Item 1

DIGEST OF TESTIMONY PRESENTED BEFORE THE COMMITTEE ON WAYS AND MEANS WITH RESPECT TO TAX REVISION

PREPARED BY THE

STAFF OF THE JOINT COMMITTEE ON INTERNAL REVENUE TAXATION

APRIL 11, 1958

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INTRODUCTION

During the period January 7–February 7, 1958, the Committee on Ways and Means held public hearings for the purpose of reexamining the basic policies underlying the present tax laws in accordance with its decision announced in a press release dated September 11, 1957.

This pamphlet presents a brief digest of recommendations and is divided into 14 parts which represent the major topics considered. It should be noted that the printed hearings are not available at this time and, consequently, some recommendations may have been omitted. For detailed statements presented by witnesses, it is necessary to refer to the printed hearings.

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RECOMMENDATIONS TO AID SMALL BUSINESS

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RECOMMENDATIONS TO AID SMALL BUSINESS

A. House Small Business Committee

Hon. Wright Patman, *Chairman*

Appearing on behalf of the Majority bill (H. R. 9957) and companion bills:

Representative Evins of Tennessee (H. R. 9958)
Representative Multer of New York (H. R. 9959)
Representative Roosevelt of California (H. R. 9962)
Representative Brown of Missouri (H. R. 9963)

Section 2 of the bill would reduce the normal tax on corporations to 20 percent of the taxable income which does not exceed $25,000, plus 25 percent on the taxable income in excess of $25,000.

Section 3 would permit the use of the liberalized methods of depreciation (1954 Code provisions) on used property acquired by the taxpayer up to $50,000 worth of used property during the same taxable year.

Section 4 would permit a deduction for additional investment and depreciable assets and inventory. This deduction would be in the amount of $5,000 or 20 percent of the net income from the trade or business, whichever is greater. However, the total amount of this deduction could not exceed $30,000 for any taxable year.

Section 5 would permit corporations with 10 or fewer shareholders to be taxed as partnerships.

Section 6 would permit the payment of estate tax in 10 installments where one-half or more of the value of the gross estate consists of stocks or investments in a closely held business enterprise. A closely held business enterprise is defined as a corporation with 25 or fewer shareholders or a partnership with 25 or fewer partners.

Appearing on behalf of the Minority bill (H. R. 5631) and companion bills:

Representative Sheehan of Illinois (H. R. 5635)

Section 2 of this bill would permit persons engaged in business a deduction for expenditures for expansion or modernization if the income of the trade or business does not exceed $150,000 for the taxable year.

The allowable deduction is limited and a schedule of limits by income classes is provided.

Section 3 of the bill would reduce the normal tax on corporate income to 20 percent of taxable income. The current rate of normal tax is 30 percent and present law provides a reduction to 25 percent on July 1, 1958.

Section 4 would increase the corporate surtax exemption from $25,000 to $150,000.

Section 5 of the bill would provide that the election of partnerships and individuals to be taxed as corporations could be revoked by the taxpayer following the fourth or subsequent year to which the election applies.

Section 6 of the bill would permit active corporations with 10 or fewer shareholders to elect to be taxed as partnerships.

Section 7 would permit losses incurred on securities of small-business enterprises, or losses on loans to small-business enterprises to be treated as ordinary losses. "Small business enterprise" would be deemed to mean a trade or business, the assets of which do not exceed $250,000.

Section 8 would allow a 5-year straight-line method of depreciation to businesses where the average income for the 5 preceding taxable years did not exceed $50,000 per year.

Section 9 of the bill would permit the use of the liberalized methods of depreciation (1954 Code provisions) on used property acquired after December 31, 1956. This provision would apply only to $50,000 of such used property.

Section 10 of the bill would exclude from the value of the gross estate of a decedent goodwill of a partnership or corporation if the corporation were owned by not more than 10 individuals. The exclusion would be limited to $100,000.

Section 11 would permit the installment payment of estate taxes where one-half of the value of the gross estate consists of stock or investments in a closely held business enterprise. A closely held business enterprise would be a business corporation having 25 or less shareholders or a business partnership having 25 or less partners.

B. Senate Small Business Committee

Hon. John J. Sparkman, *Chairman*

Appearing on behalf of the committee:

Senator Sparkman of Alabama and
Senator Thye of Minnesota (S. 3194)

Section 2 of this bill would provide a deduction for the additional investment in depreciable property and inventory during a taxable year. A 50-percent deduction would be allowed for so much of the additional investment as does not exceed $10,000. For additional investments in excess of $10,000 but not in excess of $20,000 a 30-percent deduction would be allowed. For additional investments over $20,000 but not in excess of $30,000, a 20 percent deduction would be allowed. The total deduction in 1 year is limited to $10,000.

Section 3 of the bill would permit an individual, other than an individual receiving benefits under a pension or annuity plan under section 401 (a) of the code, to obtain a deduction for amounts paid as retirement deposits. The deduction would be limited to $1,000 or 10 percent of the individual's adjusted gross income, whichever is greater.

Section 4 of the bill would permit the payment of the estate tax in 10 installments where the estate qualifies as a "small business estate." A small business estate is defined as an estate in which property

comprising 50 percent or more of the value of the gross estate consists of any of the following:

(1) Capital assets (other than money) invested in a business in which the decedent has a proprietary interest;

(2) A proprietary interest in a partnership; and

(3) Stock of a corporation in which decedent owns 10 percent or more of all outstanding stock.

Permission could be granted to the Secretary or his delegate to extend the period of payment up to twenty years where he finds undue hardship.

Section 5 of the bill would extend the accelerated methods of depreciation to acquisitions of used property after December 31, 1957. The provisions would apply only to $50,000 of acquisitions of used property in any one year, or to acquisitions not exceeding $250,000 over a 5-year period.

Section 6 of the bill would permit certain corporations to elect for a 4-year period to be taxed as partnerships. Among other limitations, it would be required that, in order to be entitled to this election, no shareholder of the corporation could be a nonresident alien or a foreign partnership, and that the corporation have only one class of stock outstanding. Section 6 also provides that proprietors and partners electing to be taxed as corporations may revoke the election after the fourth year.

Section 7 of the bill would increase the minimum accumulated earnings credit from $60,000 to $100,000. This would permit $100,000 to be accumulated by a corporation without the imposition of the additional taxes imposed by section 531 of the code upon corporations improperly accumulating surplus.

Section 8 of the bill sets out certain court decisions which would be binding on the Secretary of the Treasury. It would require the Attorney General to appeal an adverse decision of the Tax Court to the proper court of appeals where there is a conflict with a binding precedent and would also require the Attorney General to apply to the United States Supreme Court for certiorari where there is an adverse decision of a United States court of appeals which is in conflict with a binding precedent.

C. The Administration's Proposals

Hon. Robert B. Anderson, Secretary of the Treasury

Present corporate income-tax rates and the present excise tax rates should be continued. However, small business should be relieved by the following measures:

(1) Permitting the accelerated depreciation methods on purchases of used property up to $50,000.

(2) Permitting corporations with 10 or fewer shareholders to be taxed as partnerships.

(3) Permitting the estate tax to be paid over a period of 10 years where the estate consists largely of investments in closely held business concerns.

(4) Permitting original investors in small business to deduct, as an ordinary loss, a loss realized (up to a maximum figure) on stock in such business.

Inequities and loopholes should be constantly scrutinized by the Treasury and the Committee on Ways and Means, and both should seek to attain the maximum fairness and simplicity in the tax laws.

Percival F. Brundage, Director of the Bureau of the Budget, January 17, 1958

To balance the budget, it is necessary to retain present corporation income-tax rates and certain excise tax rates. H. R. 8381 (Mr. Mills) should be enacted with a few modifications. The recommendations of the President in regard to small business would result in a comparatively small revenue loss.

D. The Sadlak-Herlong Bills

The bills, H. R. 6452, introduced by Mr. Sadlak, and H. R. 9119, introduced by Mr. Herlong, are identical bills providing for a gradual reduction in the individual and corporate tax rates over a 5-year period.

The individual tax rates would be reduced in each year during the 5-year period, 1958–62. The percentage point reduction in the tax rates with respect to each bracket rate is spread evenly over the 5-year period. The first bracket rate for individuals would be reduced from the present 20 percent to 15 percent or by 1 percentage point each year. The top bracket rate would be reduced from 91 percent to 42 percent.

The corporate normal tax rate would be reduced from the present 30 percent rate to 22 percent in the following manner: 2 percentage points each year for the first 3 years and 1 percentage point for each of the remaining 2 years of the 5-year period. The corporate surtax rate would be reduced from the present 22 percent to 20 percent. The effect of the above changes in the corporate normal and surtax rates results in a reduction of the combined top rate from the present 52 percent to 42 percent.

There follows a list of persons who support these bills.

