such discharge occurred) with respect to such indebtedness shall not be included in gross income and the amount of the deduction attributable to any unamortized discount (computed as of the first day of the taxable year in which such discharge occurred) with respect to such indebtedness shall not be allowed as a deduction. As used in this paragraph the term ‘security’ means any bond, debenture, note, or certificate, or other evidence of indebtedness, issued by any corporation, in existence on June 1, 1939. This paragraph shall not apply to any discharge occurring before the date of the enactment of the Revenue Act of 1939, or in a taxable year beginning after December 31, 1942.”

“Security” defined.

(b) **BASIS REDUCED.**—Section 113 (b) of the Internal Revenue Code (relating to the adjusted basis of property) is amended by adding at the end thereof the following new paragraph:

Application of paragraph.

Adjusted basis of property reduced.  
*Ante*, p. 44.  
I. R. C. § 113 (b).

“(3) **DISCHARGE OF INDEBTEDNESS.**—Where in the case of a corporation any amount is excluded from gross income under section 22 (b) (9) on account of the discharge of indebtedness the whole or a part of the amount so excluded from gross income shall be applied in reduction of the basis of any property held (whether before or after the time of the discharge) by the taxpayer during any portion of the taxable year in which such discharge occurred. The amount to be so applied (not in excess of the amount so excluded from gross income, reduced by the amount of any deduction disallowed under section 22 (b) (9)) and the particular properties to which the reduction shall be allocated, shall be determined under regulations (prescribed by the Commissioner with the approval of the Secretary) in effect at the time of the filing of the consent by the taxpayer referred to in section 22 (b) (9). The reduction shall be made as of the first day of the taxable year in which the discharge occurred except in the case of property not held by the taxpayer on such first day, in which case it shall take effect as of the time the holding of the taxpayer began.”

Discharge of indebtedness.



Taxable years to which applicable.

(c) **TAXABLE YEARS TO WHICH APPLICABLE.**—The amendments made by this section shall be applicable to taxable years beginning after December 31, 1938.

#### SEC. 216. FOREIGN TAX CREDIT.

Allowance of foreign tax credit.  
*Ante*, p. 56.  
I. R. C. § 131 (a).

(a) **DISALLOWANCE OF CREDIT TO SECTION 102 CORPORATIONS.**—Section 131 (a) of the Internal Revenue Code (relating to allowance of foreign tax credit) is amended by striking out "If the taxpayer signifies in his return his desire to have the benefits of this section, the tax imposed by this chapter shall be credited with" and inserting in lieu thereof "If the taxpayer signifies in his return his desire to have the benefits of this section, the tax imposed by this chapter, except the tax imposed under section 102, shall be credited with".

*Ante*, p. 35.  
I. R. C. § 102.

Limit on foreign tax credit.  
*Ante*, p. 56.  
I. R. C. § 131 (b).

(b) **LIMIT ON CREDIT.**—Section 131 (b) of the Internal Revenue Code (relating to the limit on foreign tax credit) is amended to read as follows:

"(b) **LIMIT ON CREDIT.**—The amount of the credit taken under this section shall be subject to each of the following limitations:

"(1) The amount of the credit in respect of the tax paid or accrued to any country shall not exceed the same proportion of the tax against which such credit is taken, which the taxpayer's net income from sources within such country bears to his entire net income, in the case of a taxpayer other than a corporation, or to the normal-tax net income, in the case of a corporation, for the same taxable year; and

"(2) The total amount of the credit shall not exceed the same proportion of the tax against which such credit is taken, which the taxpayer's net income from sources without the United States bears to his entire net income, in the case of a taxpayer other than a corporation, or to the normal-tax net income, in the case of a corporation, for the same taxable year."

Taxes of foreign subsidiary, credit.  
*Ante*, p. 57.  
I. R. C. § 131 (f).

(c) **FOREIGN SUBSIDIARY.**—Section 131 (f) of the Internal Revenue Code (relating to credit for taxes of foreign subsidiary) is amended by striking out "entire net income" and inserting in lieu thereof "normal-tax net income".

#### SEC. 217. EXEMPTION OF CERTAIN FEDERAL EMPLOYEES' ORGANIZATIONS.

Tax exemption of certain Federal employees' organizations.  
*Ante*, p. 33.  
I. R. C. § 101.

