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[COMMITTEE PRINT]

SUMMARY
OF
REVENUE BILL OF 1962
AS REPORTED BY THE
SENATE COMMITTEE ON FINANCE
(H.R. 10650)

THE COMMITTEE ON FINANCE
UNITED STATES SENATE
EIGHTY-SEVENTH CONGRESS
SECOND SESSION

PREPARED BY THE STAFF OF THE

JOINT COMMITTEE ON
INTERNAL REVENUE TAXATION

FOR THE USE OF THE

SENATE COMMITTEE ON FINANCE

AUGUST 7, 1962

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SUMMARY OF H.R. 10650, THE REVENUE ACT OF 1962

(As Ordered Reported by the Senate Committee on Finance)

Section

1 *Short title, etc.*—The act is to be cited as the "Revenue Act of 1962."

2 *Investment credit.*—The bill provides a credit against tax liability with respect to investments in certain types of property. It generally is 7 percent (3 percent in the case of certain public utilities) of investments in new tangible personal property (except livestock) and depreciable real property, except buildings and structural components of buildings, used in manufacturing, production, extraction, transportation, communications, and certain other services. No credit is allowed for property with a useful life of less than 4 years, nor generally for replacements (to the extent of insurance proceeds) of property destroyed by fire or other casualty or stolen. For property with a life of 4 to 6 years, one-third of the investment is taken into account; for property of 6 to 8 years, two-thirds is taken into account; and for property with longer lives, the full amount of the investment is taken into account. Purchases of used property, up to $50,000 worth, also are eligible for the credit. The credit may offset tax liability in full up to $25,000, but above that point the credit may not reduce tax liability by more than 25 percent. Any unused credit may be carried back for 3 years (not before June 30, 1962) or forward for 5 years and used in those years to the extent there is sufficient tax liability under the applicable limitation.

The basis of the property (for depreciation or gain or loss on sale) is reduced by the amount of the investment credit, whether or not it can be immediately used to reduce taxes, with appropriate later adjustments if all the credit is not ultimately used. A "recapture rule" is also provided to recover the tax reduction previously allowed as a credit, to the extent property is disposed of in less than its estimated useful life.

This provision is effective for taxable years ending after June 30, 1962, but only with respect to property acquired or to the extent constructed, reconstructed, or erected after that date.

3 *Appearances with respect to legislation.*—A deduction is provided for costs relating to appearances before, presentation of statements to, or communications sent to a legislative body, a legislative committee, or individual legislator (Federal, State, or local), if the expenses are otherwise ordinary and necessary business expenses. A deduction also is allowed for the portion of dues paid to an organization which are used for similar legislative expenses to the extent they are related to

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the businesses of its members. In addition, the expense of communication of information with respect to legislation between the taxpayer and the organization of which he is a member, and between a taxpayer and its employees and stockholders, is deductible if the matter is of direct interest to the members or taxpayers. This provision does not permit the deduction of expenses incurred for attempts to influence the general public, or segments of the public (by advertising or otherwise), or for expenses concerned with political campaigns. This provision applies to taxable years beginning after December 31, 1962.

4 *Entertainment and travel expenses.*—Deductible expenses for entertainment, amusement, or recreation generally are limited to those directly related to the active conduct of a trade or business, or to those associated with the active conduct of a trade or business. In the case of facilities, a further restriction is imposed to the effect that the facility must be used more than 50 percent for the furtherance of the taxpayer's trade or business (if any depreciation, rent, maintenance, etc., is to be deductible). Club dues are treated the same as facilities. This bill (unlike the House bill) will permit expenses to generate business goodwill to be deductible where a clear business purpose for the expense is established.

A second feature of the provision limits the deduction for business gifts to $25 per year per individual recipient. In applying the $25 limitation, however, advertising gifts costing less than $4 bearing the taxpayer's name are not to be taken into account and signs, display racks, or other promotional material used on the business premises of the recipient also are not to be taken into account. Another exception to the $25 limitation involves items of tangible personal property which cost not more than $100 awarded to an employee by reason of length of service or for safety achievement.

A third feature requires an allocation of travel expenses in certain cases where the travel involves both business and personal purposes. If the travel is for a period longer than 1 week, allocation must be made in all cases where the portion of the time away from home which is for personal purposes exceeds 25 percent of the total time away from home and only the amount allocated to business will be deductible.

