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SUMMARY OF SENATE
AMENDMENTS TO H.R. 10650
REVENUE BILL OF 1962

PREPARED FOR THE USE OF
THE HOUSE AND SENATE CONFEREES ON
THE REVENUE BILL OF 1962

BY THE STAFF OF THE
JOINT COMMITTEE ON
INTERNAL REVENUE TAXATION



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WASHINGTON : 1962

SUMMARY OF SENATE AMENDMENTS TO H.R. 10650, REVENUE BILL OF 1962

Number of Senate amendments	Description of amendment
1	Clerical conforming change.
2	Technical drafting change.

II. INVESTMENT CREDIT

- 3 Clerical conforming change.
- 4 Conforming change to No. 5 below.
- 5 This provides a 3-year carryback of any investment credit which because of the limitation cannot be used in the current year. The 5-year carryforward which was in the House bill is retained. The credit may not be carried back to a year ending before June 30, 1962, and for years beginning before that date a proration rule in effect limits the carryback privilege to the portion of the year occurring after June 30, 1962. The revenue effect of this amendment is believed to be negligible. This is a committee amendment.
- 6 This provides that where property is lost or destroyed as the result of a casualty or is stolen and is insured, reinvestment of the insurance proceeds in replacement property is not to be eligible for the investment credit. This is designed to eliminate the allowance of a credit where the taxpayer has made no contribution of additional funds toward the acquisition of new property. This reduces the revenue cost of the credit by \$25 million. This is a committee amendment.
- 7 Conforming amendment to No. 5 above.
- 8 Conforming amendment to No. 5 above.
- 9 Conforming amendment to No. 6 above.
- 10 This provides that the purchase of livestock is not to be eligible for the investment credit. This was provided because they are not included in the category of property resulting in ordinary income (to the extent of depreciation deductions) at the time of sale. This is expected to result in a revenue gain of less than \$5 million a year. This is a committee amendment.
- 11, 12, and 13, and 14 This provides that the investment credit is to be available only with respect to property acquired or constructed after June 30, 1962, rather than on or after January 1, 1962. This has no full-year revenue effect but reduces the cost of the credit in the first fiscal year by \$650 million. This is a committee amendment.
- 15 Conforming amendment to No. 6 above.
- 16 Conforming amendment to No. 5 above.

Number of Senate amendments	Description of amendment
17	This deletes the requirement of the House bill that in order to shift the benefit of the investment credit from the lessor to the lessee the lessor must be engaged in the business of leasing property. This is intended to avoid the problem of having to determine whether a lessor is engaged in the business of leasing. This change has no significant effect on revenues. This is a committee amendment.
18	Technical drafting change.
19, 20, and 21	This change, known as the Long amendment, provides for the reduction of the amount on which depreciation may be taken in the case of assets eligible for the investment credit by the amount of the investment credit allowable. Where a taxpayer purchases a \$100 asset, for example, \$7 of this may be allowable as a reduction in tax in the form of a credit. In such a case, this provision limits the depreciation which may be taken with respect to this \$100 asset to \$93 instead of the \$100 presently available. If because of the limitation on the credit, this full \$7 cannot be taken as a credit in either the current year or in any of the years in which this may be carried, then the taxpayer is allowed a deduction to the extent this credit is not used in computing his income to compensate him for the depreciation deduction lost. In the fiscal year 1963 it is estimated that this will result in an increase in revenue of \$25 million and in a full year in the immediate future a revenue gain of \$95 million. If it were assumed that there were no growth in investments, however (and apart from the advantage gained by the taxpayer in recovering his cost more quickly), this provision would ultimately reduce the revenue cost of the investment credit by one-half. This is a committee amendment.
22	Clerical conforming change.
23	Conforming amendment to No. 5 above.
24	Conforming amendment to Nos. 19, 20, and 21.
25	Clerical conforming amendment.
26	Clerical conforming amendment.
27	Clerical conforming amendment.
28	Conforming amendment to Nos. 11, 12, 13, and 14 above.

IV. ENTERTAINMENT EXPENSES

29, 30,
and 31 The amendment, by adding the words "or associated with" modified the House bill as reflected in the report to permit the deduction of certain expenses for goodwill.

The House report interprets the words "directly related to the active conduct of a trade or business" as limiting entertainment expenses (1) to those cases where there is more than a general expectation of deriving income at some future time; (2) to those expenses which occur under circumstances where there is at least some possibility of conducting business affairs or negotiations or discussions; (3) to those where the taxpayer or his representative is present at the entertainment activity; and (4) to those cases where the group of persons

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amendments

Description of amendment

entertained is not large or the distraction is not substantial. Reference to the allowance of goodwill expenditures in the House report (except in the case of specific exceptions) is limited to goodwill expenditures in a hospitality room at a convention.

The Senate report indicates that expenses are not to be disallowed merely because they are incurred for the purpose of generating business goodwill. The Senate report indicates that no deductions for entertainment expenses would be allowed for (1) expenses attributable to the wife or family of a client or customer; (2) for expenses where there is a big backlog of orders showing entertainment is not necessary to produce income; (3) for expenses which are against public policy or public conscience; and (4) expenses which are lavish or extravagant.

The joint committee staff estimates that the Senate version will bring in \$40 million less than the House version; the Treasury Department estimates it will bring in \$65 million less. This is a committee amendment.