(a) Section 101 of the Internal Revenue Code (relating to exemptions from tax on corporations) is amended by adding at the end thereof the following new paragraph:

"(19) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries, if (A) admission to membership in such association is limited to individuals who are officers or employees of the United States Government, and (B) no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual."

Taxable years to which applicable.

(b) The amendment made by this section shall be applicable to taxable years beginning after December 31, 1938.

#### SEC. 218. EMPLOYEES' TRUSTS.

Employees' trusts.  
*Ante*, p. 67.  
I. R. C. § 165.

Section 165 of the Internal Revenue Code (relating to exemption from tax of certain trusts for the benefit of employees) is amended by inserting before the first paragraph "(a) **EXEMPTION FROM**



Tax.—” and by inserting at the end thereof the following new subsection:

“(b) TAXABLE YEAR BEGINNING PRIOR TO JANUARY 1, 1940.—The provisions of clause (2) of subsection (a) shall not apply to a taxable year beginning prior to January 1, 1940.”

Taxable year beginning prior to January 1, 1940.

#### SEC. 219. INVENTORIES.

(a) AMENDMENT TO CODE.—Section 22 (d) of the Internal Revenue Code (relating to inventories in certain industries) is amended to read as follows:

Inventories in certain industries.  
*Ante*, p. 11.  
I. R. C. § 22 (d).

“(d) (1) A taxpayer may use the following method (whether or not such method has been prescribed under subsection (c)) in inventorying goods specified in the application required under paragraph (2):

Election of method.

“(A) Inventory them at cost;

“(B) Treat those remaining on hand at the close of the taxable year as being: First, those included in the opening inventory of the taxable year (in the order of acquisition) to the extent thereof, and second, those acquired in the taxable year; and

“(C) Treat those included in the opening inventory of the taxable year in which such method is first used as having been acquired at the same time and determine their cost by the average cost method.

“(2) The method described in paragraph (1) may be used—

Restriction.

“(A) Only in inventorying goods (required under subsection (c) to be inventoried) specified in an application to use such method filed at such time and in such manner as the Commissioner may prescribe; and

“(B) Only if the taxpayer establishes to the satisfaction of the Commissioner that the taxpayer has used no procedure other than that specified in subparagraphs (B) and (C) of paragraph (1) in inventorying (to ascertain income, profit, or loss, for credit purposes, or for the purpose of reports to shareholders, partners, or other proprietors, or to beneficiaries) such goods for any period beginning with or during the first taxable year for which the method described in paragraph (1) is to be used.

“(3) The change to, and the use of, such method shall be in accordance with such regulations as the Commissioner, with the approval of the Secretary, may prescribe as necessary in order that the use of such method may clearly reflect income.

Regulations as to change, etc.

“(4) In determining income for the taxable year preceding the taxable year for which such method is first used, the closing inventory of such preceding year of the goods specified in such application shall be at cost.

Inventory at cost.

“(5) If a taxpayer, having complied with paragraph (2), uses the method described in paragraph (1) for any taxable year, then such method shall be used in all subsequent taxable years unless—

Restriction on change of method.

“(A) With the approval of the Commissioner a change to a different method is authorized; or

“(B) The Commissioner determines that the taxpayer has used for any period beginning with or during any subsequent taxable year some procedure other than that specified in subparagraph (B) of paragraph (1) in inventorying (for ascertaining income, profit, or loss, for credit purposes, or for the purpose of reports to shareholders, partners, or other proprietors, or to beneficiaries) the goods specified in the application, and requires a change to a method different from that prescribed in paragraph (1) beginning with such subsequent taxable year or any taxable year thereafter.



In either of the above cases, the change to, and the use of, the different method shall be in accordance with such regulations as the Commissioner, with the approval of the Secretary, may prescribe as necessary in order that the use of such method may clearly reflect income."

Taxable years to which applicable.

(b) **TAXABLE YEARS TO WHICH APPLICABLE.**—The amendment made by subsection (a) shall be applicable to taxable years beginning after December 31, 1938.

Inventories in certain industries.  
52 Stat. 459.  
26 U. S. C., Supp. IV, § 22 (d).  
*Ante*, p. 877.  
I. R. C. § 22 (d) (1).  
*Ante*, p. 877.  
I. R. C. § 22 (d) (2).