In a fourth feature of the provision, rules are set forth providing that the deduction of entertainment or travel expenses will be denied unless they are substantiated (by adequate records) as to the amount, time and place, and the business relationship to the taxpayer of the persons involved.

A fifth feature provides that in the case of traveling expenses, deduction will be allowed for amounts expended for meals and lodging other than amounts which are lavish or extravagant under the circumstances.

This provision applies to taxable years ending after December 31, 1962, for periods after that date.

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5 *Distributions in kind by a foreign corporation.*—Distributions in kind from foreign corporations to domestic corporations are treated as having a value equal to the fair market value of the property distributed (and not the adjusted basis of this property in the hands of the distributing corporation where this is lower). The foreign tax credit applicable with respect to such distributions is to be computed by reference to the fair market value of the property. This applies to distributions made after December 31, 1962.

6 *Mutual savings banks, etc.*—Mutual savings banks, domestic building and loan associations and cooperative banks are allowed under present law to add all of their income to bad debt reserves until reserves (including surplus reserves) reach 12 percent of deposits. In lieu of this, under the bill, these institutions (other than domestic building and loan associations having capital stock outstanding) are to be permitted deductions for additions to bad debt reserves generally of up to 60 percent of their taxable income (before this deduction) or, if larger, an amount bringing their reserves up to 3 percent of improved real property loans, plus a reasonable addition for other loans. (Existing reserves in excess of this amount generally are disregarded.) The bill also provides that the reserves may be accumulated in excess of 3 percent of these loans if the taxpayer's experience shows this is required. In the case of domestic building and loan associations with capital stock outstanding the 60-percent rule described above is not to apply; instead such associations are to be permitted to deduct up to 50 percent of such taxable income. Small new domestic building and loan associations are provided a special additional deduction which is to apply only in their first 10 years of operation. These companies are to be permitted to set aside up to 5 percent of their improved real property loans (which do not total more than $4 million) rather than 3 percent. Limitations are provided on the overall amounts which may be accumulated in bad debt reserves. The first limitation provides that under the 60-percent alternative (or the 50-percent alternative in the case of stock associations) amounts may not be accumulated after the reserve reaches 6 percent of improved real property loans. The second limitation provides that no deductible additions may be made to bad debt reserves if the total amount accumulated in all reserves equals 12 percent of deposits.

Under the bill, in the case of stock savings and loan associations, distributions to shareholders will be considered as paid first out of already tax-paid funds and, only when these are exhausted, out of reserve funds on which a tax has to be paid by the association at the time of distribution. Also, under the bill, a domestic building and loan association is defined as one which is insured under the National Housing Act or subject to State or Federal supervision, but only if substantially all of its business consists of accepting savings and investing the proceeds as follows: At least 90 percent of the assets must consist of cash, Government obligations, loans secured by an interest

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in real property, and loans for the improvement of real property, or share account loans; at least 80 percent of the 90 percent must consist of cash, Government obligations, and loans secured by an interest in real property which is or will become residential real property; and at least 70 percent of the 90 percent must consist of cash, Government obligations, and loans secured by an interest in real property which is or will become residential real property containing one- to four-family units. No part of its investments may be in private corporate stock. In addition, the exemption of Federal savings and loan associations from certain excise taxes is repealed.

Generally, these provisions are effective for taxable years ending after December 31, 1962. The excise tax changes are effective as of December 31, 1962.

7 *Distributions by foreign trusts.* Distributions by foreign trusts which are attributable to contributions made by U.S. grantors (or added by U.S. transferors) are to be taxed to any U.S. beneficiaries in substantially the same manner as if the beneficiaries had received this income directly in the year earned rather than later when the distribution is made. However, the additional tax is payable at the time of the actual distribution. For those preferring not to make the calculations required under this "exact method" of taxation, an averaging device is provided. This applies to distributions (accumulated after the effective date of the 1954 Code) made after the date of enactment of the bill.