32 As under the House bill, the Senate disallows the deduction of gifts in excess of \$25 per recipient. It has modified the House provision, however, to provide for the exclusion from this provision of (1) items costing not over \$4 which have the taxpayer's name imprinted, and which are one of a number of identical items distributed; (2) signs, display racks, etc., to be used on business premises of recipient; and (3) tangible personal property costing not over \$100 awarded to an employee for long service or for safety achievements. This is a committee amendment.

33 In the case of a combined business and personal trip away from home, the travel cost is to be allocated to the business and personal aspect (and denied as a deduction to the extent allocated to the personal aspect) where the time away from home is for more than 1 week and the portion of the time spent for personal purposes constitutes 25 percent or more of the total time away from home. There would be a small revenue increase under this change. This is a committee amendment.

34, 35,
and 36 Conforming clerical changes.

37 Permits deduction of expenses by taxpayer which are related to business meetings of agents or directors as well as employees and stockholders as provided under the House bill. This is a committee amendment.

38, 39,
and 40 Conforming clerical changes.

41 In the case of expenses for meals and lodging incurred while traveling, the Senate amendment provides that to be deductible these meals or lodging must not be lavish or extravagant under the circumstances. The House version permits a reasonable allowance for amounts spent for meals and lodging. This is a committee amendment.

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amendments

Description of amendment

- 42 This makes the entertainment provisions effective for taxable years ending after December 31, 1962, rather than taxable years ending after June 30, 1962, with respect to periods after the dates specified. This is a committee amendment.

V. DISTRIBUTIONS IN KIND BY FOREIGN CORPORATIONS

- 43 The amendment provides that the share of the foreign tax is to be credited with respect to a distribution in kind from a foreign corporation and is to be determined on the basis of the fair market value of the distribution, rather than on the basis of the adjusted basis of the property as under the House bill. This is a committee amendment.
- 44 Conforming clerical amendment.

VI. AMENDMENT TO SECTION 482—HOUSE BILL ONLY

- 45 This deletes section 6 of the House bill providing an amendment to section 482 of the code. In general, the House provision provided that where goods are purchased or sold by a domestic corporation to a related foreign corporation, the income arising from these transactions is to be allocated between the parties on the basis of the location of the assets used in the operations, the payroll attributable to them, and the related selling expenses. This rule would not apply where an arm's-length price could be established for the purchase or sales. This is a committee amendment.

VII. DISTRIBUTIONS OF FOREIGN PERSONAL HOLDING COMPANY INCOME—HOUSE BILL ONLY

- 46 The amendment deletes section 7 of the House bill relating to distributions of foreign personal holding company income. In general, the House provision provides that the passive income of a foreign personal holding company is to be taxed to the U.S. shareholders if 20 percent or more of its income is "foreign personal holding company income," and if 80 percent or more of its income is of this type, then the remaining income of the company also is to be taxed to the shareholders. Under present law all of the income is taxed to the shareholders in the case of such companies if 50 or 60 percent of the company's income is foreign personal holding company income. This is a committee amendment.

VI. MUTUAL SAVINGS BANKS, ETC.

- 47 Conforming clerical change.
- 48 This puts a ceiling on the deduction which may be taken by mutual savings banks, etc. The deduction may not increase reserves for losses to an amount equal to more than 12 percent of total deposits. In general, this is the same as the ceiling under present law. The revenue increase is expected to be small. This is a committee amendment.

Number of Senate amendments	Description of amendment
49	Clerical conforming change.
50	Generally, mutual savings banks and savings and loan associations may deduct, and add to their loss reserves, 60 percent of what would otherwise be their taxable income. This amendment limits the deduction which may be taken in the case of stock savings and loan associations to 50 percent of taxable income. This is expected to increase revenues by about \$10 million a year. This is a committee amendment.
51	Clerical conforming change.
52	Generally, mutual savings banks, etc., can deduct 60 percent of taxable income, or an amount which brings the reserve on losses on qualifying real property loans to 3 percent (plus a reasonable amount for the reserve for other losses). This amendment places a ceiling on the reserve for losses on qualified real property loans where the deduction taken is 60 percent of taxable income. In such a case, this deduction may not increase the balance in the reserve for losses on qualified real property loans to more than 6 percent of these loans. This will result in a very small increase in revenue. This is a committee amendment.
53	Clerical conforming change.
54	This amendment increases the 3-percent level of reserves previously referred to for which a deduction may be taken to 5 percent for the first \$4 million of loans (a maximum increase in reserves of \$80,000) during the first 10 years of mutual savings institutions' existence. The revenue loss is not significant. This is a committee amendment.
55	Clerical conforming change.
56	The House bill provided that the reserve for losses on qualified real property loans at the end of 1962 was to be established out of existing reserves attributable to years beginning after December 31, 1951 (the year these institutions became taxable), up to a level of 3 percent of qualifying loans. This amendment takes into account pre-1952 reserves to the extent necessary to obtain the 3 percent beginning reserve. No revenue estimates are available. This is a committee amendment.
57	Clerical conforming change.
58 and	Clerical conforming change.
59	The definition of a domestic building and loan association in the House bill in general provides that substantially all of the business of the institution must consist of accepting savings and investing the proceeds in loans secured by residential real property and other loans to the extent authorized for a Federal savings and loan association under the Homeowners Loan Act. The definition in the Senate amendment requires that the institution be one which is federally insured or subject to State or Federal supervision, one substantially all of whose business consists of acquiring savings from the public and investing in real estate loans, and one whose assets are invested as specified below. In general, 90 percent
60	