American Institute of Laundering, January 13, 1958
Thomas W. Anderson, on behalf of Concrete Technology Corp., January 13, 1958
Irving J. Angell, representing the Chamber of Commerce of the City of Newark, N. J., January 9, 1958
Carter W. Atkins, executive director, Connecticut Public Expenditure Council, Inc., Hartford, Conn., February 7, 1958
C. J. Backstrand, president, Armstrong Cork Co., January 13. 1958
F. C. Baker on behalf of Baker-Borkon Co., January 13, 1958
Frederick A. Ballon, Jr., president, B. A. Ballon & Co., Inc., January 8, 1958
Baltimore Association of Commerce, January 13, 1958
Sam L. Barnes, president, Bearing Industries, Inc., January 13, 1958
Ralph E. Becker, counsel, AV–TAX, January 24, 1958
Theodore H. Belling, president, Fram Corp., January 8, 1958
Carl J. Berg, executive manager, Springfield Area Chamber of Commerce, January 13, 1958
John E. Biby, Jr., president, Long Beach Chamber of Commerce, January 13, 1958
Roland M. Bixler, president of J. B. T. Instruments, Inc., representing the Manufacturers Association of Connecticut, Inc., January 8, 1958

Board of directors, New Hampshire Manufacturers' Association, January 13, 1958
Board of trustees, Seattle (Wash.) Chamber of Commerce, January 13, 1958
Robert P. Bonnie, secretary, Kentucky Color & Chemical Co., January 13, 1958
L. P. Boudreaux, representing the Iowa Manufacturers Association, January 20, 1958
Edwin S. Burton, president, Rico Machine Co., January 8, 1958
Edward V. Carey, chairman, taxation committee, Stamford-Greenwich Manufacturing Council, January 13, 1958
Robert E. Carter, chairman, governmental affairs committee, National Retail Furniture Association, January 24, 1958
James W. Cassedy, Motor & Equipment Wholesalers Association, February 6, 1958
Alger B. Chapman, Chapman, Walsh & O'Connell, Washington, D. C., January 30, 1958
Frederick L. Chase, Jr., president, National Ring Traveller Co., January 8, 1958
Otto F. Christenson, executive vice president, Minnesota Employers' Association, February 6, 1958
Harold Colee, executive vice president, Florida State Chamber of Commerce, January 13, 1958
V. L. Colt, general manager, the Peters Co., January 13, 1958
Ivan Congleton, manager, Columbia Empire Industries, Inc., January 13, 1958
Lawrence H. Cook, president, Lawrence H. Cook Co., January 8, 1958
Francis C. Corley, representing the Graphic Arts Association of St. Louis, Mo., January 9, 1958
K. J. Cranney, on behalf of the Clover Club Foods Co., and on behalf of the National Potato Chip Institute of Cleveland, Ohio, January 13, 1958
Raymond Curtis, president, Kenyon Piece Dye Works, January 8, 1958
James R. Davie, president, Albany Chamber of Commerce, Albany, N. Y., January 10, 1958
J. H. Devor, president, Wagner Electric Corp., St. Louis, Mo., January 13, 1958
John W. Douglas, president, Republic Foil & Metal Mills, Inc., January 13, 1958
George L. Draffan, in behalf of the Ohio Manufacturers' Association, January 13, 1958
Robert B. Dresser, in behalf of the Associated Industries of Rhode Island, the Campaign for the 48 States, and the Committee for Constitutional Government, Providence, R. I., February 7, 1958
Robert A. Ewens, executive vice president, Wisconsin Manufacturers Association et al., January 13, 1958
Executive committee, Manufacturers' Association of Montgomery County, Pa., January 13, 1958
H. H. Fisher, vice president, Jordan Assets Co., Salt Lake City, Utah, January 8, 1958
E. M. Fouch, Jr., on behalf of Fouch Electric Manufacturing Co., January 13, 1958
Fountain Pen & Mechanical Pencil Manufacturers Association, January 13, 1958

John A. Gosnell, general counsel, National Small Business Men's Association, January 7, 1958
John Hancock, president, John Hancock Furniture Manufacturing Co., San Diego, Calif., January 7, 1958
H. R. Hansen, Jr., president, Hansen Pacific Corp., January 13, 1958
Stephen H. Hart, attorney, National Live Stock Tax Committee, Denver, Colo., January 10, 1958
John D. Henderson, managing director, American Association of Small Business, Inc., January 9, 1958
Vernon Herndon, in behalf of American Hotel Association, January 14, 1958
Joseph C. Hodges, Jr., vice president, Illinois Manufacturers Association, January 13, 1958
R. Woolcott Hooker, in behalf of the Associated Industries of New York State, Inc., January 13, 1958
Wm. B. Hubbard, general partner, the Hubbard Co., January 13, 1958
Edward W. Huffschmidt, president, Western Foundry Co., January 13, 1958
Jarvis Hunt, general counsel, Associated Industries of Massachusetts, January 13, 1958
William Jackman, president, Investors League, Inc., January 13, 1958
Jersey City Chamber of Commerce, January 13, 1958
C. S. Kincaid, Magnet Mills, Clinton, Tenn., January 13, 1958
Albert H. Knabb, executive director of the Associated Cooperage Industries of America, Inc., January 8, 1958
J. F. Kurfees, president, Kurfees Paint Co., January 13, 1958
George Lawrence, on behalf of the Scientific Apparatus Makers Association, January 13, 1958
George R. LeSauvage, on behalf of the National Restaurant Association, January 24, 1958
R. S. Logan, in behalf of the Logan Co., Louisville, Ky., January 13, 1958
Norman D. MacLeod, president, Abrasive Machine Tool Co., January 8, 1958
Timothy J. Mee, president, T. J. Mee Coal & Oil Co., January 8, 1958
Aram A. Milot, president, Paragon Worsted Co., January 8, 1958
Paragon Electric Co., Two Rivers, Wis., January 10, 1958
Claude Pehowski, on behalf of the Milwaukee Junior Chamber of Commerce, January 13, 1958
Bob A. Phillips, on behalf of Wickliffe Chamber of Commerce, January 13, 1958
Dr. Charles F. Phillips, president, Bates College, February 6, 1958
George R. Ramsbottom, president, Seckonk Lace Co., January 8, 1958
Ronald Reagan, Motion Picture Industry Council, January 27, 1958
Gene W. Rossman, secretary-manager, Associated Restaurants of Oregon, January 13, 1958
Tinsley W. Rucker, representing the Associated Industries of Florida and other statewide organizations, January 8, 1958
Richard O. Rumer, president, Associated Industries of Missouri; general counsel, International Shoe Co., January 13, 1958
Ferdinand Schmitz, Jr., president, Berger Engineering Co., January 13, 1958
Otto Schultz, in behalf of the Standard Manufacturing Co., January 13, 1958
Gerald E. Shite, in behalf of the Chamber of Commerce of Grand Rapids, Mich., January 13, 1958

George E. Sinkinson, president, Sayles Finishing Plants, Inc., January 8, 1958

Luke E. Smith, on behalf of the Smith Welding & Engineering Co., January 13, 1958

Clarence W. Snyder, president, the Greater Trenton Chamber of Commerce, Trenton, N. J., January 9, 1958

Tyre Taylor, Southern States Industrial Council, February 6, 1958

Lothair Teetor, chairman, Federal Tax Committee of the Indiana State Chamber of Commerce, Hagerstown, Ind., January 8, 1958

Paul A. Tobey, executive vice president, Industrial Dyestuff Co., January 8, 1958

Fred J. Venner, in behalf of Arkansas State Chamber of Commerce and Association Industries of Arkansas, Inc., January 20, 1958

Clement P. Williamson, president, Sealol Corp., January 8, 1958

George Wilson, secretary-manager, Dyersburg, Tenn., Chamber of Commerce, January 13, 1958

J. Preston Wrenn, January 7, 1958

E. Alphabetical List of Other Witnesses and Their Recommendations

M. A. Adelman, Department of Economics, MIT, January 24, 1958

Present tax rates operate in favor of larger, established firms at the expense of small, new companies, and encourage concentration of business. Some method should be sought to relieve the tax burden of small business.

R. L. Arnold, in behalf of the Associated Equipment Distributors, January 7, 1958

Favors H. R. 5735. Mr. Curtis, Missouri. This bill provides (1) a limited deduction, for income tax purposes, for additional investment in depreciable assets and inventory; (2) a limited deduction for estate tax purposes for non-interest-bearing tax anticipation certificates; and (3) installment payments of estate tax if at least half the estate consists of investments in closely held business enterprises.

Present tax structure is principal factor limiting the growth of small business. Where the small and medium-sized business is already caught in a cost-price squeeze, it is important that this natural squeeze of their position not be aggravated by an inequitable tax structure. Also, mergers by sellers have caused a shift to branch distribution, thus eliminating small businesses at the distribution stage.

Small business should be allowed to deduct for reinvestment a percentage of their taxable income. Also, a postponement of estate tax would lessen the tendency toward merger.

Present tax structure is sharply limiting the ability of small companies to grow and offer real competition to large companies.

Joe Barlow, chairman, taxation committee, Chamber of Commerce of the United States, Washington, D. C., January 13, 1958

Recommends:

(1) Reduction in lowest bracket of individual income tax rates from 20 percent to 19 percent in first year and then to 15 percent over next few years.

(2) Sixty percent limitation on individual rates with future reduction to 40 percent.

(3) One percent cut in middle brackets.

(4) Reduction in corporate rate to 50 percent in first year then to 40 percent in future years.

(5) Quicker writeoffs on depreciable assets.

Harry L. Baum, Jr., president, Norsen, Inc., January 8, 1958

Dividends paid by corporations should be deductible from income. This would encourage the payment of dividends. The criterion of the Revenue Service for determining the deductibility of salaries of stockholder-employees is confusing and vague. Small businesses should have the benefit of deducting collection costs at the 52 percent rate which larger businesses enjoy. Tax relief should take the form of a reduction in rates for all business. Estate taxes should be payable in installments. Partnerships and proprietors should have the privilege of being taxed as corporations. The liberalized methods of depreciation should be extended to used property. A graduated income tax should not be imposed on corporations. A deduction should be allowed for additional investment during the taxable year. A taxpayer should have the option of treating capital expenditures as deductible expenses.

Representative Bennett (Florida), H. R. 559, January 7, 1958

Section 2 of this bill would provide that the normal tax on corporate income would be 20 percent on taxable income up to $25,000, and 25 percent on income over $25,000.

Section 3 of this bill would extend the liberalized depreciation formulas contained in section 167 of the Internal Revenue Code to purchases of used property. The provision would apply only to purchases up to $50,000 of used property.

Section 4 of this bill would provide that active corporations with 10 or fewer shareholders would be permitted to deduct up to $25,000 of dividends paid during the taxable year to shareholders.

Section 5 of this bill would permit the payment of estate tax not exceeding $250,000 in 10 equal installments where the value of stock of closely held corporations equaled 35 percent of the gross estate or 50 percent of the taxable estate of the decedent.

Section 6 of the bill would permit annual reporting of wages by employers on one return for income tax withholding and old-age, survivors, and disability insurance purposes.