8 *Mutual fire and casualty insurance companies.*—Mutual fire and casualty insurance companies are to be taxed on their "total" income less a deduction for additions to a reserve for protection against losses equal to one-fourth of their underwriting gains plus 1 percent of their insurance claims. After a 5-year interval, the 1 percent set-aside with respect to insurance claims and one-half of the amount attributable to underwriting gains is brought back into the taxable income to the extent not already offset by losses. The remainder, to the extent not offset by losses, will remain in the loss reserve but no amount may be added to this reserve which would build it up to a level of more than 10 percent of the current year's premiums. The bill provides uniform treatment for losses of mutual companies regardless of whether they operate on a deviated premium basis or on a dividend-paying basis. Concentrated risk companies (those having 40 percent or more of their premium income from windstorm, hail, flood, etc., risks, arising in one State or within 200 miles of any point selected by the taxpayer) may set aside an additional amount of underwriting income in the protection-against-loss account, and with respect to this additional amount the 10-percent limitation will not apply but the 5-year limitation will apply.

Companies whose total receipts do not exceed $150,000 are to be exempt from tax, and companies with total receipts of between $150,000 and $600,000 are to be taxed only on their investment income. For those with gross receipts above $600,000, a special deduction of $6,000 is provided which

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decreases as gross receipts rise and disappears at a level of gross receipts of $1,200,000.

Factory mutual companies are to be taxed like stock companies without the special protection against loss reserve referred to above. However, in computing their underwriting profits they will be permitted to determine their premium income on the basis of "absorbed" premium deposits (i.e., in general, excluding the portion of the deposit returnable to the person insured). The amount so determined is then increased by 2 percent. Mutual flood insurance companies are to be taxed in the same manner as factory mutual insurance companies. Under a special transitional loss rule, mutual companies which incurred underwriting losses in 5 out of the 6 years preceding 1963 are permitted to carry such losses over and deduct them over a 5-year period. Reciprocal underwriters and inter-insurers are in effect permitted to combine the underwriting income of their corporate attorney in fact with their own for most purposes.

These provisions apply to taxable years beginning after December 31, 1962.

9 *Domestic corporations receiving dividends from foreign corporations.*—Under present law when the income of a foreign subsidiary is distributed to a domestic parent corporation only the income of the subsidiary remaining after tax is treated as a dividend and a foreign tax credit is allowed the parent corporation for that part of the foreign taxes paid by the subsidiary attributable to this income. Under the bill, except in the case of dividends received directly or indirectly from less-developed country corporations, the amount included in the tax base of the domestic corporation, if it elects the foreign tax credit, is to be not only the dividend itself but also the tax paid by the foreign corporation as well.

A less developed country corporation generally is a corporation, engaging in a trade or business, which: derives 80 percent or more of its gross income from such a country; and has 80 percent or more of its assets (in general) located in such a country. It also includes companies holding 10 percent or more of the stock of the less developed country corporations described, if 80 percent of their income is derived from less developed countries and 80 percent of their assets are either located in less developed countries or are stock or securities of less developed country corporations. It further includes shipping and air transport companies deriving 80 percent of their gross income from ships or aircraft registered under (but not necessarily incorporated under) the laws of a less developed country and having 80 percent or more of their assets in such a business. Where there are two levels of foreign corporations the status of the top level corporation determines whether or not the gross-up applies.

Also, where a foreign corporation is eligible for the 85-percent intercorporate dividends received deduction with respect to income earned in the United States, the 15 percent of this income for which no deduction is allowed is not to be treated

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as foreign source income for purposes of the foreign tax credit. The subsection of present law making the foreign tax credit available for royalty income received from wholly owned subsidiaries in certain cases is repealed.

These amendments become fully effective for distributions received by domestic corporations after December 31, 1964. In the case of distributions received by domestic corporations before 1965 but in taxable years after December 31, 1962, the new rules are to apply in the case of distributions made out of profits of a foreign corporation accumulated in taxable years beginning after December 31, 1962.

10 *Separate limitation on foreign tax credit for certain interest income.*—Your committee's amendments provide that the limitation on the foreign tax credit is to be computed separately with respect to certain types of interest income. Also, the "per country" limitation must be used for this special interest income, whether the "per country" or "overall" limitation is used for other income. The separate computation is required for interest income other than interest derived: (1) from the active conduct of a trade or business, (2) from the conduct of a banking, financing or similar business, or (3) from a corporation in which the taxpayer has at least a 10-percent stock interest. This is intended to prevent a domestic corporation receiving income from operations abroad which are taxed at a level above the U.S. level of taxation from offsetting these "excess" foreign taxes against interest income, also earned abroad, which is taxed at less than the U.S. level of taxation.