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Senate
amendments

Description of amendment

- of the total assets of the institution must be invested in loans secured by real property (or closely associated uses). Of this 90 percent of total assets, at least 80 percent (72 percent of total assets) must be invested in residential real property or closely associated uses. Moreover, 60 percent of this 90 percent (54 percent of total assets) must be invested in residential real property containing four or fewer family units or in closely associated uses. Cash and Government obligations may also qualify under any of the percentage requirements specified above. However, to prevent the cash or Government obligations from being used as a means of expanding nonresidential loans beyond the difference between 72 and 90 percent of total assets and to prevent the expansion of other than one- to four-family residential loans beyond the difference between the 54 and 90 percent of total assets, it is provided that not more than 18 percent of total assets may be invested in other than residential loans, cash, and Government obligations and not more than 36 percent of total assets in other than one- to four-family residential unit loans and cash and Government obligations. It is also provided that not more than 3 percent of the assets of the association may consist of stock in any private corporation. This definition is not believed to have any significant revenue consequences. This is a committee amendment which was modified by a floor amendment made by Senator Sparkman.
- 61 The House bill repealed exemptions granted Federal savings and loan associations from excise taxes on communications and on transportation of persons. The Senate, in addition, repealed the exemptions for these savings institutions in the case of documentary stamp taxes. The revenue gain is expected to be negligible. This is a committee amendment.
- 62 This provides that dividends and interest paid by savings institutions which are chartered and supervised as savings and loan under Federal or State law are to be deductible to the institution for tax purposes in the same way as interest on deposits is for commercial banks. This is to be true whether or not the savings institution meets the definition of a "domestic building and loan association." No revenue effect is anticipated. This is a committee amendment.
- 63 Clerical conforming change.
- 64 The Senate definition of a domestic savings and loan association is to be effective for taxable years after the date of enactment of the bill rather than on the date of enactment. This is a committee change.
- 65 The effective date for the excise tax changes is postponed from June 30, 1962, to January 1, 1963. This is a committee amendment.

VII. DISTRIBUTIONS BY FOREIGN TRUSTS

Number of Senate amendments	Description of amendment
66	Clerical conforming change.
67	Clerical change.
68	Clerical change.
69	Under the House bill where there was a foreign trust to which both U.S. persons and foreign persons contributed money or property, a U.S. beneficiary receiving a distribution from such a trust would be taxable on the entire amount of accumulated income. The amendment provides that the U.S. beneficiary is to be taxable only on the portion of the distributions made to him attributable to contributions by U.S. persons. The revenue loss is believed to be negligible. This is a committee amendment.
70	Under the House bill this provision would apply to distributions made in taxable years of trusts beginning after the date of enactment of the bill. Under the Senate amendment the provision is to apply to distributions made after December 31, 1962. This is a committee amendment which was modified on the floor by a compromise worked out with Senator McCarthy.

VIII. MUTUAL FIRE AND CASUALTY INSURANCE COMPANIES

71, 72, 73, and 74	Clerical conforming amendments.
75 and 76	Technical changes.
77, 78, 79, 80, 81, and 82	Under existing law and the House bill companies with total receipts from all sources (including premiums) not in excess of \$75,000 are exempt from tax. The Senate amendment raises this exemption level to \$150,000. This is expected to result in a revenue loss of less than a half million dollars a year. This is a committee amendment.
83	Conforming amendment.
84	Conforming to Nos. 77-82 above.
85	The House bill provided that companies with total receipts above the exemption level but not in excess of \$300,000 were to be taxed only on investment income (similar to present law except for the omission of the 1 percent alternative premiums tax). The Senate raised this \$300,000 to \$600,000, thereby taxing only companies with incomes above this level or underwriting income. This also is expected to result in a revenue loss of less than a half million dollars a year. This is a committee amendment.
86	Technical amendment.
87	This amendment provides that a mutual company experiencing underwriting losses in each of 5 out of the 6 years immediately preceding 1963 is to have a special 5-year carryover of the excess of underwriting losses over underwriting gains during the 6-year period. The term "underwriting loss" in this case is computed without any deduction