K. J. M. Benz, president, Loonan Lumber Co., January 7, 1958

Small-business man has little control over his price. He is limited in his ability to borrow. Capital must be set aside to pay estate taxes. Small business needs to be able to accumulate more earnings. Careful consideration should be given to H. R. 5735, Mr. Curtis of Missouri.

Board of Governors, Pennsylvania Manufacturers' Association, January 10, 1958

Present corporate and individual rates impede the growth of the economy and should be reduced. High corporate rates siphon off funds of smaller businesses which funds were formerly used for growth.

B. E. Bronston, Miami, Fla., January 8, 1958

Estate taxes should be payable in 10 installments where the estate consists largely of investments in small business concerns; and

Expenses for estate planning should be deductible as business expenses.

George J. Burger, vice president, National Federation of Independent Business, January 7, 1958

Corporate rate on incomes up to $25,000 should be reduced to 20 percent. Business should be allowed to use liberalized methods of depreciation on $50,000 worth of used property. Corporations with 10 or fewer shareholders should be permitted to be taxed as partnerships. Period for paying estate tax should be extended to 10 years where estate consists largely of investments in closely held business concerns.

Edward V. Carey, chairman, taxation committee, Stamford-Greenwich Manufacturers' Council, January 13, 1958

Corporations should have an outright exemption for a reasonable amount of corporate earnings. Normal corporate rate should be set at 22 percent. Companies should be allowed to expense up to $100,000 of capital improvements. A graduated corporate rate should not be imposed.

Robert E. Carter, chairman, governmental affairs committee, National Retail Furniture Association, January 24, 1958

Tax relief for lower income corporations should not be attained by increasing the taxes of the larger income corporations.

In favor of allowing liberalized methods of depreciation on used business property up to $50,000. Losses on initial investments in small business should be deductible in the year of the loss. In favor of H. R. 5735 (Mr. Curtis), a bill to allow a deduction for additional investments in depreciable assets and inventory up to $30,000 or 20 percent of net income, whichever is less. Small business should not be granted a standard deduction.

Howard S. Cartwright, chairman, Illinois Small-Business Men's Committee, Jan. 8, 1958

In favor of H. R. 5652, Mr. Collier of Illinois, a bill to aid small business. Of particular importance is the provision to allow ordinary loss treatment on losses realized on investments in small business.

Gardner A. Caverly, executive vice president, tax and fiscal committee, New England Council, January 13, 1958

General tax rate reduction urgently needed for modernization and expansion of small business.

Emanuel Celler, Representative in Congress from New York, January 8, 1958

In favor of S. 3194, a bill to aid small business. Of particular interest is section 2 of this bill which allows a tax deduction conditioned on reinvestment in the business.

Dean Chaffin, president, National Automobile Dealers Association, February 6

H. R. 5735, Mr. Curtis of Missouri, should be enacted to give relief to small businesses which reinvest profits in depreciable equipment and inventory. This bill also gives relief from estate taxes where the assets are invested in a closely held business.

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Hon. Harold R. Collier, Representative in Congress from the State of Illinois, January 8, 1958

H. R. 5652, identical with H. R. 5631, the House Small Business minority bill, Mr. Collier of Illinois, and H. R. 5735, Mr. Curtis of Missouri, should be enacted. Small business is in desperate need of a tax provision which would allow it to supply customers with the additional services and the additional selection of commodities which customers are demanding.

However, he does not feel that the 20-percent deduction for expansion as provided in H. R. 5735 is adequate.

James R. Davie, president, Albany Chamber of Commerce, Albany, N. Y., January 10, 1958

Supports Sadlak-Herlong bills, H. R. 6452 and H. R. 9119, which offers tax relief both to incorporated and unincorporated businesses, small and large.

John W. Douglas, president, Republic Foil & Metal Mills, Inc., January 13, 1958

A general tax reduction will stimulate the economy and aid small business. To prevent liquidation of small business, estate taxes should be payable over a period of years.

George L. Draffan, in behalf of the Ohio Manufacturers' Association January 13, 1958

Present tax system prevents economic growth and prevents small business from accumulating sufficient earnings to finance expansion.

Moriz Dreyfus, Bureau of Salesmen's National Associations, Inc., January 9, 1958

The trade association program should be expanded to encourage small business. Business leagues should be exempted from income tax where the members have a common business interest. Income from the sale by business leagues of periodicals should not be taxed as unrelated business income.

Birger Engstrom, in behalf of the Smaller Manufacturers Council of Pittsburgh and the Sprinkler Irrigation Association, January 7, 1958

Small manufacturers must have tax adjustment for normal expansion since it is impossible to get extra outside risk capital. Therefore, an income tax deduction for amount spent for expansion is necessary.

There should be an exemption of amount of non-interest-bearing estate tax anticipation certificates in estate, to extent of $100,000 or amount of tax, whichever lesser.

Robert A. Ewens, executive vice president, Wisconsin Manufacturers Association, et al., January 13, 1958

H. R. 6452 is most practical way of accomplishing tax relief.

John A. Gosnell, general counsel, National Small Business Men's Association, January 7, 1958

The most serious problem today is the lack of working capital for the expansion of small business. This lack is principally caused by the high tax rates. Fundamental tax reform will be a more favorable influence than patchwork.

Carlos J. Grimader, CPA, January 15, 1958

Small business would be aided by a provision allowing the filing of form 450 (for taxes withheld in the first and second months of each calendar quarter) by the end of the following month rather than by the 15th day of the following month.

John H. Haas, Director of NERSICA, Inc., January 8, 1958

Recommends four specific reforms: (1) Reduce the tax rate on corporations to 20 percent on incomes up to $25,000; (2) permit taxpayers to pay estate taxes over a period of 10 years in cases where the estate consists largely of investments in closely held business concerns; (3) permit corporations with 10 or less stockholders the option of being taxed as if they were partnerships; and (4) permit members of a partnership or the proprietor of an unincorporated business to participate in approved profit-sharing and pension plans.

Fred L. Hahn, Westerville, Ohio, February 6, 1958

Small business should also be given relief as well as those in high brackets.

Hugh F. Hall, legislative assistant, American Farm Bureau Federation, January 8, 1958

Recommends three basic changes in present income tax laws: (1) Permit farmers and operators of unincorporated small business to average their income; (2) treat hospital and medical insurance premiums as business expense, thus, giving the same treatment as employees receiving free hospitalization and medical insurance; and (3) permit heirs of farmers to pay inheritance taxes in installments.

Robert J. Hamilton, in behalf of the Farm Equipment Wholesalers Association, January 7, 1958

The problem of small business is constantly decreasing profits and steady increases in costs. Small business cannot afford experts. It needs simplified tax forms. Some relief is needed to aid in maintaining inventories at proper levels, namely a depreciation of inventory, or permission to carry inventory without considering inflated values as income. Also, a deduction might be granted for a reinvestment in inventory. This would avoid necessity of borrowing to maintain inventory.

Where owner of a small business dies, his estate should have 10 years within which to pay estate tax, or be permitted to deduct the amount of tax anticipation certificates in estate.

Corporations should be allowed to pay their income taxes in monthly installments or on a quarterly basis.

W. T. Harris, in behalf of the National Association of Retail Grocers, January 7, 1958

Present income- and estate-tax system encourages concentration which antitrust laws are designed to prevent.

Small business requires greater retained earnings since net return is too small to attract outside capital. A tax adjustment encouraging expansion of small business would give a needed stimulus to the economy with little or not cost to Federal revenue. H. R. 5735 (Mr. Curtis of Missouri) should be enacted to not only aid small business but to stimulate economy in general.

Joseph D. Henderson, managing director, American Association of Small Business, Inc., January 9, 1958

Recommends consideration be given to exempting from taxation corporate earnings set aside for dividends.

Allan H. W. Higgins, chairman, tax and fiscal policy committee, New England Council, January 13, 1958

(1) Permit the use of liberalized depreciation on used equipment.
(2) Increase corporate surtax exemption to $50,000.
(3) Permit payment of estate tax in 10 installments.

William S. Hill, Representative in Congress from Colorado, January 7, 1958

In favor of H. R. 5631 and companion bills and also H. R. 8813 and companion bills. The latter bill contains the President's proposals to aid small business. It is, however, a minimum program rather than a maximum program.

Rev. William T. Hogan, professor of economics, Fordham University, January 15, 1958

Small business would be aided by a provision allowing depreciation rates to take into account the increased cost of equipment.

Grenville R. Holden, president, F. C. Huyck & Sons, February 4, 1958

The sale of common stock received as a stock dividend should not be taxed. The position of the Treasury in regard to the two-class-stock situation should not be adopted in the law. The two-class common (one payable in cash, the other in stock) is an effective way for small business to raise money to compete with big business.

Craig Hosmer, Representative in Congress from California, January 7, 1958

Small business should be allowed 5-year rapid amortization, and business generally should be allowed to use the liberalized methods of depreciation on used property.

Wm. B. Hubbard, general partner, the Hubbard Co., January 13, 1958

The liberal methods of depreciation should be extended to used equipment. The executor of a deceased partner should have the option of including the last year's income either in the final return of the partner or in the first year return of the estate.

Jarvis Hunt, general counsel, Associated Industries of Massachusetts, January 13, 1958

(1) Estate tax should be payable in 10 installments.
(2) Accelerated depreciation methods for newly purchased used equipment.
(3) Self-employed should be eligible for pension plans.
(4) No graduated rates on corporations.
(5) It is not feasible to have a standard deduction for small business.
(6) No deduction should be allowed for additional investment.
(7) An increased corporate surtax exemption is not desirable.
(8) Corporate normal tax rate should be lowered, and surtax should be lowered 5 percent.

William Jackman, president, Investors League, Inc., January 13, 1958

Present taxes destroy incentive. The corporate income tax should be abolished and each stockholder taxed on his share of the earnings, or tax undistributed corporate earnings at 25 percent. The alternate rate of tax on capital gains should be lowered. The income of cooperatives and other groups should be taxed. A nonpartisan committee should be set up to study the Federal income-tax policy. Our present depreciation provisions should be carefully examined.