11 *Earned income from sources outside the United States.*—Under existing law individuals who are present in a foreign country or countries for 17 out of 18 months may exclude from their U.S. tax base up to $20,000 per year of income earned abroad. If they are bona fide residents of a foreign country there is no ceiling on this exclusion. In the case of these bona fide foreign residents, a ceiling is to be provided of $20,000 for the first 3 years they are abroad and $35,000 thereafter. If an individual makes a statement to a foreign country that he is not a resident and the foreign country grants him tax exemption, the statement is to be conclusive evidence that he is not a bona fide resident of that country for purposes of the U.S. exclusion. Under the provision, contributions made by employers for employee benefits under qualified pension plans with respect to future employment are to be taxable to the employee when he receives these amounts after retirement. Generally these provisions are effective with respect to taxable years ending after December 31, 1962. However, noncash fringe benefits received in 1963 are not to be taken into account in applying the limitation to bona fide residents. In 1964 one-third of the value of such benefits is to be taken into account, in 1965 two-thirds of the value of such benefits is to be taken into account, and thereafter the full value of such benefits is to be taken into account.

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12 *Controlled foreign corporations.*—In the case of controlled foreign corporations, where more than 50 percent of the stock is owned by U.S. shareholders who own 10 percent or more of the stock in these corporations, such shareholders are to report for tax purposes the undistributed earnings of these corporations to the extent they represent (*a*) income from insuring or reinsuring U.S. risks; (*b*) increases in earnings invested in U.S. property (generally not related to foreign business); (*c*) passive types of income; (*d*) income from purchases from or sales to related "persons" where the goods are produced or grown and the property is sold for use outside of the country of incorporation of the foreign corporation involved; (*e*) income from services performed for related persons outside of the country of incorporation of the foreign corporation. The last three of these categories comprise what is known as foreign base company income. In these latter three cases, the combination of the three types of income must equal 30 percent of total income before it is taken into account. Where this combined income equals more than 70 percent of the total, then all income is attributed to the shareholders. However, reductions in the income taxed to shareholders are allowed in the case of dividends, interest and gains from sales if these are received from less developed country corporations, to the extent that these earnings are reinvested in less developed country corporations. Exclusions from categories (*c*), (*d*), and (*e*) above are also provided for shipping income and for income from corporations which (as established to the satisfaction of the Treasury) are not availed of to reduce taxes. Undistributed earnings which are taxed to the U.S. shareholders under any of the above provisions may subsequently be actually distributed to U.S. shareholders without further payment of tax.

The bill also provides a series of relief measures from the above provisions. First, individual shareholders may elect to have the undistributed income which is to be taxed to them treated as if they, the recipients, were domestic corporations (subject to a maximum tax rate of 52 percent and eligible for the foreign tax credit).

Second, if certain minimum amounts of income are distributed (which vary in accordance with foreign effective tax rates) the section on controlled foreign corporations is not to apply. The distributions are as follows:

Effective foreign tax rate:	*Minimum distribution (percent)*
Under 10 percent	90
10 percent up to 20 percent	80
20 percent up to 30 percent	70
30 percent up to 40 percent	60
40 percent up to 42 percent	50
42 percent up to 44 percent	38
44 percent up to 46 percent	26
46 percent up to 47 percent	14
Over 47 percent	0

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For the purpose of computing the above distribution schedule *each* controlled foreign corporation can be treated separately, each *chain* of controlled foreign corporations may be treated as a unit, *all* controlled foreign corporations may be treated as a unit, or all controlled foreign corporations *other than less developed country corporations* may be treated as a unit. Foreign branches of U.S. corporations also may be taken into account if the third category above is used.