Number of Senate amendments	Description of amendment
	for dividends to policyholders. The revenue loss under this provision is estimated to be small, in the neighborhood of \$1 or \$2 million. This is a committee amendment which was modified by a floor amendment by Senator McCarthy.
88	Clerical conforming change.
89, 90, 91, and 92	Conforming changes to No. 85 above.
93 and 94	Under the House bill a concentrated risk company has one deriving more than 50 percent of its premium income from insuring in one State against losses arising from wind, hail, floods, etc. The Senate provided that a company met this requirement when 40 percent of its premium income was concentrated rather than 50 percent. This will result in a small revenue loss. This is a committee amendment.
95 and 96	Under the House bill, to be eligible for a special deduction for concentrated risk 50 percent of the premium income from wind, hail, flood, etc., must be derived from one State. Under the Senate amendment for the special deduction to be available, the taxpayer could count as an alternative to concentration of premium income from one State the concentration of premium income from an area within 200 miles of any six points selected by the taxpayer. In either of such cases, to the extent the concentration exceeded 40 percent of the premium income there was to be a similar percentage increase in the proportion of underwriting income which could be set aside for up to a 5-year period in the P.A.L. account. The Senate amendment also provides as an alternative that the taxpayer can elect to make his determination on the basis of a 400-mile radius from any six points but in this case set aside only one-half of the excess of his concentration over 40 percent in that area. There will be a revenue loss under this provision which is believed to be small. Provision for the 200-mile radius alternative is a committee amendment while provision for the 400-mile radius was an alternative worked out with Senator Hickenlooper.
97 and 98	Under the House bill, underwriting losses to the extent attributable to the deduction for policyholder dividends had first to be charged against the P.A.L. account and only to the extent of any excess against investment income. Under the Senate amendment losses arising from policyholder dividends, as well as from other sources (except the P.A.L. deduction itself) is charged first against investment income and then only to the extent of any loss still remaining against the amount in the P.A.L. account. It has been estimated that the annual revenue loss from this amendment may build up to about \$5 million in the fifth year but most of this loss will be recaptured in later years. This is a committee amendment.
99	Conforming to Nos. 97 and 98 above.

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Description of amendment

100 The House taxes reciprocal underwriters and interinsurers under the same rules that apply to ordinary mutuals except that it permits them in effect to combine the underwriting income of the attorney in fact with their own for purposes of offsetting losses. The Senate amendment also permits the reciprocal to use the combined underwriting income as the basis for setting aside the deduction of 25 percent of underwriting income in the P.A.L. account. However, any additional amount set aside in this manner attributable to the attorney in fact may be only deferred for 5 years and not retained permanently in this account. It is expected that this will result in a negligible revenue loss. This is a committee amendment.

101 This is a conforming change to No. 100.

102 This is a conforming change to Nos. 77-82.

103 Clerical conforming change.

104 This treats mutual flood insurance companies (including reciprocal exchanges) operating on a premium deposit system in the same manner as factory mutual fire insurance companies. As a result, these flood insurance companies are to determine their underwriting income on the basis of their schedule of premium absorptions. However, the companies will also be required to increase their absorbed premiums by 2 percent of the amount actually absorbed. This will result in a negligible revenue loss. This is a committee amendment.

105, Clerical conforming changes.

106,

107,

108,

and

109

IX. DOMESTIC CORPORATIONS RECEIVING DIVIDENDS FROM FOREIGN CORPORATIONS

110 Clerical conforming amendment.

111 The House bill "grosses up" dividends received from all foreign corporations. The Senate amendment provides for the same grossup in the case of dividends received from other than "less developed country corporations." A less developed country corporation has the same definition as in section 12, but here also includes certain holding companies. In general terms, a less developed country corporation is one which is engaged in the active conduct of a trade or business which derives 80 percent or more of its gross income from sources within less developed countries and which has 80 percent in value of its assets invested in a trade or business in a less developed country and certain other assets consistent with carrying on this trade or business. Certain shipping and aircraft corporations also qualify. A third category, which for purposes of this one provision also qualifies, is a foreign holding company which owns 10 percent of

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amendments

Description of amendment

more of the stock in less developed country corporations, which receive 80 percent or more of their income from sources within less developed countries and have 80 percent or more of their assets invested in the same manner as other less developed country corporations. It is estimated this amendment will lose \$10 million a year. This is a committee amendment.

- 112,
113,
114,
115,
116,
117,
118,
119,
and
120
- Clerical conforming amendments.

X. SEPARATE LIMITATIONS ON FOREIGN TAX CREDIT WITH
RESPECT TO CERTAIN INTEREST INCOME

- 121 This is a new section. It provides that the foreign tax credit limitation for certain interest income is to be computed separately from the limitation for other types of income. The interest income referred to does not include that derived from the active conduct of a trade or business, from a banking or similar business, or from a corporation in which the taxpayer has a 10-percent voting interest. No revenue estimate is available. This is a committee amendment.

XI. EARNED INCOME FROM SOURCES OUTSIDE THE UNITED
STATES

- 122 Clerical conforming amendment.
- 123 This denies an exclusion to an individual as a "bona fide resident of a foreign country" if the individual (1) has earned income from sources within that foreign country; (2) has filed a statement with the authorities of that country that he is not a resident of it; and (3) has been held not to be subject to income tax as a resident of that country. This will result in a negligible revenue gain. This is a committee amendment.
- 124 This provides that the \$20,000 or \$35,000 ceiling on the exclusion, for a limited period of time, is not to apply to certain fringe benefits. These are noncash compensation, such as provision for a home or a car. These fringe benefits are entirely excluded from taxable income in 1963, are excluded to the extent of two-thirds in 1964, and excluded to the extent of one-third in 1965. This will result in a negligible revenue loss. This is a committee amendment.

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Description of amendment

125

In general, the House bill applied to taxable years ending after December 31, 1962, with respect to amounts received after that date for services performed after that date, or for services performed before that date. The Senate amendment applies to taxable years ending after September 4, 1962, but only with respect to amounts received after March 12, 1962, for services performed after December 31, 1962, or received after December 31, 1962, for services after that date. The amendments relative to pensions and annuities applies to taxable years ending after December 31, 1962. This is a floor amendment offered by Senator Kerr.