Wallace M. Jensen, general chairman, committee on Federal taxation, American Institute of Certified Public Accountants, New York City, accompanied by Matthew F. Blake, John P. Goedert, Thomas J. Graves, Benjamin Grund, Leslie Mills, and Maxwell A. H. Wakely, February 3, 1958

It is recommended that closely held corporations have the option to be taxed as partnerships. This would be of particular benefit to small business.

George W. Kauffman, in behalf of the National Association of Wholesalers, January 10, 1958

The small return received by small business is inadequate to attract sufficient outside investment. While H. R. 5735 (Mr. Curtis of Missouri) will not solve the problems of small business completely, it will enable small business to attract sufficient additional capital to hold their position in the economy.

Francis E. Kane, certified public accountant and attorney at law, Cleveland, Ohio, January 8, 1958

Urges support of H. R. 8523, which would amend the Internal Revenue Code of 1954 so as to permit the payment of the estate tax in 10 equal installments. He feels that such legislation will permit the payment of estate tax in an orderly manner and stop the forced liquidation or disposition of closely held small businesses.

Joseph B. Lanterman, vice president, American Steel Foundries, and chairman of the Federal taxation committee of the Illinois State Chamber of Commerce, January 9, 1958

The witness submitted a number of tax recommendations which would affect business generally. Of particular interest to small business were recommendation (4) to extend the liberalized methods of depreciation to used property and recommendation (8) to permit the elimination of the tax on excess accumulation (sec. 531 et seq.) by payment of a subsequent dividend.

Hon. John Lesinski, Representative in Congress from the 16th District of Michigan, January 9, 1958

Proposes to reduce the rate of tax on small corporations and increase the rate on large corporations. This to be done by establishing a normal rate of 22 percent instead of 30 percent, and installing a graduated schedule of surtax rates ranging from 10 to 53 percent instead of a flat 22 percent.

Clarence D. Laylin, in behalf of the Council of State Chambers of Commerce, Washington, D. C., February 7, 1958

A favorable tax climate should be provided for small business. The most effective way to accomplish this is to lower corporate and individual income tax rates.

Albert Love, chairman, taxation committee, Printing Industry of America, Inc., January 13, 1958

(1) Present liberalized methods of depreciation should be extended to used equipment.

(2) Permit small corporations to be taxes as partnerships.

(3) Permit partners and proprietors to share in pension and profit sharing plans.

(4) Ten-year installment payment of estate tax where estate largely consists of investments in closely held companies.

John Mason, Mason, Knudsen, Dickeson & Berkheimer, January 22, 1958

In support of H. R. 7600 (Mr. Baker) as an aid to small business. This bill would permit a deduction from income, up to 10 percent of taxable income, for sums set aside in non-interest-bearing Treasury certificates for the payment of estate taxes.

Philip R. Marsilius, president, National Tool & Die Manufacturers Association, Cleveland, Ohio, January 10, 1958

Retained earnings is the only important source of new capital for small business. Tax rates should be lowered to meet the need for retained earnings. The loss in revenue could be compensated for by Government economy.

The exemption from the corporate surtax should be increased to $100,000.

A maximum depreciation life for machinery should be 7 to 10 years, and on buildings, 20 years.

Frederick T. Maxston, in behalf of the Lithographers National Association, Inc., January 15, 1958

A provision allowing a deduction for the excess of the cost of new equipment over the original cost of the old equipment would be of particular aid to small business.

William McCamant, in behalf of the American Retail Federation, January 7, 1958

In support of H. R. 5735. Mr. Curtis of Missouri.

In addition to the deduction for sums made available for expansion of facilities and inventory, a deduction should be permitted for sums used for expansion of accounts receivable.

The proposals to permit a deduction for the amount of anticipation certificates from the gross estate and to extend the terms of payment of estate tax are reasonable and workable.

Pat A. McCormick, Trailer Coach Association, January 24, 1958

H. R. 9481 (Mr. Simpson) should be enacted. This bill would allow a taxpayer to exclude from gross income that portion of his sales which are not paid or made immediately available to him by the lending institution to which he sells or assigns his contracts. If this bill is not enacted, there will be many small business failures because these businesses will be short of money to pay the tax on income they have not received, and may never receive.

William M. McCulloch, Representative in Congress from Ohio, January 7, 1958

In favor of H. R. 5634, identical with H. R. 5631.

Present estate-tax laws encourage monopoly since small-business men sell out their business during their lifetime to raise sufficient cash for estate taxes.

George S. McGovern, Representative in Congress from South Dakota, January 8, 1958

Small business is particularly in need of a tax provision which would permit a deduction up to $5,000, whether or not there is a profit.

Herman J. Mueller, president, Optical Wholesalers National Association, Inc., January 7, 1958

For H. R. 5735 (Mr. Curtis) and S. 1820 (Senator Potter), identical bills as aids to small business.

Russell R. Mueller, in behalf of the National Retail Hardware Association, January 7, 1958

For H. R. 5735 (Mr. Curtis). Supports Dr. Spencer Smith's conclusions.

Paul M. Mulliken, executive director, National Retail Form Equipment Association, January 7, 1958

Obtaining capital is the most urgent problem of small business. Small business should be given some tax adjustment which would allow it to retain a greater portion of its earnings.

Hon. Abraham J. Multer, Representative, 13th District of New York, January 9, 1958

Strongly urges legislation which will grant tax relief of some measure to small-business men.

National Association of Refrigeration Warehouses (letter), January 7, 1958

In favor of H. R. 5735 (Mr. Curtis), a bill for the relief of small business.

National Tire Dealers & Retreaders Association, Inc., January 7, 1958

Lack of capital is the most significant problem of small business. H. R. 5735 (Mr. Curtis) should be adopted.

Benjamin M. Parker, on behalf of the National Retail Merchants Association, January 8, 1958

In favor of the President's proposals to aid small business, but they are not an adequate solution. Section 453 should be amended to allow taxpayers switching from the accrual method of accounting to the installment method, to avoid double taxation. This problem was not completely corrected by the 1954 Code. Sections 452 and 462 should be reenacted.

Unincorporated businesses should have the benefits of pension and profit sharing plans now enjoyed by employees of corporations.

James G. Patton, president, National Farmers Union, January 10, 1958

The income tax on small corporations should be lowered to discourage concentration. Present rates discourage the growth of small business.

W. A. Paton, School of Business Administration, University of Michigan, Ann Arbor, Mich., January 30, 1958

Small corporations should have the privilege of being taxed as partnerships. It is highly important that our tax system not discriminate against small corporations which are in competition with partnerships and proprietorships.

Fred W. Peel, January 15, 1958

Small business is in particular need of an allowance for reinvestment in depreciable property.

Archibald Peisch, in behalf of the Smaller Business Association of New England, January 7, 1958

Corporate-tax rates discriminate against small business which cannot obtain outside capital. Corporate rates should be graduated. The liberalized depreciation methods should apply to used equipment since small business cannot always obtain new equipment. The period of the loss carryback should be extended to 5 years. Pension plans should be available to unincorporated enterprises.

A deduction from the gross estate should be allowed for anticipation certificates up to $100,000, and the period of payment of estate taxes should be extended to 10 years.

Present provisions against unreasonable accumulations apply adversely to small businesses.

Phillip C. Pendleton, in behalf of the Family Tax Association, Bryn Athyn, Pa., January 22, 1958

Allowing a deduction from the gross estate (up to 5 percent of the adjusted gross estate) for bequests to each child, would encourage small business since it would not be so necessary to divert capital into the taxable reserve or to sell the business.

B. A. Perham, president, Perham Fruit Corp., January 13, 1958

Tax relief is urgently needed by small business so that it will have sufficient funds for improvements.

Elmer W. Pfeil, president, Machinery Dealers National Association, Washington, D. C., January 15, 1958

Recommends that the liberalized depreciation provisions of the 1954 Code be amended to extend this liberalization to the buyer of a used machine tool. This would be of particular aid to small business.

R. Walter Riehlman, Representative in Congress from New York, January 7, 1958

Tax relief to small business is essential to an expanding economy. In favor of H. R. 5632 (identical with H. R. 5631) and companion bills.

R. H. Rowe, vice president and secretary, United States Wholesale Grocers' Association, January 7, 1958

In favor of H. R. 5735 (Mr. Curtis, Missouri) as an aid to small business.

George M. Rhodes, Representative in Congress from Pennsylvania, January 14, 1958

H. R. 910 (Mr. Rhodes, Pennsylvania) should be enacted to aid small business. This bill would provide a normal corporate tax rate of 22 percent and a surtax rate of 33 percent.

J. Gordon Roberts, in behalf of the Roberts Dairy Co., Omaha, Nebr., January 22, 1958

H. R. 7600 (Mr. Baker) would encourage small businesses to stay independent by permitting the deduction from gross income of exemption certificates purchased by corporations to redeem stock of a principal shareholder on such shareholder's death.

Sanford L. Schamus, representing the West Side Chamber of Commerce of the City of New York, January 9, 1958

Recommends that special tax relief be designed by the Ways and Means Committee to meet the needs of small business. The impact of taxation should be the same regardless of the form of the business. Therefore, small corporations should have the right to be taxed as partnerships. No graduated corporation tax should be imposed.

Horace Seely-Brown, Jr., Representative in Congress from Connecticut, January 7, 1958

Federal taxes cause small business to be short of adequate financing. In favor of H. R. 5633 (identical with H. R. 5631) and H. R. 8818.

The latter bill provides that (1) loss from the sale of small business stock by the original investor be treated as an ordinary loss, not a capital loss; (2) a corporation with 10 or less shareholders, all actively engaged in conduct of the business, may elect to be taxed as a partnership; and (3) payment of the estate tax may be spread over 10 years if more than 75 percent of the gross estate is attributable to an interest in a closely held business.