Third, certain export trade income of "Export Trade Corporations" will not be taxable to U.S. shareholders in the case of foreign base company income, i.e., the last three of the five categories of income listed above. An export trade corporation is a controlled foreign corporation deriving 90 percent of its income from sources outside the United States and 75 percent of its income from "export trade income." Export trade income is the income derived from the sale to an unrelated person for use outside the United States of property produced, grown, or extracted in the United States, as well as certain other income related to such sales. The bill provides that the income of a controlled foreign corporation which is taxable to U.S. stockholders (except insofar as it relates to insurance of U.S. risks) is not to include the export trade income of one of these corporations to the extent this export trade income does not exceed 1½ times the export promotion expenses or 10 percent of gross receipts, whichever is lesser. However, for this treatment to apply, the earnings involved must be invested in the export trade business.

13 *Ordinary income on certain gains from depreciable property.*—In the case of tangible personal property (other than livestock) and depreciable real property, other than buildings and structural components, used in manufacturing, production, extraction, transportation, communications, and certain other services, when such property is sold or exchanged at a gain during a taxable year beginning after December 31, 1962, this gain, to the extent of depreciation attributable to periods after December 31, 1961, is to be treated as ordinary income for tax purposes (instead of capital gain). In the case of dispositions of property during a taxable year beginning after December 31, 1962, other than by sale or exchange, this same treatment is to apply except that the amount of the presumed gain is to be determined by the excess of the fair market value of the property at the time of its disposition over its then adjusted basis.

This treatment is to apply in the case of most dispositions of property whether or not gain is otherwise recognized. The treatment described above does not apply, however, in the case of gifts, although in the case of charitable contributions the amount of the charitable contribution deduction which may be taken is reduced by the amount which would be treated as ordinary income if this provision were applicable. Other exceptions are provided for property transferred at death,

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for transfers where no gain is recognized and the basis of the property is carried over to the transferor, and for transfers in like kind exchanges and involuntary conversions to the extent no gain is recognized. In the case of partnerships, distribution to partners or sales of partnership interests are taxed to the partners to the extent of the underlying depreciable property in much the same way as if the depreciable property had been sold directly.

The bill also provides that in computing the basis on which depreciation may be taken salvage value may be ignored up to an amount equal to 10 percent of the cost or other basis of the property. Also, under the bill taxpayers are permitted to elect to change their method of depreciation with respect to property coming within the scope of this provision from any declining balance, or sum-of-the-years digit method to a straight-line method.

This provision applies to taxable years beginning after December 31, 1962.

14 *Foreign investment companies.*—When stock in foreign investment companies is sold, the gain realized by the U.S. shareholders is to be ordinary income (instead of capital gain) to the extent of the taxpayer's share of the earnings and profits of the corporation accumulated in taxable years beginning after December 31, 1962, and during the period in which he held the stock. In the case of stock in a foreign investment company acquired from a decedent, the basis of the stock is not to be increased at the date of death to the extent of the amount which would have been taxed as ordinary income to the decedent had he sold the stock before death. A deduction for estate tax attributable to this amount will be allowed, however, upon subsequent sale of this stock by the heir or legatee.

The companies and shareholders can avoid the treatment described above if the companies distribute 90 percent or more of their taxable income, other than capital gains, designate in a written notice to the shareholders each year (to be mailed to them within 45 days after the close of the taxable year) their ratable share of the capital gains of the corporation and provide such other information as the Treasury requires to enforce this provision. The shareholders, however, must also report as capital gains their share of the capital gains of the corporation, whether the gains are distributed or not. Where these provisions are complied with, the shareholders are permitted to take a foreign tax credit for foreign taxes paid by the company. Under the bill a foreign investment company is permitted to reincorporate (in a tax-free reorganization) as a domestic regulated investment company if it does so before January 1, 1964.

These provisions apply with respect to taxable years beginning after December 31, 1962.

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15 *Gain from sales or exchanges of stock in foreign corporations.*—Where there is a redemption of stock in a controlled foreign corporation or a controlled foreign corporation is liquidated, or where stock in such a corporation is sold, then any gain to the extent it represents earnings and profits of the corporation accumulated in taxable years beginning after December 31, 1962, is to be taxed to 10 percent or more U.S. shareholders as ordinary income. If the shareholder is a corporation, it is allowed a foreign tax credit for taxes paid to foreign countries in the same manner as in the case of any other dividend.