XII. CONTROLLED FOREIGN CORPORATIONS

126

Both the House and Senate versions of this provision are concerned primarily with tax-haven devices. However, the versions of the bill differ considerably. The House and Senate features can be compared as follows:

(1) Both versions tax to U.S. shareholders income arising from insurance of U.S. risks. However, the Senate version does not tax such income to the shareholders unless this income represents more than 5 percent of total premiums and other consideration.

(2) Both versions tax passive investment income under certain conditions to the U.S. shareholders. The Senate version, however, includes in this category *all* rental income. It also provides that rents and royalties received from an unrelated person and derived from a trade or business are not to be included. Also excluded are dividends, interest, and gains from the sale of securities derived from a financial business or from investments made by an insurance company attributable to its insurance business. Finally, dividends and interest received from a related corporation located in the same foreign country are not included. Also, rents, royalties, and similar amounts are excluded if received for the use of property in the same country.

(3) Foreign base company sales income is taxed under both versions. However, it and the investment income described above are taken into account under the House version only if representing 20 percent of gross income, and if they represent 80 percent, all income of the corporation is taxed to the U.S. shareholders. Under the Senate version, the income is taxed only if it represents 30 percent of gross income, and if it represents 70 percent or more, all of the income is taxed to the U.S. shareholders.

(4) The Senate version alone taxes foreign base company service income derived from the performance of technical, managerial, engineering, etc., services for a related person outside of a country in which the controlled foreign corporation is organized. This income under the Senate version is taken into account in applying the 30-percent test referred to above.

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Description of amendment

(5) Under the Senate version, tax on dividends and interest derived from a less developed country may be avoided if reinvested in a less developed country. Under the House version, the reinvestment provisions applied not only to dividends and interest but also to other forms of passive income and base company sales income. In addition, it was not necessary that they be derived from a less developed country. However, the reinvestment had to be made in a corporation in a less developed country in which the taxpayer and no more than four other Americans had an interest of more than 50 percent.

(6) The Senate version does not contain the provision of the House bill which taxed to the U.S. shareholders, income not reasonably needed in the taxpayer's trade or business, nor does it include the provision that such earnings be reinvested in the same trade or business in which the taxpayer was engaged for the last 5 years, or before December 31, 1962.

(7) The House version provided that U.S. shareholders were to be taxed on income from, or attributable to, patents, copyrights, formulas, and processes developed or acquired in the United States. The Senate version does not tax such income to the U.S. shareholders but in a separate section (sec. 16) provides that gains from any of these patents, copyrights, etc., are to be taxed as ordinary income in most cases at the time of the transfer of the patent or other rights from the domestic corporation to the foreign subsidiary.

(8) Both versions tax in substantially the same manner to the U.S. shareholders earnings which are reinvested in the United States although not distributed to the U.S. shareholders.

(9) The Senate version makes this section inoperative where the overall foreign and U.S. taxes paid with respect to the foreign operations are not substantially below what the U.S. taxes would have been on this income. This is known as the minimum distribution provision. It provides a schedule of effective foreign tax rates and corresponding percentages of distribution which, if complied with, make this section inoperative. There is no such provision in the House bill.

(10) The Senate version provides that this provision is not to apply to the export-trade income of export-trade corporations. In general, this provides that where the products sold are those produced or grown in the United States and where the profit attributable to these operations complies with certain specified limitations, then this export-trade income is not to be subject to this provision if the earnings are reinvested in an export-trade business.

It is estimated that the House and Senate versions will bring in about the same amount of revenue; namely, \$50 million a year. This is a committee amendment.

XIII. GAIN FROM DISPOSITION OF CERTAIN DEPRECIABLE
PROPERTYNumber of
Senate
amendments

Description of amendment

127 Clerical conforming amendment.

128, Conforming changes to No. 135.

129,

130,

131,

and

132

133

The amendment provides that an adjustment is to be made in the computation of the 50 percent limitation applicable in the case of percentage depletion deductions. It is provided that deductions taken into account in determining the expenses of mining in computing "taxable income from the property" are to be decreased by any gain properly allocable to the mining property which under this provision is treated as ordinary income rather than capital gain. This is expected to result in an annual revenue loss of \$5 million. This is a committee amendment.

134 Clerical conforming amendment.

135 The House bill applied to property disposed of after the date of enactment of the bill and provided that the only gain which would be treated as ordinary income generally was to be depreciation occurring in 1962 and subsequent years. The Senate amendment provides that the provision is to apply to property disposed of in taxable years beginning after December 31, 1962. However, as under the House bill, depreciation occurring in 1962 and subsequent years will still result in ordinary income if the property is disposed of in a taxable year beginning after December 31, 1962. This is a committee amendment.