(c) **AMENDMENT TO 1938 ACT.**—Section 22 (d) of the Revenue Act of 1938 (relating to inventories in certain industries) is amended to read as follows:

"(d) If the inventory method described in section 22 (d) (1), as amended, of the Internal Revenue Code is used for the first taxable year beginning after December 31, 1938, then, in determining income for the preceding taxable year, the closing inventory of such year of the goods specified in the application under section 22 (d) (2), as amended, of such Code shall be at cost."

#### SEC. 220. COMPENSATION FOR SERVICES RENDERED FOR A PERIOD OF FIVE YEARS OR MORE.

*Ante*, p. 36.

(a) The Internal Revenue Code is amended by inserting after section 106 the following new section:

#### "SEC. 107. COMPENSATION FOR SERVICES RENDERED FOR A PERIOD OF FIVE YEARS OR MORE.

Cases where compensation is paid only on completion of services.

"In the case of compensation (a) received, for personal services rendered by an individual in his individual capacity, or as a member of a partnership, and covering a period of five calendar years or more from the beginning to the completion of such services, (b) paid (or not less than 95 per centum of which is paid) only on completion of such services, and (c) required to be included in gross income of such individual for any taxable year beginning after December 31, 1938, the tax attributable to such compensation shall not be greater than the aggregate of the taxes attributable to such compensation had it been received in equal portions in each of the years included in such period."

Inclusion in gross income for any taxable year after 1938.

Taxable years to which applicable.

(b) The amendment made by subsection (a) shall be applicable to taxable years beginning after December 31, 1938.

#### SEC. 221. EXTENSION OF TIME OF ORDERS OF SECURITIES AND EXCHANGE COMMISSION.

Securities and Exchange Commission orders.  
*Ante*, p. 102.  
I. R. C. § 373 (a).

Term defined.

(a) Section 373 (a) of the Internal Revenue Code (relating to the definition of orders of the Securities and Exchange Commission with respect to which Supplement R applies) is amended to read as follows:

49 Stat. 820.  
15 U. S. C., Supp. IV, § 79k (b).

"(a) The term 'order of the Securities and Exchange Commission' means an order (1) issued after May 28, 1938, and prior to January 1, 1941, by the Securities and Exchange Commission to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935, 49 Stat. 820 (U. S. C., Supp. III, Title 15, § 79 (b)), or (2) issued by the Commission subsequent to December 31, 1940, in which it is expressly stated that an order of the character specified in clause (1) is amended or supplemented, and (3) which has become final in accordance with law."

Taxable years to which applicable.

(b) The amendment made by subsection (a) shall be applicable to taxable years beginning after December 31, 1938.



## SEC. 222. RENEWAL OF INDEBTEDNESS.

(a) Section 27 (a) (4) of the Internal Revenue Code (relating to corporation credit for amounts used or set aside to pay indebtedness) is amended by inserting at the end thereof the following new sentence: "A renewal (however evidenced) of an indebtedness shall be considered an indebtedness."

Renewal of indebtedness.  
*Ante*, p. 20.  
I. R. C. § 27 (a) (4).

(b) The amendment made by subsection (a) shall be applicable to taxable years beginning after December 31, 1938.

Taxable years to which applicable.

(c) Section 27 (a) (4) of the Revenue Act of 1938 (relating to corporation credit for amounts used or set aside to pay indebtedness) is amended by inserting at the end thereof the following new sentence: "A renewal (however evidenced) of an indebtedness shall be considered an indebtedness."

Renewal of indebtedness.  
52 Stat. 468.

(d) The amendment made by subsection (c) shall be applicable to taxable years beginning after December 31, 1937.

Taxable years to which applicable.

## SEC. 223. COMMODITY CREDIT LOANS.

(a) The Internal Revenue Code is amended by inserting after section 121 the following new section:

*Ante*, pp. 56, 867.

## "SEC. 123. COMMODITY CREDIT LOANS.

"(a) Amounts received as loans from the Commodity Credit Corporation shall, at the election of the taxpayer, be considered as income and shall be included in gross income for the taxable year in which received.

Commodity credit loans; treatment of.