J. S. Seidman, in behalf of the New York Board of Trade, New York City, February 3, 1958

Small business should be encouraged by permitting a deduction for dividends on preferred stock, and by relaxing the requirements regarding the valuation of stock for stock-option purposes.

If allowing liberalized depreciation on used property and permitting losses on small-business investments as ordinary losses are basically sound ideas, then no annual limitation should be placed on such deductions.

R. Harland Shaw, chairman, Conference of American Small Business Organizations, January 7, 1958

High taxes hurt small-business men by reducing their ability to save and reinvest, and also (1) reduce the amounts of money in the hands of people to whom they must go for outside capital and (2) reduce inclination of such people to invest even when they have money. The Sadlak-Herlong bills to a large extent would enable sufficient funds to be saved for small-business expenses, and would make for larger revenues rather than smaller. H. R. 5735 (Mr. Curtis of Missouri) should permit a deduction for amounts invested in research and development.

W. T. Sherman, on behalf of Portland Willamette Co., January 8, 1958

It is not feasible to reduce tax rates at present; yet small business needs tax relief. To provide this relief, a tax deferral should be allowed to businesses reinvesting in the business. A business with fluctuating income should be allowed to average its income over a 4-year period. (For additional comments on various proposals, see record, p. 342 et seq.)

Sidney Butz & Associates, Tampa, Fla., January 10, 1958

Individuals operating proprietorships and partnerships should not be taxed beyond 25 percent of their earnings up to $25,000, or 33⅓ percent on net profits from $25,000 to $50,000. Small corporations should be encouraged to grow.

H. C. Smith Oil Tool Co., Compton, Calif., January 24, 1958

Present corporate tax rates hurt smaller corporations. The advance payments of taxes by corporations cut down on the working capital of smaller corporations.

Luke E. Smith, on behalf of the Smith Welding & Engineering Co., January 13, 1958

The Small Business Administration should be abolished since it makes loans to inexperienced operators. Government activities should be screened to eliminate waste.

Dr. Spencer Smith, professor of economics, University of Maryland, January 7, 1958

Small businesses have not participated in the overall economic expansion, have lost ground relatively, and have often merged with larger groups in order to survive.

Principal restraint has been the inability to retain or obtain sufficient capital for basic growth commensurate with their potential. The principles embodied in H. R. 5735 (Mr. Curtis of Missouri) and similar bills (reduction of taxes contingent upon capital investment) offer the most effective assistance to small- and medium-size business.

Leonard Spacek, in behalf of Arthur Anderson & Co. (public accounting), January 15, 1958

Present depreciation methods, which do not reflect increasing costs, are particularly harmful to small business.

Charles Stewart, president, Machinery and Allied Products Institute, January 10, 1958

The special tax problems of small business are really no more than results of the debilitating nature of our high income-tax structure. The accumulated earnings tax is especially harmful to small business.

D. B. Taylor, on behalf of the Northwestern Lumbermen's Association, January 7, 1958

In favor of H. R. 5735 (Mr. Curtis) as an aid to small business.

James D. Tracy, counsel for the Kewaunee Manufacturing Co., Adrian, Mich., January 9, 1958

Proposes an amendment to section 6161 of the 1954 Code which would provide that, where more than half of the estate consists of stocks in a closely held corporation, the payment of estate tax shall be extended for a period up to 10 years upon request.

Fred J. Venner, in behalf of Arkansas State Chamber of Commerce and Association Industries of Arkansas, Inc., January 20, 1958

Retention of earnings is very necessary in the early stages of a business. The corporate surtax exemption should be raised to $50,000.

B. B. Wooley, B. B. Wooley & Co., certified public accountants, January 15, 1958

Increasing the corporate surtax exemption to $50,000 would enable small business to accumulate sufficient earnings.

J. Arthur Younger, Representative in Congress from California, January 7, 1958

In favor of H. R. 1022, a bill to permit an individual to anticipate estate taxes by taking out life insurance payable to the United States. The proceeds of the insurance policy would not be included in the estate. This would be of particular aid to small business.

PART II

(A) Subchapter C of the Internal Revenue Code of 1954 relating to corporate distributions and adjustments.

(B) Subchapter J of the Internal Revenue Code of 1954 relating to estates, trusts, beneficiaries, and decedents.

(C) Subchapter K of the Internal Revenue Code of 1954 relating to partners and partnerships.

PART II

(A) SUBCHAPTER C OF THE INTERNAL REVENUE CODE OF 1954 RELATING TO CORPORATE DISTRIBUTIONS AND ADJUSTMENTS

Norris Darrell, chairman; C. Rudolf Peterson, vice chairman; Edwin S. Cohen; Samuel J. Lanahan; Kenneth Gemmill; and Leonard L. Silverstein; appearing on behalf of the Advisory Group, January 31, 1958. Discussed with, and explained to, the committee the Advisory Group's report

Summary of Recommendations of Advisory Group on Subchapter C

Subchapter C of the 1954 Code relates to corporate distributions and adjustments. The recommendations of the Advisory Group fall into three general categories: (1) Recommendations with respect to part I of subchapter C (relating to corporate distributions); (2) recommendations with respect to parts II and III of subchapter C (relating to corporate liquidations, organizations and reorganizations); and (3) recommendations with respect to part V of subchapter C (relating to carryovers). The principal recommendations of the Advisory Group with respect to each of these major areas are summarized below:

I. PART I OF SUBCHAPTER C—DISTRIBUTIONS BY CORPORATIONS

(1) A redemption by the issuing corporation of preferred stock from a shareholder owing less than 1 percent of the voting stock of the corporation and less than 1 percent of the common stock of the corporation should be regarded as a sale or exchange. Accordingly, the amount received could not be taxed as a dividend.

(2) In determining whether a redemption of stock by a corporation is not essentially equivalent to a dividend, and therefore to be regarded as a sale or exchange, it should be made clear in the statute that the constructive ownership rules of section 318 shall not be applicable. However, the relationships described in section 318 should be permitted to be taken into account along with all other facts and circumstances.

(3) In determining whether there is a complete termination of a shareholder's interest in a corporation on a stock redemption (so that the redemption will be regarded as a sale or exchange), it is recommended that the statute be amended to require that a complete termination of a shareholder's interest must include a complete termination of the interest of the shareholder's spouse.

(4) Where a redemption of stock is taxable as the equivalent of a dividend, the statute should be amended to provide that the basis of the stock redeemed shall be added to the basis of other stock actually

owned by the taxpayer, or added to the basis of stock owned by another person whose stock is attributable to the taxpayer under section 318, or shall be allowed as a loss to the taxpayer.

(5) Section 305 should be amended by adding a provision applicable where a corporation has two or more classes of common stock outstanding and makes a distribution payable in stock, or stock rights, with respect to one class and in property as to the other class. The new provision would make the distribution of stock, or stock rights, taxable.

(6) Where a charitable contribution of section 306 stock is made, the amount of the charitable contribution should be reduced by the amount which would have been taxed at ordinary income rates under section 306 if the stock had been sold instead of contributed.

(7) On a transfer of section 306 stock to a corporation in an exchange described in section 351, or as a contribution to capital, the transferor should be taxed in the same manner as if he had sold such stock.

(8) The zero basis rule applicable in the case of distributions of stock rights should be limited to situations where the aggregate fair market value of the rights received by the taxpayer does not exceed $1,000.

(9) Where a corporation distributes inventory assets to its shareholders as a dividend or in exchange for their stock (other than an exchange in a complete or partial liquidation), the statute should provide that: Deductions, credits, or allowances which have been taken in prior years with respect to such assets shall be restored to the corporation's income in the year the distribution was made, no deductions in the current year attributable to expenses with respect to such assets shall be allowed, and proper adjustments to the corporation's inventory accounts shall be made.

(10) There should be added to the statute a definition of corporate indebtedness. The definition should apply only to the clearest types of obligations and be without prejudice to the determination of the status of other alleged obligations not coming within its strict requirements. In general, indebtedness should include any unconditional obligation of a corporation to pay on demand or on or before a specified and not unreasonably distant date a sum certain in money which has been incurred upon a distribution to shareholders or for an adequate consideration, under circumstances which do not negative a reasonable expectation of payment: *Provided,* That the obligation is not subordinated to the claims of trade creditors generally; interest is not excessive or dependent upon earnings and is unconditionally due not later than maturity; the obligation does not entitle the obligee to vote for the corporation's directors; and, if the obligation is initially held or guaranteed by a shareholder, the principal amount of all such obligations does not exceed by more than 5 to 1 the value of the outstanding stock of the corporation (or the total of the capital and paid-in surplus, if that is greater).

(11) The constructive ownership rules contained in section 318 should be amended to eliminate generally the reattribution of stock already attributed to another person under the attribution rules.

A number of additional technical amendments are recommended with respect to part I. These include recommendations with respect to sections 301, 302, 303, 304, 306, and 318.

II. PARTS II AND III—CORPORATE LIQUIDATIONS, ORGANIZATIONS AND REORGANIZATIONS

(1) The rules relating to distributions in complete or partial liquidation of a corporation, and distributions in redemption of stock regarded as sales or exchanges under section 302 should be revised as follows: (i) Gain should be limited to the extent to which the adjusted basis to the corporation for the assets distributed exceeds the shareholder's basis for his stock; (ii) if there is no excess, no gain should be recognized; and (iii) if there is no gain on the transaction, loss should be recognized as under existing law. The basis rules should be revised to accord with this policy.

(2) The rules relating to collapsible corporations should be revised as follows: (i) The determination of whether a corporation is a collapsible corporation should be made by an objective test based upon the unrealized appreciation of the corporation's noncapital assets; (ii) gain from an aliquot distribution in complete or partial liquidation or a distribution to which section 302 (a) applies should be taxed as provided in (1) above, and the character of noncapital assets on such a distribution should be carried over to the shareholder for a 5-year period; (iii) where stock of a collapsible corporation is sold, the shareholder's gain should be "fragmented" so that the shareholder is taxed at ordinary rates only on gain attributable to property which would have produced ordinary income had it been sold; (iv) where a collapsible corporation makes a nonaliquot distribution in complete liquidation, the shareholder's gain should be taxed as on a sale; and (v) where a collapsible corporation distributes noncapital assets in a nonaliquot distribution in partial liquidation or in a redemption of stock described in section 302 (a), the corporation should be taxed. In general, a nonaliquot distribution is a distribution in which each shareholder does not receive substantially the same proportion of each of the noncapital assets of the corporation.