XIV. FOREIGN INVESTMENT COMPANIES

136 Clerical conforming amendments.

and

137

138,

139,

140,

and

141

142 Clerical conforming change.

143 Technical amendment.

144 Clerical conforming amendment.

145

This amendment provides that clearance from the Internal Revenue Service under section 367 need not be obtained in the case of a foreign investment company registered with the SEC if it is a party to a reorganization in which all of its properties are acquired by a domestic regulated investment company before January 1, 1964. However, for this treatment to be available, the corporation for the year 1963

Number of Senate amendments	Description of amendment
	must have elected to distribute at least 90 percent of its ordinary income and to have distributed, or treated as distributed, any excess of its net long-term capital gains over its net short-term capital losses. This is a committee amendment.
146	Clerical conforming change.
147	The Senate extended from 30 to 45 days the period of time elapsing after the end of the taxable year before the investment companies must report to the shareholders their share of the undistributed capital gains which they must take into account for tax purposes. This is a committee amendment.
148, 149, 150, 151, and 152 153	These are technical amendments. Under present law where domestic regulated investment companies have more than 50 percent of their assets invested in foreign securities, any foreign tax credits available to the company in such a case may be passed through to the shareholders of the regulated investment company. The Senate amendment makes this same treatment available in the case of foreign investment companies which distribute most of their ordinary income currently and require their shareholders to report the company's capital gains whether or not distributed. This is a committee amendment.
154, 155, and 156	Clerical conforming amendments.

XV. GAIN FROM SALES OR EXCHANGES OF STOCK IN FOREIGN CORPORATIONS

- 157
and
158
159
- Clerical conforming changes.
- The Senate amendment, while retaining the basic structure of the House provision, made a number of important modifications:
- (1) Under the House version amounts received on the *sale* of stock, as distinguished from a redemption, were treated as ordinary income and not as dividends. This meant that the foreign tax credit would not be available in such cases. The Senate version treats the appropriate portion of the gain on a sale as a dividend.
- (2) Under the House version, individual shareholders were required to treat the gain as ordinary income in the year of the sale. Under the Senate version the tax of an individual shareholder (on either a redemption or sale) is to be no

Number of
Senate
amendments

Description of amendment

greater than would be provided under the lower of two ceilings. The first provides that the individual's tax is to be no greater than if the foreign corporation had been a domestic corporation paying the regular corporate tax (offset by available foreign tax credits) which then made a liquidating distribution of the balance to the U.S. shareholder and that this balance was subject to a capital gains tax. This is a tax of no more than 52 percent (less any foreign tax credits available) plus a capital gains tax on the remaining 48 percent at not more than a 25 percent rate. The aggregate tax in such a case is 64 percent (52 percent plus 25 percent of 48 percent). The second ceiling provides that the tax is not to exceed the amount which would have resulted had the earnings and profits been distributed to the shareholder in the years they were earned.

(3) The Senate version also provides that earnings and profits are not to include profits on sales if the corporation could have qualified for a tax-free sale on liquidations had it been a domestic corporation.

(4) The Senate provision does not apply to earnings and profits accumulated by a foreign corporation while it was a less developed country corporation if the stock sold was owned for at least 10 years before that time by the U.S. shareholder.

(5) The Senate version provides that the ordinary income treatment in this section is not to apply to earnings and profits accumulated in taxable years before January 1, 1963. Under the House bill the ordinary income treatment could have applied to earnings and profits accumulated since February 28, 1913.

This is a committee amendment.

160 The House provision is effective for sales or exchanges occurring after the date of enactment of the bill. The Senate version applies to sales or exchanges occurring after December 31, 1962. This is a committee amendment.

XVI. SALES AND EXCHANGES OF PATENTS, ETC., TO
FOREIGN CORPORATIONS

161 The House bill in section 13 (sec. 12 of the Senate amendments) would have taxed income attributable to patents, copyrights, and exclusive formulas and processes substantially developed, created, or produced in the United States or acquired from related U.S. persons as giving rise to income (whether distributed or not) which was taxable to the U.S. shareholders of controlled foreign corporations. The Senate substituted for this a new provision which treats gains from the transfers of patents, copyrights, etc., as ordinary income rather than capital gain when transferred by a U.S. person to a foreign corporation which it controls. An exception is provided for transfers for use in the subsidiary's own manufacturing business. This is a committee amendment.

XVII. TAX TREATMENT OF COOPERATIVES AND PATRONS

Number of Senate amendments	Description of amendment
162	Conforming amendment to Nos. 164-168 below.
163	The House bill provided for withholding at a 20 percent rate on patronage dividends. The Senate amendments delete the withholding provision and, as indicated in section 19 below, substitute certain reporting requirements. In addition, they provide that for a cooperative to receive any deduction for noncash allocations, it must pay out at least 20 percent of the patronage dividends in cash. This applies both in the case where the patron has given his consent to receiving allocations and where he has had the option for a 90-day period to receive cash or scrip. This is a committee amendment.
164, 165, 166, 167, and 168	Under the House bill a patron gives his consent to being taxed on noncash patronage dividends either by providing this consent in writing or by being a member of the cooperative when its bylaws provided for this consent. The Senate version adds a new procedure for giving consent. This consent may be supplied by endorsing and cashing a qualified check. The check must indicate that by endorsing and cashing it, the patron is consenting to taking the remainder of the patronage dividends into account in computing his income. For the cooperative to omit a patronage dividend under this procedure from its income for the year in which the patronage occurs, the qualified check must be endorsed and cashed within 90 days after the payment period for the cooperative. This is a committee amendment.
169, 170, 171, and 172	Clerical conforming amendments.