"(b) If a taxpayer exercises the election provided for in subsection (a) for any taxable year beginning after December 31, 1938, then the method of computing income so adopted shall be adhered to with respect to all subsequent taxable years unless with the approval of the Commissioner a change to a different method is authorized."

Restriction as to change of method.

(b) ADJUSTMENT OF BASIS.—Section 113 (b) (1) of the Internal Revenue Code is amended by adding at the end thereof a new subparagraph reading as follows:

*Ante*, p. 44.  
I. R. C. § 113 (b) (1).

"(G) in the case of property pledged to the Commodity Credit Corporation, to the extent of the amount received as a loan from the Commodity Credit Corporation and treated by the taxpayer as income for the year in which received pursuant to section 123 of this chapter, and to the extent of any deficiency on such loan with respect to which the taxpayer has been relieved from liability."

Adjustment of basis.

(c) The amendments made by subsections (a) and (b) shall be applicable to taxable years beginning after December 31, 1938.

Taxable years to which applicable.

(d) RETROACTIVE APPLICATION.—The provisions of subsection (a) shall be retroactively applied in computing income for any taxable year subject to the provisions of the Revenue Act of 1934, the Revenue Act of 1936, or the Revenue Act of 1938, or any of such Acts as amended, if—

Retroactive application.

(1) The taxpayer elects in writing (in accordance with regulations prescribed by the Commissioner with the approval of the Secretary) within one year from the date of the enactment of this Act to treat such loans as income for such year, and

48 Stat. 680; 49 Stat. 1648; 52 Stat. 447.

(2) The records of the taxpayer are sufficient to permit an accurate computation of income for such year, and

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



Credit for overpaid tax.

Any tax overpaid for any such year shall be credited or refunded, subject to the statutory period of limitation properly applicable thereto.

Adjustment of basis for prior years.

48 Stat. 680; 49 Stat. 1648; 52 Stat. 447.

(e) **ADJUSTMENT OF BASIS FOR PRIOR YEARS.**—In computing income for any taxable year subject to the provisions of the Revenue Act of 1934, the Revenue Act of 1936, or the Revenue Act of 1938, or any of such Acts as amended, the basis, for determining gain or loss from the sale or other disposition of any property, pledged to the Commodity Credit Corporation as security on a loan obtained therefrom, shall be adjusted for the amount of such loan to the extent it was considered as income and included in gross income for the year in which received, and for the amount of any deficiency on such loan with respect to which the taxpayer was relieved from liability.

#### SEC. 224. CHARITABLE CONTRIBUTIONS TO POSSESSIONS AND CHARITIES IN POSSESSIONS.

Charitable deductions of taxpayers other than corporations.

*Ante*, p. 14.  
I. R. C. § 23 (o) (1) (2).

For public purposes.

For religious, charitable, etc., purposes.

(a) **CHARITABLE DEDUCTIONS OF TAXPAYERS OTHER THAN CORPORATIONS.**—Section 23 (o) (1) and (2) of the Internal Revenue Code are amended to read as follows:

"(1) The United States, any State, Territory, or any political subdivision thereof or the District of Columbia, or any possession of the United States, for exclusively public purposes;

"(2) A corporation, trust, or community chest, fund, or foundation, created or organized in the United States or in any possession thereof or under the law of the United States or of any State or Territory or of any possession of the United States, 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, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation;"

*Ante*, p. 15.  
I. R. C. § 23 (q).

Deductions allowed.

(b) **CHARITABLE DEDUCTION OF CORPORATIONS.**—Section 23 (q) of the Internal Revenue Code is amended to read as follows:

"(q) **CHARITABLE AND OTHER CONTRIBUTIONS BY CORPORATIONS.**—In the case of a corporation, contributions or gifts payment of which is made within the taxable year to or for the use of a corporation, trust, or community chest, fund, or foundation, created or organized in the United States or in any possession thereof or under the law of the United States, or of any State or Territory, or of the District of Columbia, or of any possession of the United States, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children (but in the case of contributions or gifts to a trust, chest, fund, or foundation, only if such contributions or gifts are to be used within the United States or any of its possessions exclusively for such purposes), no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation; to an amount which does not exceed 5 per centum of the taxpayer's net income as computed without the benefit of this subsection. 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."

Verification.

#### SEC. 225. PAN-AMERICAN TRADE CORPORATIONS.

*Ante*, p. 66.