(3) The rules relating to corporate reorganizations should be revised as follows: (i) Statutory mergers and consolidations should be abolished as a separate category of reorganization; (ii) the rules relating to asset acquisitions and stock acquisitions should be coordinated and the "solely for voting stock" requirement in present law be eliminated and in lieu thereof there should be substituted a requirement that 50 percent of the consideration received in exchange for the stock or assets transferred must consist of stock (whether such stock is preferred or common, voting or nonvoting) of the acquiring corporation; (iii) a transfer of stock by a shareholder to another corporation should be tax free if, pursuant to a plan to acquire stock, the acquiring corporation is in control of the other corporation after the acquisition, or acquires control within 6 months, and if 50 percent of the consideration received by the shareholder consists of stock of the acquiring corporation; (iv) the statutory rules with respect to "reincorporations" should be revised to prevent tax avoidance; (v) the rules respecting the taxation of "boot" received in a corporate reorganization should be revised by eliminating the gain requirement, by permitting boot to be entitled to capital gains treatment to the extent that the distribution has the effect of a partial liquidation or a redemption of stock under section 302 (a), and by requiring that boot

received in exchange for securities be treated as interest income to the extent that it has the effect of payment of interest.

(4) The rules with respect to partial liquidations should be amended so that they will be coordinated with the provisions of sections 302 and 355. The definition of "active business" is accordingly revised. Moreover, to come within the exception contained in present section 346 (b), the amount of the distribution must be at least 20 percent of the net worth of the corporation.

(5) Section 355 should be amended to provide that even though a transaction does not qualify because of failure to satisfy the active business requirement or the 20 percent distribution requirement added by the Advisory Group, it will nevertheless qualify if it is established to the satisfaction of the Secretary or his delegate that the distribution is not in purusance of a plan having a principal purpose of tax avoidance.

(6) Where a solvent subsidiary corporation is completely liquidated, under section 332, and in connection with the liquidation property is transferred by the subsidiary to the parent corporation, gain or loss should not be recognized to the parent provided that the basis to the parent of the property is adjusted by an amount equivalent to the gain or loss the parent realized.

A number of additional technical amendments are recommended with respect to the provisions contained in parts II and III.

III. PART V OF SUBCHAPTER C—CARRYOVERS

(1) The statute should be revised to provide for carryovers in the case of certain corporate divisions.

(2) Where there are asset acquisitions by, or asset transfers to, subsidiary corporations in connection with reorganizations, the statute should be revised to provide more detailed rules with respect to the treatment of carryovers.

(3) The rules with respect to the limitations on net operating loss carryovers should be revised to coordinate the treatment of asset acquisitions and stock acquisitions. In general, where there is a 50 percent change in stockownership, the available loss carryover should be limited to 50 percent of the value of the business, the value of the business being determined by reference to the consideration paid with respect to the change in ownership.

(4) Section 269 should be amended by adding a presumption that an acquisition is for one of the purposes condemned by section 269 where, subsequent to the acquisition, the corporation does not continue to carry on a trade or business substantially the same as that conducted prior to the acquisition. This would be in lieu of the present presumption contained in section 269.

COMMENTS ON SUBCHAPTER C ADVISORY GROUP RECOMMENDATIONS

B. E. Bronston, Miami, Fla., January 8, 1958

The collapsible corporation provisions should be clarified. In particular, the provision should apply only to those owning 10 percent of the stock, rather than 5 percent.

Present law contains a trap in the situation where there is a liquidation of a subsidiary corporation and of its subsidiary. It should be

provided that section 334 (b) (2) will apply to the entire transaction. The "solely for voting stock" requirement should be relaxed in stock acquisition reorganizations under section 368 (a) (1) (B). The Groman and Bashford rules should not apply to stock acquisition reorganizations under section 368 (a) (1) (B). A catchall provision is needed in section 381 to allow carryovers of miscellaneous items from a transferor corporation to a transferee corporation. Section 381 (c) (16) should be modified to permit the deduction of liabilities by a transferee corporation even though the liabilities are reflected in the amount of stock securities or property transferred by the acquiring corporation to the transferor corporation for the property of the transferor corporation.

Gerald L. Phillippe, Controllers Institute of America, January 24, 1958

Several changes in subchapter C are urged in order to make these provisions more equitable. Ordinary loss treatment should be permitted on losses in a subsidiary in which 25 percent of the stock is owned by the parent. Reorganization expenses and other items should be amortizable. The code should specifically provide that there is no tax on a recapitalization unless stock is issued.

(For additional recommendations, see printed testimony.)

American Gas Association, New York, N. Y., January 24, 1958

In a stock-for-stock reorganization, the acquiring corporation should be permitted to purchase stock of the acquired corporation in excess of the 80 percent required to be obtained for stock. In allocating the tax liability to members of an affiliated group, SEC Rule U–45 (b) (6) should be permitted.

Joseph M. Jones, Association of American Railroads, accompanied by Kennedy C. Watkins, Februyry 5, 1958

The recommendation of the Subchapter C Advisory Group regarding relief from the doctrine of thin incorporation is conducive to litigation and does not offer the relief needed.

The parent of an insolvent subsidiary should also be insulated from gain on liquidation as the parent of a solvent subsidiary would be insulated by the recommendations of the Subchapter C Advisory Group.

Several of the Advisory Group's recommendations regarding reorganizations should be modified. For example, "boot" received in a reorganization should not be taxed as ordinary income unless there has been a gain to the shareholder in the reorganization; statutory mergers should not be eliminated as a type of tax free reorganization; and the carryover proposals recommended by the Advisory Group should be modified to prevent hardship to railroads who acquire other railroads which have operated at a loss.

For further recommendations see hearings, page 3195.

Walter T. Cardwell, chairman, Special Committee on Federal Taxation, Commerce and Industry Association of New York, February 5, 1958

In view of the sweeping changes proposed by the Subchapter C Advisory Group, action should be postponed at least 1 year to allow for further study. In particular, section 318 should be eliminated. One spouse should be able, under section 302, to terminate his or her interest, without the other withdrawing.

Under section 306, it should be provided that when preferred stock is exchanged in a recapitalization, the new preferred shall not be 306 stock unless its receipt is equivalent to a dividend. This is preferable to the rule in the regulations (which will not be changed by the Subchapter C Advisory Group) which states that the new preferred must be "substantially different" from the old preferred if it is to avoid classification as 306 stock.

For other recommendations see hearings, page 3174.

Edison Electric Institute, January 24, 1958

In a stock-for-stock reorganization the acquiring corporation should be allowed to purchase shares in excess of the 80 percent. In allocating the tax liability of members of an affiliated group, SEC U–45 (b) (6) should be permissible.

Paul F. Mickey, Steptoe and Johnson, Washington, D. C., February 5, 1958

The recommendations of the Subchapter C Advisory Group on the subject of collapsible corporations should be enacted into law at the earliest opportunity.

The recommendation of the Advisory Group regarding loss carryovers goes too far in that it would discourage legitimate reorganizations by limiting the carryover to 50 percent of the price paid for the business.

For further recommendations see page 3220 of the hearings.

Norman J. Abrams and Martin E. Kestenbaum, attorneys in Plainfield, N. J., February 4, 1958

The recommendations of the Subchapter C Advisory Group regarding collapsible corporations should be adopted.

Richard L. Rosenthal, president of Citizens Utilities Co., accompanied by Harry Janin, February 4, 1958

The position of the Advisory Group on subchapter C regarding the two-class common stock situation should not be adopted. The system of using two classes of common stock enables a corporation to appeal to different types of investors. There is no power in the stockholder to elect whether he will receive a cash or a stock dividend. The matter is in the discretion of the board of directors. If the Advisory Group recommendation is adopted, it should not apply to shareholders who have received favorable Treasury rulings.

Grenville R. Holden, president, F. C. Huyck & Sons, February 4, 1958

The sale of common stock received as a stock dividend should not be taxed. The position of the Treasury in regard to the two-class stock situation should not be adopted in the law. The two-class common (one payable in cash, the other in stock) is an effective way for small business to raise money to compete with big business.

Robert Ash, of the law firm of Ash, Bauerfield & Burton, February 4, 1958

The Committee on Ways and Means should act favorably on the Subchapter C Advisory Group's recommendations on collapsible corporations.

Solomon Barkin, director of research, Textile Workers Union of America, February 4, 1958

The loopholes in sections 381 and 382 should be closed. The carryover of losses of a corporation should be denied where there is a change

of ownership, by purchase of stock or by reorganization, and the operation of the business of the acquired corporation is discontinued within 3 years subsequent to the exchange.

Charles W. Davis, chairman, committee on Federal taxation, Chicago Bar Association, accompanied by Leonard M. Rieser, Austin Fleming, Robert W. Manly, and Max Meyer, February 4, 1958

Subchapter C requires very patient examination. It would not appear the best course to make extensive changes in this area, which changes would require extensive reeducation. In particular, statutory mergers should not be eliminated as a type of reorganization, nor, in the area of liquidation, should the corporation's basis in the assets carryover to the shareholders.

The recommendations of the Advisory Group on subchapter J generally should be approved, but the minority views on such matters as charitable distributions and the tier system should be adopted.

The recommendations of the Advisory Group on subchapter K are generally excellent, but there are certain recommendations which should not be adopted. For example, recommendation No. 5 would change the rules for computing a partner's basis. Present law on this matter has proved satisfactory. Recommendation No. 13 would freeze section 751 assets permanently, not just for 5 years as presently provided. This seems unduly harsh.