XIX. REPORTING ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS OF \$10 OR MORE A YEAR

- 173 The House bill provided for withholding at a rate of 20 percent with respect to most interest, dividends, and patronage dividends payments. In this system, provision was made for the use of exemption certificates for individuals expecting to have no tax liability and a system of quarterly refunds for those having a tax liability but subject to over-withholding. The Senate amendments in lieu of this provided for the submission by payors of information returns to the Government for interest, dividends, and patronage dividends of \$10 or more per person per year. This same information must also be submitted by the payors to the recipients of interest, dividends, or patronage dividends on an annual basis. Penalties of \$10 per return on statement, but not to exceed \$25,000 per payor, for failures to file returns with the Government and \$25,000 for failures to submit statements to payees, are provided. The joint committee staff estimated that the withholding provision in the House bill would result in a revenue increase of \$550 million. The

Number of
Senate
amendments

Description of amendment

Treasury Department estimated the revenue increase to be \$780 million. The joint committee staff estimates that the reporting system will result in a revenue increase of \$275 million a year, while the Treasury Department estimates it will increase revenues by \$240 million a year. This is a committee amendment.

XX. INFORMATION WITH RESPECT TO FOREIGN CORPORATIONS

174 Clerical conforming changes.

and
175

176 With respect to the annual information return, the Senate has provided a ceiling on the penalty which may be imposed where the information is not supplied. Under present law, a failure to supply the required information results in a decrease of 10 percent in the foreign tax credit allowed a domestic corporation, plus an additional 5 percent for each 3-month period of noncompliance. The Senate amendment provides that in no event is this penalty to exceed \$10,000 or the income of the foreign corporation with respect to which the penalty occurred, whichever is the greater. This is a committee amendment.

177 Clerical conforming changes.

and
178

179 In the case of the annual information return in determining whether or not 50 percent control exists and, therefore, whether or not the information must be supplied, the Senate amendment has narrowed somewhat the constructive ownership rules applied under the House bill. Stock owned by a partner, an estate, trust, or corporation will not be treated as owned by the partnership, estate, trust, or corporation if this treats a U.S. person as owning stock owned by a person who is not actually a U.S. person. Also, a person is not to be considered as owning stock held by a corporation if his stock interest is not more than 10 percent. This is a committee amendment.

180 In the case of information required with respect to organi-
and zations, reorganizations, etc., the Senate bill provides that
181 officers or directors who are U.S. citizens need supply information only if there are 5 percent U.S. shareholders and the information they submit is to be only the names and addresses of these shareholders. This is a committee amendment.

182 Clerical conforming change.

183 The Senate amendment provides that no information is to be required to be furnished with respect to a foreign corporation which is organized, reorganized, etc., unless that information was required under regulations in effect 90 days prior (30 days prior at the beginning of the first year) to the date on which the U.S. persons became liable to file the return with respect to the information. This is a committee amendment.

Number of Senate amendments	Description of amendment
184, 185, 186, 187, and 188	Clerical conforming changes.

XXI. EXPENDITURES BY FARMERS FOR CLEARING LAND

- 189 This permits taxpayers engaged in the business of farming to deduct, in computing their tax, expenditures they incur in clearing land of brush and trees, in leveling the land and in diverting streams to make the land suitable for farming. This deduction may not exceed \$5,000 in any year or, if less, 25 percent of the taxpayer's income from farming. There is no comparable House provision. This is a committee amendment.

XXII. CHARITABLE CONTRIBUTIONS MADE FROM INCOME
ATTRIBUTABLE TO SEVERAL TAXABLE YEARS

- 190 Under present law where charitable contributions are made in a year and an averaging device permits the spreading of income received in that year over several years, the charitable limitation is applied after the averaging of the income occurs. Under the Senate amendment the limitation on charitable contributions made at the election of the taxpayer is to be applied before the income is spread over the years to which it is attributable, for purposes of determining the application of the 20 or 30 percent charitable limitation. There is no comparable House provision. This is a committee amendment.

XXIII. EFFECT DATE OF SECTION 1371(C) OF THE CODE

- 191 This amendment provides for the years 1958 and 1959 that in determining the number of shareholders of a small business corporation for purposes of the election provided by subchapter S of the code (under which shareholders are taxed directly on their corporate earnings), spouses who hold stock of such a corporation jointly or under community property laws are to be treated as one shareholder. There is no comparable House provision. This is a committee amendment.

XXIV. LOSSES SUSTAINED IN CONVERTING FROM STREET RAILWAY TO BUS OPERATIONS

Number of
Senate
amendments

Description of amendment

192- The Senate amendment provides that net operating losses incurred in 1953 and 1954 by a street railway company in converting from streetcar to bus service, which are not absorbed in the normal carryover period, are to be treated as a net loss occurring in 1959. This permits these losses to be carried forward to the years 1960 through 1964. There is no comparable House provision. This is a committee amendment.

XXV. PENSION PLAN OF INTERNATIONAL HOD CARRIERS' BUILDING AND COMMON LABORERS' UNION

193 The Senate amendment provides that the union-negotiated pension plan of Local Union No. 435 of the International Hod Carriers' Building and Common Laborers' Union of America is to be treated as a qualified tax-exempt trust for the period from May 1, 1960, to April 20, 1961, if the trust was not operated during this period in a manner to jeopardize the interests of its beneficiaries. This also permits employers to deduct contributions made to the trust in this period. There is no comparable House provision. This is a committee amendment.

XXVI. PARTNERSHIP YEAR OF SURVIVING PARTNER IN TWO-MAN PARTNERSHIP

194 The Senate amends the 1939 Code (years after 1946) to provide that where one partner in a two-man partnership dies, the partnership year for the surviving partner is not to close prior to the time the partnership year would have closed had neither partner died nor otherwise disposed of his interest. There is no comparable House provision. This is a committee amendment.