The Internal Revenue Code is amended by inserting after section 151 the following new section:



**"SEC. 152. PAN-AMERICAN TRADE CORPORATIONS.**

"If a domestic corporation engaged in the active conduct of a trade or business within the United States (hereinafter referred to as the 'parent corporation') owns directly 100 per centum of the capital stock of one or more domestic corporations each of which is engaged solely in the active conduct of a trade or business in Central or South America (hereinafter referred to as a Pan-American trade corporation), such corporations (including the 'parent corporation') shall be deemed to be an affiliated group of corporations within the meaning of section 141 of this chapter, provided that the following conditions are satisfied:

"(1) At least 80 per centum of the gross income for the taxable year of the parent corporation is derived from sources other than royalties, rents, dividends, interest, annuities, and gains from the sale or exchange of stock or securities; and

"(2) At least 90 per centum of the gross income for the taxable year of each of the Pan-American trade corporations is derived from sources other than royalties, rents, dividends, interest, annuities, and gains from the sale or exchange of stock or securities; and

"(3) No part of the gross income for the taxable year of any of the Pan-American trade corporations is derived from sources within the United States."

Benefits to domestic corporations in active conduct of Pan-American trade.

*Ante*, pp. 58, 866.  
I. R. C. § 141.

Conditions.

**SEC. 226. DEDUCTIONS OF INSURANCE COMPANIES OTHER THAN LIFE OR MUTUAL.**

(a) Section 204 (c) (10) of the Internal Revenue Code is amended to read as follows:

"(10) Deductions (other than those specified in this subsection) as provided in section 23."

(b) The amendment made by subsection (a) shall be applicable to taxable years beginning after December 31, 1938.

Deductions allowed.  
*Ante*, p. 74.  
I. R. C. § 204 (c) (10).

*Ante*, pp. 12, 867, 880.  
I. R. C. § 23.  
Taxable years to which applicable.

**SEC. 227. DEFINITION OF GROSS INCOME OF CERTAIN INSURANCE COMPANIES FOR PERSONAL HOLDING COMPANY TAX.**

(a) Section 507 of the Internal Revenue Code is amended to read as follows:

*Ante*, p. 111.  
I. R. C. § 507.

**"SEC. 507. MEANING OF TERMS USED.**

"(a) **GENERAL RULE.**—The terms used in this subchapter shall have the same meaning as when used in chapter 1.

"(b) **INSURANCE COMPANIES OTHER THAN LIFE OR MUTUAL.**—Notwithstanding subsection (a), the term 'gross income', as used in this subchapter, means, in the case of an insurance company other than life or mutual, the gross income, as defined in section 204 (b) (1), increased by the amount of losses incurred, as defined in section 204 (b) (6), and the amount of expenses incurred, as defined in section 204 (b) (7), and decreased by the amount deductible under section 204 (c) (7) (relating to tax-free interest)."

(b) **TAXABLE YEARS TO WHICH APPLICABLE.**—The amendments made by this section shall be applicable to taxable years beginning after December 31, 1938.

General rule.

"Gross income."

*Ante*, pp. 73, 74.  
I. R. C. §§ 204 (b)  
(1) (6) (7), 204 (c) (7).

Taxable years to which applicable.

**SEC. 228. COMPUTATION OF DIVIDEND CARRY-OVER FOR PERSONAL-HOLDING COMPANY TAX.**

(a) Section 504 (a) of the Internal Revenue Code is amended by inserting before the semicolon at the end thereof a comma and the following: "and, in the computation of the dividend carry-over for

Computation; allowance.  
*Ante*, p. 107.  
I. R. C. § 504 (a).



*Ante*, p. 20.  
I. R. C. § 27 (c).  
*Ante*, p. 108.  
I. R. C. § 505 (a) (1).  
Taxable years to which applicable.

the purposes of this subchapter, the term 'adjusted net income' as used in section 27 (c) means the adjusted net income minus the deduction allowed for Federal taxes under section 505 (a) (1)".

(b) The amendment made by subsection (a) shall be applicable to taxable years beginning after December 31, 1938.

#### SEC. 229. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE.

Taxable years to which amendments applicable.  
*Ante*, pp. 867, 870, 872, 875, 876, 877, 878, 879, 881.