If the shareholder is an individual, his tax is to be no greater than the smaller of two ceilings. The first ceiling provides that the individual's tax is to be no greater than if the foreign corporation had been a domestic corporation paying the regular 52-percent U.S. tax (offset by any foreign tax credits allowable) which then made a liquidating distribution of the balance to the U.S. shareholder and this balance was subject to capital gains tax. In other words, this ceiling would provide a U.S. tax of 52 percent, against which foreign tax credits could be taken, and on the balance (not over 48 percent of the total) a capital gains tax of not over 25 percent would be paid. Thus, the aggregate maximum tax in this case would be 64 percent (52 percent plus 25 percent of 48 percent). The second ceiling is the amount of tax which would have resulted had the earnings and profits been distributed to the shareholder in the years they were earned. The section also provides that earnings and profits are not to include profits on sales made during a liquidation if the corporation could have qualified for tax-free sales on liquidation if it had been a domestic corporation. The section does not apply to stock of a less developed country corporation which had been held for 10 years at the time of its sale. These provisions apply with respect to sales or exchanges occurring after December 31, 1962.

16 *Sales and exchanges of patents, etc., to certain foreign corporations.*—The committee amendments provide that gain from the sale or exchange after December 31, 1962, of a patent, invention, model or design, copyright, secret formula or process, or other similar property, to a foreign corporation by a U.S. person (corporation, individual, etc.) who controls the foreign corporation is to be treated as ordinary income rather than as a capital gain. This provision is not to apply in the case of a patent, etc., transferred to a foreign corporation in exchange for stock or as a contribution to capital if it is established to the satisfaction of the Treasury that the principal purpose of the transfer is to enable the foreign corporation to use the patent, etc., in its own manufacturing operations. This is to apply to taxable years beginning after December 31, 1962.

17 *Tax treatment of cooperatives and patrons.*—Cooperatives are to receive a deduction for patronage dividends paid to their patrons in cash, or by allocations if the patron has the option

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to redeem the notices of allocation in cash not later than 90 days after they are issued or if he consents to this income being treated as constructively received by him and then reinvested in the cooperative. In either case, under the bill, 20 percent of the value of a patronage dividend which includes qualified allocations must be in the form of cash. The patron, either a member or nonmember, may give his consent individually in writing, or, a patron who is a member may also consent by retaining membership in a cooperative after it adopts a bylaw requiring consent by all members and gives written notice of this bylaw to all members. Under a third method, consent may be given by the endorsing and cashing of a qualified check for the 20-percent amount referred to above. If the check for the 20-percent amount is endorsed and cashed by 90 days after the date for filing the tax return the patronage dividend of which the check is part will be deductible by the cooperative with respect to the year in which the patronage occurred. In the case of allocations which do not qualify, the cooperative will initially be taxed on this type of patronage dividends. However, when such a patronage dividend is redeemed, the cooperative will receive a deduction (or refund of tax) at that time. In the case of allocations which do not qualify, the cooperative will initially be taxed on this type of patronage dividends. However, when such a patronage dividend is redeemed, the cooperative will receive a deduction (or refund of tax) at that time.

Where consent is given, or where the option to receive cash was available, the patron will be required to include the patronage dividends which arise from business activity as taxable income. The patron will also be required to take into account nonqualifying patronage dividends when they are redeemed (assuming they arise from business activity).

In addition, all cooperatives (rather than merely tax-exempt cooperatives as under present law) are given until 8½ months after the end of the year in which patronage occurs to allocate amounts to the accounts of their patrons and in most cases are also given this same period of time for the filing of their own income tax returns. These provisions apply to taxable years of cooperatives beginning after December 31, 1962, and with respect to amounts received by patrons attributable to years of the cooperatives to which the new law applies. The new provisions will not, however, apply to future redemptions of patronage dividends declared when the old law was applicable.

18 *Inclusion of foreign real property in gross estate.*—Real property located outside of the United States, in the case of citizens or residents of the United States, is to be included in their tax base for purposes of the Federal estate tax imposed at the time of their death. This provision will be fully effective for decedents dying on or after January 1, 1963. For those dying after the date of enactment of this bill, and before January 1, 1963, real property located outside of the United States will be included in their gross estate only if acquired on or after February 1, 1962.