Rolla D. Campbell, president, National Council of Coal Lessors, Inc., January 21, 1958

Corporations holding property and receiving income therefrom and paying out 90 percent or more of their incomes should be treated in the same manner as regulated investment companies, that is, distributions would be taxed to the stockholders and not the corporation.

Bernard V. Lentz and Davis H. W. Dohan, Philadelphia Bar Association, February 5, 1958

The proposals of the Subchapter C Advisory Group regarding contributions of section 306 stock are an isolated attack on an overall problem; namely, whether Congress should limit the charitable deduction in cases where a donor would have realized ordinary income on the sale of the property contributed.

Section 318 is so complicated and works so much inequity that the better course would be to eliminate it and provide that ownership would not be attributed to another unless the ownership were a sham.

The proposal of the Advisory Group on Subchapter C regarding the conditions where an indebtedness is not to be treated as stock should be modified to permit the indebtedness to be subordinated to trade creditors generally. Otherwise a damper is put on financing small businesses.

Recommends that the 80 percent control requirement in section 355 be reduced to 51 percent.

Benjamin Graham, visiting professor of finance, University of California, Los Angeles, Calif., January 22, 1958

Where a corporation has two types of common stock outstanding (on one the dividend is payable in cash and on the other is payable in stock), the shareholder receiving the stock dividend should not be taxable as though the dividend were received in cash.

Andrew B. Young, chairman, Federal tax committee of the tax section of the Pennsylvania Bar Association, February 3, 1958

The redemption of preferred stock purchased for cash should not be considered as a dividend. The attribution rules regarding estates and trusts should be modified so that the termination of the interest of an estate or trust may be safely accomplished. The "thin incorporation" rules should be modified by a nonexclusive exemption.

Hugh D. Satterlee, New York, N. Y., and John W. Bodine, Philadelphia, Pa., February 5, 1958

Recommends that section 302 be amended to provide that the redemption by a corporation of certain preferred stock (which is not sec. 306 stock) shall be regarded as a sale or exchange (and not as a dividend) to the extent the amount paid on redemption does not exceed the amount paid into the corporation on the issuance of such stock.

William A. Crichley, chairman, tax policy committee, Manufacturing Chemists' Association, January 21, 1958

Recommends that the attribution rule relating to stock ownership in section 318 be made applicable to section 269.

Philadelphia Bar Association

Recommends that the 80 percent control requirement be reduced to 51 percent.

Benjamin Graham. visiting professor of finance University of California, Los Angeles, Calif., January 22, 1958

Where a corporation has two types of common stock outstanding (on one the dividend is payable in cash and on the other is payable in stock), the shareholder receiving the stock dividend should not be taxable as though the dividend were received in cash.

(B) SUBCHAPTER J OF THE INTERNAL REVENUE CODE OF 1954 RELATING TO ESTATES, TRUSTS, BENEFICIARIES, AND DECEDENTS

James Casner, chairman; Kenneth Bergen; Carlysle A. Bethel; George Carven; Rupert Gresham; James P. Johnson; Carter T. Louthan; Weston Vernon; and Laurens Williams, February 3, 1958. Discussed with, and explained to, the committee, the Advisory Group's report.

Summary of Recommendations of the Advisory Group on Subchapter J

In their recommendations the Advisory Group attempted to simplify the provisions of subchapter J, to the extent simplification could be produced in this complex area within the framework of the 1954 Code, and to eliminate ambiguities, loopholes, and unintended hardships in the present law.

The first major problem dealt with in the report relates to multiple trusts. In recent years it has become increasingly common for a grantor to set up a number of different trusts for the same primary beneficiaries, so that if the income is accumulated by the various trusts (and not distributed to the beneficiaries), substantial tax saving is accomplished since such undistributed income is taxed to each separate trust in a lower tax bracket than would be the case if there was only one trust.

It was concluded that this problem could not be solved by drawing precise lines which could easily be avoided. Instead, the proposed section dealing with multiple trusts is drawn in a manner to discourage people from entering this field of avoidance. At the same time, it was the intent of the Advisory Group not to discourage legitimate family needs, which may require setting up more than one trust for an individual or group of individuals from time to time.

The Advisory Group proposes the addition of a new subsection (sec. 641 (c)) which is designed to prevent tax avoidance by the creation of multiple tax entities in the form of separate trusts to the extent the primary beneficiaries of the currently accumulated income of the trusts are substantially the same. Under the proposal such trusts would be lumped together and taxed as one trust. The proposal would not apply to trusts which are for the benefit of different primary beneficiaries of such income. Moreover, in order not to penalize legitimate family arrangements, the proposal is made inapplicable to separate inter vivos trusts with identical beneficiaries which do not exceed 3 in numbers, and which were created at not less than 5-year intervals. The proposal defines the term "primary beneficiaries," but purposely omits to define the term "substantially the same," in order not to permit the easy avoidance of the statute, but sets forth a number of examples to illustrate the operation of the proposal.

The next major proposal of the Advisory Group relates to the treatment of charitable beneficiaries of a trust. Under present law a trust is allowed an unlimited deduction for charitable contributions as a deduction from gross income. This has resulted in great complexity and confusion since it requires the application of separate rules to charitable and noncharitable beneficiaries. Under the Advisory Group proposal, a charitable distributee is treated generally like any other individual distributee or beneficiary. Thus, where a trust makes a distribution to a charity, the trust will be entitled to a deduction for the distribution, just as is now true with respect to a distribution to an individual beneficiary.

Another problem considered by the Advisory Group concerns the order of taxation of distributions. Present law contains a two-tier system of taxation, generally providing that the distributable net income of the trust shall be deemed to be paid first to those beneficiaries receiving income required to be distributed currently (first tier), and then, as to any remaining income, to all other beneficiaries (second tier). Thus, beneficiaries receiving income, other than beneficiaries in the first tier, are placed in the same class with beneficiaries receiving corpus for purposes of allocating estate or trust income. The Advisory Group recommends that a four-tier system be set up. The first tier would consist of beneficiaries to whom the trustee is required to distribute the current income of the trust. The second would consist of those to whom the trustee could in his discretion distribute only income. If the income is not exhausted by distribution in prior tiers, the next class deemed to receive income would be those to whom the trustee had discretion to distribute either income or corpus. Finally, the fourth tier would consist of those beneficiaries who could receive only corpus. It is the feeling of the Advisory Group that the 4-tier system is, in reality, simpler than the 2-tier system which requires the lumping of various types of beneficiaries into a single tier.

Generally, distributions to charities would, under the Advisory Group recommendation, be treated as distributions to individuals. However, one major qualification is made. This is in the case of trusts which are set up for charitable purposes and also have individual beneficiaries. Under present law it is possible to allocate income tax free to an individual by providing that the income of the trust is to be distributed to charity and that "corpus" equal to the trust income is to be distributed to an individual. To prevent this abuse it is recommended that distributions to charity always be placed in the last tier.

The last major problem considered in the report relates to the taxation of income of estates. Under present law estate income in some instances is attributed and taxed to persons actually receiving corpus distributions. This results because the exclusionary provision (sec. 663 (a)) in the 1954 code has proved too narrow in scope. For example, it does not exclude distributions of corpus to residuary legatees, payments solely out of corpus to will contestants, or payments out of corpus to widows pursuant to local law. Thus, in many instances the distribution of the family car to the residuary legatee may be treated as a distribution of income and taxed to the recipient.

In order to correct these inequities the Advisory Group recommends (1) that section 663 (a) (2) be amended so as to exclude amounts

properly paid from corpus and designated as such by the fiduciary for a period of 3 years, and (2) that section 663 (c) be amended so as to extend the separate share rule, now applicable only to trusts, to apply to estates. Under the first proposal, amounts paid from and charged to corpus during the 3-year period would not be deductible by the fiduciary and would not be includible in the income of the distributee. It was recognized that this may offer limited opportunities for minimizing taxes during the 3-year period since it would permit the fiduciary to identify a distribution as being from corpus even though there was current income from which a payment could properly have been made. However, it was considered that the possibility of avoidance was not sufficient to justify the continuance of the present arbitrary rules of attribution of estate income to beneficiaries. The extension of the separate share rule to estates will correct many of the inequities produced under present law, but will not give complete relief.

Other recommendations by the Advisory Group, in addition to numerous technical changes, relate to the definition of distributable net income and the allocation of deductions chargeable against corpus (sec. 643 (a) (3) (C)), the extension of the carryover provisions of section 642 (h) to the termination of a single beneficiary's interest in an estate or trust, and the Clifford Trust area.

Mr. Bergen, although in general agreement with the proposed amentments, believes that the income taxation of distributions by estates could be greatly simplified by taxing an estate in the same manner as an individual. He also suggests that the proposed amendments relating to the tier system could be improved.

Mr. Craven disagrees with the Advisory Group with respect to the proposed treatment of charitable beneficiaries, and believes that a charitable organization should be treated in all respects the same as an individual beneficiary without any exception for the case where a single trust has both charitable and individual beneficiaries. Mr. Craven also believes that the effective date of the proposal regarding multiple trusts should be only prospective and apply only to trusts created after the passage of the act, rather than applying to trusts in existence on December 1, 1956.

The Advisory Group will continue to study other problems in subchapter J, such as the "throwback rule" and "income in respect of decedents."

L. C. Weiss, resident partner, Ernst & Ernst, January 22, 1958

Present section 691 (c), allowing a deduction on the income-tax return for estate taxes paid on income in respect of a decedent, does not constitute adequate relief. Either of the two following remedies should be adopted: (1) Recognize the estate-tax value of uncollected income as a "cost" or "basis" to be recovered by the successor-in-interest tax free; or (2) permit the income tax on such income to be reduced by a direct credit for estate tax paid on the same item.

Robert H. Sabel, attorney at law, Pittsburgh, Pa., January 22, 1958

Revenue Ruling 55–627 (C. B. 1955–2, p. 550) should be reversed. Successors-in-interest to income in respect of a decedent who posted bond for the guaranty of payment of income tax on the income should be refunded their bonds.