Except the amendments made by sections 211, 213, 214, 215, 217, 219, 220, 221, 222, 223, 226, 227, and 228, the amendments made by this title to the Internal Revenue Code shall be applicable only with respect to taxable years beginning after December 31, 1939.

### TITLE III—CAPITAL STOCK AND EXCESS PROFITS TAXES

#### SEC. 301. DECLARATION OF VALUE FOR CAPITAL STOCK PURPOSES, 1939 AND 1940.

Declaration of value.  
*Ante*, p. 169.  
I. R. C. § 1202.

Section 1202 of the Internal Revenue Code (relating to declaration of capital stock value) is amended by inserting at the end thereof the following new subsection:

Additional declaration years.

"(e) **ADDITIONAL DECLARATION YEARS.**—In the case of any domestic corporation, the year ending June 30, 1939, and the year ending June 30, 1940, shall each, if not otherwise a declaration year, constitute an additional declaration year if with respect to such year (1) the taxpayer so elects (which election cannot be changed) in its return filed before the expiration of the statutory filing period or any authorized extension thereof, and (2) the value declared by the taxpayer is in excess of the adjusted declared value computed under paragraph (1) of subsection (b). If, under this subsection, the year ending June 30, 1939, is a declaration year, the computation, under paragraph (1) of subsection (b), of the adjusted declared value for the year ending June 30, 1940, shall be made on the basis of the value declared for the year ending June 30, 1939."

### TITLE IV—MISCELLANEOUS AMENDMENTS

#### SEC. 401. TAX LIENS ON SECURITIES.

Tax liens on securities.  
*Ante*, p. 449.  
I. R. C. § 3672.

Section 3672 of the Internal Revenue Code is amended to read as follows:

#### "SEC. 3672. VALIDITY AGAINST MORTGAGEES, PLEDGEEES, PURCHASERS, AND JUDGMENT CREDITORS.

Invalidity of lien without notice.

"(a) **INVALIDITY OF LIEN WITHOUT NOTICE.**—Such lien shall not be valid as against any mortgagee, pledgee, purchaser, or judgment creditor until notice thereof has been filed by the collector—

"(1) **UNDER STATE OR TERRITORIAL LAWS.**—In accordance with the law of the State or Territory in which the property subject to the lien is situated, whenever the State or Territory has by law provided for the filing of such notice; or

"(2) **WITH CLERK OF DISTRICT COURT.**—In the office of the clerk of the United States district court for the judicial district in which the property subject to the lien is situated, whenever the State or Territory has not by law provided for the filing of such notice; or

"(3) **WITH CLERK OF DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF COLUMBIA.**—In the office of the clerk of the



District Court of the United States for the District of Columbia, if the property subject to the lien is situated in the District of Columbia.

"(b) (1) EXCEPTION IN CASE OF SECURITIES.—Even though notice of a lien provided in section 3670 has been filed in the manner prescribed in subsection (a) of this section, or notice of a lien provided in section 3186 of the Revised Statutes, as amended, has been filed in the manner prescribed in such section or subsection (a) of this section, the lien shall not be valid with respect to a security, as defined in paragraph (2) of this subsection, as against any mortgagee, pledgee, or purchaser, of such security, for an adequate and full consideration in money or money's worth, if at the time of such mortgage, pledge, or purchase such mortgagee, pledgee, or purchaser is without notice or knowledge of the existence of such lien.

"(2) DEFINITION OF SECURITY.—As used in this subsection the term 'security' means any bond, debenture, note, or certificate, or other evidence of indebtedness, issued by any corporation (including one issued by a government or political subdivision thereof), with interest coupons or in registered form, share of stock, voting trust certificate, or any certificate of interest or participation in, certificate of deposit or receipt for, temporary or interim certificate for, or warrant or right to subscribe to or purchase, any of the foregoing; negotiable instrument; or money.

"(3) APPLICABILITY OF SUBSECTION.—Except where the lien has been enforced by a proceeding, suit, or civil action which has become final before the date of enactment of the Revenue Act of 1939, this subsection shall apply regardless of the time when the mortgage, pledge, or purchase was made or the lien arose."

Exception in case of securities.

*Ante*, p. 448.

I. R. C. § 3670.

R. S. § 3186.

*Ante*, pp. 448-450.