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19 *Reporting of interest, dividend and patronage dividend payments.*—The bill provides, in lieu of withholding, for the reporting of most interest, dividend and patronage dividend payments of $10 or more per year. These reports must be made to the Government on an annual basis and also to each dividend or interest recipient on an annual basis. The bill provides civil penalties of $10 for each statement not sent to the Government unless it is shown that the failure is due to reasonable cause. The aggregate penalty in this case is not to exceed $25,000. Similarly, a civil penalty of $10 per statement is provided for failure, other than with reasonable cause, to send the statements to the interest or dividend recipients. Here, too, the maximum penalty is $25,000. These penalties are in addition to criminal penalties in existing law.

20 *Information with respect to foreign entities.*—A number of changes are made in the annual information return which domestic corporations presently are required to file with respect to their subsidiaries or foreign corporations which they control. The changes are: This return is to be filed not only by corporations but by others as well who control foreign corporations; "control" is defined more broadly by adding some of the constructive ownership rules; information must be provided not only with respect to subsidiaries of foreign corporations but also for other foreign corporations which are further down the chain of ownership; and additional information may be required which is similar or related in nature to that already specified. A ceiling has been placed on the penalty applicable under present law, to provide that the reduction in the foreign tax credit of a corporation, which would occur for noncompliance with the reporting requirements, may not exceed the income of the foreign corporation with respect to which the failure occurs or $10,000, whichever is greater.

Present law also requires U.S. citizens or residents who are officers or directors of a foreign corporation within 60 days of its organization or reorganization and also 5-percent shareholders who have this status within 60 days of the organization or reorganization to supply certain information to the Treasury Department with respect to the corporation. This same information is also to be required of U.S. citizens or residents who at some later time become officers, directors, or shareholders with an interest of 5 percent or more. However, in the case of U.S. officers or directors of a foreign corporation, this reporting requirement is to apply only if 5 percent or more of the value of the stock is owned by a U.S. person and the only information these officers or directors are to be required to furnish is the names and addresses of these 5-percent shareholders. Information is not to be required under this provision unless so provided by regulations in effect 90 days before the filing of the information return is required. A penalty provision also is provided.

Generally, these additional information requirements become effective as of January 1, 1963.

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21 *Clearing of land.*—In the case of farmers, expenditures incurred during any taxable year in the clearing of land (which would otherwise be chargeable to capital account) may be deducted to the extent of $5,000 or 25 percent of the taxable income from farming for that year, whichever is the lesser.

22 *Certain charitable contributions.*—Where an individual is entitled to (in effect) spread his income over the years to which it is attributable for purposes of determining his tax, he may elect to apply the limitation on charitable contributions (20 percent or 30 percent, whichever is applicable) before the income is spread, and then spread only the income remaining after the charitable deduction.

23 *Section 1371(c).*—The effective date of section 1371(c) (relating to husband and wife in community property States) is made effective with respect to taxable years beginning after December 31, 1957, and elections by small business corporations to have their income taxed directly to their shareholders are to be validated if the shareholders so consent within 1 year after the date of enactment of this act.

24 *Losses by certain street railway companies.*—Net operating losses incurred in 1953 and 1954 by a street railway company in converting from streetcar to bus service, which were not absorbed within the normal 3-year carryback and 5-year carryforward period, are to be treated as a net operating loss occurring in 1959. This will permit these unused losses to be absorbed over the years 1960 through 1964.

25 *Exemption for pension trust.*—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 beginning May 1, 1960 and ending April 20, 1961, if it is shown to the satisfaction of the Secretary of the Treasury that the trust was not operated during this period in a manner which would jeopardize the interests of its beneficiaries. This will permit employers to deduct contributions made to this trust in this period.

26 *Continuation of partnership year in certain cases.*—Your committee's amendments modify the 1939 Code to provide that where one partner dies, in a partnership consisting of two members, the partnership year for the surviving partner is not to close prior to the time the partnership year would have closed if neither partner had died. This provision is to apply only if the surviving partner so elects within 1 year after the date of enactment of this provision. This amendment applies to taxable years of a partnership beginning after December 31, 1946, to which the 1939 Internal Revenue Code applies.

27 *Treaties.*—No provision of this bill is to apply in any case where its application would be contrary to any treaty obligation of the United States.

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