XXVII. EXCLUSION FROM GROSS INCOME OF AWARDS MADE PURSUANT TO EVACUATION CLAIMS OF AMERICAN-JAPANESE INDIVIDUALS

195 The Senate amendment provides that amounts received as awards made under the Japanese-American Evacuation Claims Act to persons of Japanese ancestry who were evacuated from the west coast in 1942 during World War II are not to be subject to Federal income tax. There is no comparable House provision in the bill but this provision is identical to a bill passed by the House on August 30, 1962. This is a floor amendment by Senator Dirksen.

XXVIII. DEDUCTION FOR DEPRECIATION BY TENANT STOCKHOLDER OF COOPERATIVE HOUSING CORPORATION

Number of
Senate
amendments

Description of amendment

196

The Senate amendment provides that a depreciation deduction is to be allowed a tenant stockholder in a cooperative housing corporation to the extent this deduction is a business deduction and is properly allocable to his proprietary lease or his right of tenancy and his stock. There is no comparable House provision. This is a floor amendment made by Senator Sparkman.

XXIX. EXCLUSION FROM GROSS INCOME OF GAIN FROM SALE OF RESIDENCE BY INDIVIDUALS AGE 65 OR OVER

197

The Senate amendment excludes from a taxpayer's gross income any gain realized by him from the sale or disposition of his principal residence after he or his spouse has reached the age of 65. The exemption applies only if the property has been used by the taxpayer as his principal residence for at least 5 years prior to the sale and if the sales price exceeds \$30,000 the exclusion is to be limited to the same proportion of the gain which \$30,000 is of the sales price. There is no comparable House provision. The Treasury Department has estimated that this amendment will cost \$30 million a year. This is a floor amendment made by Senator Dirksen.

XXX. DEDUCTION FOR INCOME TAX PURPOSES OF CONTRIBUTIONS FOR JUDICIAL REFORM

198

The Senate amendment provides that gifts made after December 31, 1961, to nonprofit organizations supporting or opposing the reorganization of the judicial branch of a State government, where referendums are occurring in 1962, are to be deductible as charitable contributions. The nonprofit organizations must be created and operated exclusively to consider such proposals and to provide information, make recommendations, and seek public support or opposition to them. In addition, no part of the earnings of the organization may inure to the benefit of any private individual and the organization must not participate in any political campaign of any candidate for public office. There is no comparable House provision but an identical bill was recently passed by the House. This is a floor amendment made by Senator Dirksen.

XXXI. SOCIAL SECURITY AMENDMENT RELATING TO STATEMENT OF FINANCIAL STATUS OF CLAIMANTS FOR MEDICAL ASSISTANCE FOR THE AGED

Number of
Senate
amendments

Description of amendment

199 Under present law a State plan must include standards limiting eligibility to those aged persons who lack means to pay for medical services. This amendment would expressly permit a State to accept as presumptively correct any written statement by an applicant as to his financial status. Such a statement can be accepted without investigation if a State desires to do so under present law. There is no comparable House provision. This is a floor amendment offered by Senator Dirksen.

XXXII. FOREIGN SUBSIDIARIES MANUFACTURING PRODUCTS ABROAD FOR SALE IN THE UNITED STATES

200 This amendment provides that under certain conditions a foreign corporation is to be deemed to be engaged in a trade or business within the United States and its gross income from sources within the United States is to be deemed to be not less than the gross income it derives from the sale of competitive articles which are sold by it for ultimate use, consumption, or disposition in the United States. This section is to apply to a foreign corporation only if 10 percent or more of its stock is held by a domestic corporation and the foreign corporation derives 10 percent or more of its gross income from the sale of competitive articles which are sold by it for ultimate use, consumption, or disposition in the United States. A competitive article for purposes of this section is one which is mined, processed, or manufactured outside of the United States for a foreign corporation which is the same as or similar to presently or formerly mined, processed, or manufactured in the United States by the corporation holding 10 percent or more of the foreign corporation's stock or any subsidiary of such domestic corporation. There is no comparable House provision. It has been estimated that if corporations continue their present imports into the United States without regard to this provision, this provision might result in a revenue increase of \$50 million. This is a floor amendment offered by Senator McCarthy.

XXXIII. EFFECTIVE DATE OF AMENDMENT TO SECTION 1374(b)

Number of
Senate
amendments

Description of amendment

201

Shareholders of a small business corporation electing to be taxed under subchapter S generally may deduct their proportionate share of the corporation's net operating loss. This "passthrough" of the net operating loss, however, initially was available only with respect to shareholders who were living at the end of the corporation's taxable year. Public Law 86-376 removed this requirement that the taxpayer be living at the end of the corporation's year for this passthrough of the loss to be available. This was made effective as of October 24, 1959. The Senate amendment would make this change effective retroactively to September 2, 1958. There is no comparable House provision. This is a floor amendment offered by Senator Cotton.

XXXIV. TREATIES

202

Clerical conforming amendment.

203

The House bill provided that if any provision in this bill contravened any existing tax treaty then the new statutory law was to have precedence over the prior tax treaty. The Senate amended this to provide that no provision of this bill was to apply in any case where its application would be contrary to any treaty obligation of the United States. This is a committee amendment.