I. R. C. §§ 3670-3677.

"Security" defined.

Applicability of subsection.

#### SEC. 402. TAX ON TRANSFERS OF WORTHLESS SECURITIES BY EXECUTOR, ETC.

Section 1802 (b) of the Internal Revenue Code (relating to the tax on transfers of capital stock and similar interests) is amended by inserting at the end thereof the following new paragraph:

"The tax imposed by this subsection shall not be imposed upon any delivery or transfer by an executor or administrator to a legatee, heir, or distributee of shares or certificates of stock if it is shown to the satisfaction of the Commissioner that the value of such shares or certificates is not greater than the amount of the tax that would otherwise be imposed on such delivery or transfer."

Transfers of worthless securities by executor, etc.

*Ante*, p. 196.

I. R. C. § 1802 (b).

#### SEC. 403. CREDITS AGAINST ESTATE TAX OF TAX PAID TO POSSESSIONS.

(a) Section 813 (b) of the Internal Revenue Code (relating to the 80 per centum credit for estate, legacy, succession, and inheritance taxes paid) is amended by inserting after "District of Columbia," the following: "or any possession of the United States."

(b) The amendment made by subsection (a) shall be applicable only with respect to estates of decedents dying after the date of the enactment of this Act.

Credit against estate tax of tax paid to possessions.

*Ante*, p. 125.

I. R. C. § 813 (b).

Applicability.

#### SEC. 404. RETURNS BY ATTORNEYS AS TO FOREIGN CORPORATIONS.

Effective as of the date of the enactment of the Internal Revenue Code, section 3604 of such Code is amended by striking out "Nothing in this section shall be construed to require the divulging of privileged communications between attorney and client." and inserting in lieu thereof "Nothing in this section shall be construed to require the

Returns by attorneys as to foreign corporations.

*Ante*, p. 436.

I. R. C. § 3604.



filing by an attorney-at-law of a return with respect to any advice given or information obtained through the relationship of attorney and client."

**SEC. 405. FILING OF CLAIMS FOR REFUND OF AMOUNTS COLLECTED UNDER THE AGRICULTURAL ADJUSTMENT ACT.**

Filing of claims, expiration of time.  
49 Stat. 1747.

Section 903 of the Revenue Act of 1936 (relating to expiration of time for filing claims for refund of amounts paid under the Agricultural Adjustment Act) is amended by striking out "July 1, 1937" and inserting in lieu thereof "January 1, 1940".

**SEC. 406. INSOLVENT BANKS.**

Insolvent banks.  
*Ante*, p. 470.  
I. R. C. § 3798 (c).  
Erroneous collections.

(a) Section 3798 (c) of the Internal Revenue Code is amended to read as follows:

"(c) (1) Any such tax collected, whether collected before, on, or after the date of enactment of the Revenue Act of 1938, shall be deemed to be erroneously collected, and shall be refunded subject to all provisions and limitations of law, so far as applicable, relating to the refunding of taxes.

Assessment, etc., barred under subsection (a), etc.  
*Ante*, p. 470.

"(2) Any tax, the assessment, collection, or payment of which is barred under subsection (a) of this section, or any such tax which has been abated or remitted after May 28, 1938, shall be assessed or reassessed whenever it shall appear that payment of the tax will not diminish the assets as aforesaid.

Barred under subsection (b).  
*Ante*, p. 470.

"(3) Any tax, the assessment, collection, or payment of which is barred under subsection (b) of this section or any such tax which has been refunded after May 28, 1938, shall be assessed or reassessed after full payment of such claims of depositors to the extent of the remaining assets segregated or transferred as described in subsection (b).

Suspension of statute of limitations on making of assessment, etc.

"(4) The running of the statute of limitations on the making of assessment and collection shall be suspended, during, and for ninety days beyond, the period for which, pursuant to this section, assessment or collection may not be made, and a tax may be reassessed as provided in paragraphs (2) and (3) of this subsection, and collected, during the time within which, had there been no abatement, collection might have been made."

"Agent" defined.  
*Ante*, p. 470.  
I. R. C. § 3798 (b).

(b) The term "agent" as used in 3798 (b) of the Internal Revenue Code shall be deemed to include a corporation acting as a liquidating agent.

Effective date of amendments.  
52 Stat. 447.

(c) The amendments made by this section shall be effective as of the date of enactment of the Revenue Act of 1938.

**SEC. 407. SALE OF INFORMATION DERIVED FROM INCOME TAX RETURNS.**

Sale of information derived from income tax returns.  
*Ante*, p. 65.  
I. R. C. § 148 (f).

Section 148 (f) of the Internal Revenue Code is amended by adding at the end thereof the following new sentence: "It shall be unlawful for any person to sell, offer for sale, or circulate, for any consideration whatsoever, any copy or reproduction of any list, or part thereof, authorized to be made public by this Act or by any prior Act relating to the publication of information derived from income-tax returns; 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: *Provided*, That nothing in this sentence shall be construed to be applicable with respect to any newspaper, or other periodical publication, entitled to admission to the mails as second-class mail matter."

Penalty.

*Proviso.*  
Exceptions.



## SEC. 408. EXEMPTION FROM INTERNAL REVENUE TAX OF ARTICLES BROUGHT INTO GUAM OR AMERICAN SAMOA.

Section 3361 (b) of the Internal Revenue Code is amended by adding a comma and the words "Guam, and American Samoa" after the words "Puerto Rico".

Approved, June 29, 1939, 10 p. m. E. S. T.

Guam and American Samoa, exemption of tax, etc.  
*Ante*, p. 406.  
 I. R. C. § 3361 (b).

## [CHAPTER 248]

## AN ACT

Making appropriations for the Departments of State and Justice and for the Judiciary, and for the Department of Commerce, for the fiscal year ending June 30, 1940, and for other purposes.

June 29, 1939  
 [H. R. 6392]  
 [Public, No. 156]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of State and Justice and for the Judiciary, and for the Department of Commerce, for the fiscal year ending June 30, 1940, namely:

## TITLE I—DEPARTMENT OF STATE

## OFFICE OF THE SECRETARY OF STATE

**Salaries:** For Secretary of State; Under Secretary of State, \$10,000; counselor, \$10,000; and other personal services in the District of Columbia, including temporary employees, and not to exceed \$6,500 for employees engaged on piecework at rates to be fixed by the Secretary of State; \$2,192,000: *Provided*, That in expending appropriations or portions of appropriations, contained in this Act, for the payment of personal services in the District of Columbia in accordance with the Classification Act of 1923, as amended, with the exception of the four Assistant Secretaries of State and the legal adviser of the Department of State, the Assistant to the Attorney General, the Assistant Solicitor General, and six Assistant Attorneys General, the Assistant Secretaries of Commerce, the average of the salaries of the total number of persons under any grade in any bureau, office, or other appropriation unit shall not at any time exceed the average of the compensation rates specified for the grade by such Act, as amended, and in grades in which only one position is allocated the salary of such position shall not exceed the average of the compensation rates for the grade, except that in unusually meritorious cases of one position in a grade advances may be made to rates higher than the average of the compensation rates of the grade but not more often than once in any fiscal year and then only to the next higher rate: *Provided*, That this restriction shall not apply (1) to grades 1, 2, 3, and 4 of the clerical-mechanical service, or (2) to require the reduction in salary of any person whose compensation was fixed as of July 1, 1924, in accordance with the rules of section 6 of such Act, or (3) to require the reduction in salary of any person who is transferred from one position to another position in the same or different grade in the same or a different bureau, office, or other appropriation unit, or (4) to prevent the payment of a salary under any grade at a rate higher than the maximum rate of the grade when such higher rate is permitted by the Classification Act of 1923, as amended, and is specifically authorized by other law, or (5) to reduce the compensation of any person in a grade in which only one position is allocated.

Department of State Appropriation Act, 1940.

Salaries.  
*Post*, p. 1337.

Temporary and piecework employees.

*Provisos.*  
 Salaries limited to average rates under Classification Act; exceptions.  
 5 U. S. C. §§ 661-674; Supp. IV, §§ 673, 673c.

If only one position in grade.

Advances in unusually meritorious cases.

Restriction not applicable to clerical-mechanical service.

No reduction in fixed salaries.

42 Stat. 1490.  
 5 U. S. C. § 666.  
 Transfers without reduction.

Higher salary rates permitted.

No reduction if only one position in grade.