Richard H. Stewart, January 22, 1958

The deduction for income-tax purposes provided in section 691 (c) (for estate taxes paid with respect to items of income in respect of a decedent) should be changed to a credit so that each dollar of Federal estate taxes attributable to the inclusion of an item of gross income in respect of a decedent would decrease the income-tax liability by an equal amount.

Bernard V. Lentz and Davis H. W. Dohan, Philadelphia Bar Association, February 5, 1958

The recommendations of the Advisory Group on subchapter J are generally approved. However, it is felt that the recommendations regarding multiple trusts are unduly restrictive. It is further urged that the legislation be prospective only, except in flagrant cases.

The recommendations regarding the treatment of distributions to charities, namely, a fourth-tier status, should not be adopted.

(C) SUBCHAPTER K OF THE INTERNAL REVENUE CODE OF 1954 RELATING TO PARTNERS AND PARTNERSHIPS

Arthur B. Willis, chairman; Harry Janin, vice chairman; Mark H. Johnson; Paul Little; Donald McDonald; Herbert B. Story; Laurens Williams, January 28, 1958. Discussed with, and explained to, the committee the Advisory Group's report

Summary of Partnership Advisory Group Recommendations on Subchapter K

The partnership Advisory Group made a series of 22 recommendations for changes in present law. No basic changes were recommended in the present statutory framework of partnership taxation. However, a rearrangement of the subchapter was proposed to place in one part the basic provisions likely to be used by the average or simple partnership, while the complicated rules of narrower application are placed in other parts.

The most basic change recommended by the group involves section 751, relating to the ordinary income treatment provided in the case of unrealized receivables and certain inventory items upon the sale or exchange of an interest or a distribution to a partner. In the interest of simplification the group recommended that the ordinary income treatment be made inapplicable in the case of distributions, but, so that this would not result in tax avoidance, elsewhere in the partnership provisions recommended that section 751 assets, which are distributed, should retain the same character in the hands of the partner as they had in the hands of the partnership. Other changes proposed in section 751 include: (1) limiting the application of the provision to gains in excess of $1,000; (2) applying the "substantial appreciation test" (which determines whether or not ordinary income treatment applies in the case of inventory items) to all section 751 assets; (3) substituting a simpler measure of what constitutes "substantial appreciation"; (4) deleting the definitions of "unrealized receivables" and "inventory items" and substituting a rule which in general provides that, if a sale or exchange of an item would result in ordinary income treatment, it is to be considered a section 751 asset; and (5) removing an unintended benefit in the present provision whereby real estate developers through the use of mortgaged property may avoid ordinary income on substantially appreciated section 751 assets.

Other major recommendations can be summarized as follows:

(1) Allow the deduction of organizational expenditures for partnerships in a manner similar to (but not identical to) the provision now applying to corporations;

(2) Provide that the taxable year of a partner is to close upon his death unless the successor in interest elects to continue the year until its normal end or until the interest has been sold, whichever occurs first;

(3) Revise the provision relating to sales or exchanges of property with respect to controlled partnerships so that it more closely conforms with the provisions applying with respect to losses (in sec. 267) and with respect to gains (in sec. 1239) in the case of controlled corporations;

(4) Add a provision to the statute to provide clearly that, where services are rendered in exchange for an interest in a partnership, ordinary income is to arise in the case of the person performing the services and a business expense, or addition to the basis of capital assets, is to arise in the case of partners giving up a share of their interests in the partnership;

(5) Make more specific the tax treatment accorded amounts paid to a retiring partner or a deceased partner's successor in interest. One of these suggested additional rules would provide that where an interest is entirely liquidated within a 12-month period, the amount received is to be treated as a distribution in exchange for the partnership interest, unless the partners agree otherwise. A second rule would provide that where money and property is distributed, the money is first to be considered an income payment and the property a payment for capital. A third rule clarifies the time amounts paid to a retiring partner or successor in interest are to be treated as taxable income to the recipient and taken into account by the partnership. A fourth rule provides that the status of section 736 payments to a retiring partner or successor in general is not to change where a successor organization assumes liability for the payments;

(6) Make clear, in the case of the provision relating to income in respect of a decedent, that there is no step-up in basis at date of death with respect to any unrealized receivables, whether or not such amounts fall within section 736 (a), and that such amounts are always treated as income in respect of a decedent. Also, make clear that a decedent's distributive share of partnership income in his last year, up to the date of his death (including any amount he may have already withdrawn), is income in respect of a decedent;

(7) Revise the provision relating to certain unincorporated investment or extractive concerns which do not have all of the characteristics of partnerships, so that such organizations are not to be treated as such unless they elect such treatment.

Other important changes recommended by the group would:

(1) Provide the character of items constituting a distributive share of partnership income will be the same in the partner's hands as at the partnership level;

(2) Provide that the various limitations in computing taxable income generally are to be applied at the partner's level;

(3) Substitute the present "alternative" rule for the present "standard" rule in determining the basis of a partner's interest;

(4) Permit the adoption of a calendar year by a partnership, where the principal partners are on different years;

(5) Make it clear that a partner may not in any case change his taxable year without the consent of the Treasury Department;

(6) Provide that a sale or exchange of an interest in a partnership to another partner (even though constituting a change in interest of more than 50 percent) is not to result in termination of the partnership;

(7) Make certain refinements in the optional rule for adjustments to basis of undistributed partnership property in the case of distributions by a partnership;

(8) Provide that unrealized receivables and inventory items are to maintain the same character in the hands of a donee of a distributee as they had in the hands of the distributee;

(9) Revise the rules relating to optional basis adjustments for a transferee and in the case of distributions to ignore adjustments of less than $1,000, to separate the elections as to transfers and distributions, and, to delete the separate categories for capital assets and depreciable property on one hand and all other property on the other;

(10) Provide that where a partner is fully obligated to pay a liability to the partnership, he is to receive a basis for his interest to the extent of his obligation (thus making it possible to deduct the losses in the year in which they are incurred).

COMMENTS ON SUBCHAPTER K ADVISORY GROUP RECOMMENDATIONS

Theodore Tannewald, Jr., of Weil, Gotshal & Manges

Recommends the addition of a new paragraph (3) to section 443 (b), to correct what he feels is now an inequitable situation (see hearings for detail) where a partner, who is on a calendar year, leaves the partnership and accepts other employment.

Bernard Lentz and Davis H. W. Dohan, Philadelphia Bar Association, February 5, 1958

Commend the Advisory Group on Subchapter K for their excellent report (see the hearings for detailed comments).

Charles W. Davis, chairman, committee on Federal taxation, Chicago Bar Association, accompanied by Leonard M. Rieser, Austin Fleming, Robert W. Manly, and Max Meyer, February 4, 1958

The recommendations of the Advisory Group on Subchapter K are generally excellent, but there are certain recommendations which should not be adopted. For example, recommendation No. 5 (in the revised partnership report) would change the rules for computing a partner's basis for his interest in a partnership. Present law on this matter has proved satisfactory. Recommendation No. 13 would freeze ordinary income treatment for section 751 assets permanently, not just for 5 years as presently provided. This seems unduly harsh.

Leon O. Stock, National Association of Clinic Managers, February 6, 1958

Where a partner acquires a partnership interest prior to the effective date of the 1954 Code, and disposes of it after that date, he should be given a basis for unrealized receivables in the interest he is selling, equal to the portion of his original purchase price then attributable to unrealized receivables. Thus, only the portion of his gain equal to the increase in value of unrealized receivables would constitute ordinary income. This is a problem which arises as a result of the transition to the 1954 Code. It does not arise where interests are purchased after the 1954 Code is in effect.

Bernard V. Lentz and Davis H. W. Dohan, Philadelphia Bar Association, February 5, 1958

The proposed amendments to subchapter K are generally approved, but the application of the amendments should be prospective only. In the case of amounts paid with respect to a deceased or retiring partner under section 736 to partners upon death or withdrawal, the proposed amendments should apply only to cases where the partnership agreement is entered into or modified after the enactment of the proposals. All partnerships which have already elected the optional adjustments as provided for under section 754 should be permitted to modify their elections to accord with the proposals. In connection with the Advisory Group proposal to substitute the simple method of computing the basis of a partnership interest as the general rule, it should be specifically provided in the statute that the one seeking to apply the more complicated rule should have the burden of proving that the more complicated rule should be applied. The Advisory Group stated that partners may agree to apply the rules of section 751 in the case of a distribution. However, under their proposal section 751 does not explicitly apply to distributions. This recommendation should have been a part of the statutory language proposed.

PART III

H. R. 9–10—Deduction for Payments Into Retirement Funds

PART III

H. R. 9–10—DEDUCTION FOR PAYMENTS INTO RETIREMENT FUNDS

The following list of witnesses appeared in support of H. R. 9, introduced by Representative Jenkins, and H. R. 10, introduced by Representative Keogh. These legislative proposals are designed to encourage the establishment of voluntary pension plans by certain self-employed individuals by providing that with limitations, there shall be excluded from gross income in the taxable year the portion of income for such year paid within such year to a restricted retirement fund, or to a life-insurance company (as defined in sec. 801) as premiums under a restricted retirement annuity contract.

Employees receive tax-free contributions by their employers to their pension plans and the employers can deduct such contributions as a business expense. The witnesses felt that the self-employed should also be allowed a tax deduction for contributions they make to their retirement plans.

American Federation of Television and Radio Artists, January 24, 1958
Ralph E. Becker, counsel, AV-TAX, January 24, 1958
F. J. L. Blosingame, M. D., on behalf of the American Medical Association, January 24, 1958
James P. Bowers, D. D. S., president, Southern California State Dental Association, January 24, 1958
Edward D. Brown, Jr., secretary, Conference of Actuaries in Public Practice, January 24, 1958
Robert E. Carter, chairman, governmental affairs committee, National Retail Furniture Association, January 24, 1958
Leon Chatelain, Jr., F. A. I. A., president, American Institute of Architects, January 24, 1958
James A. Deering, in behalf of the Association of Advanced Life Underwriters, January 24, 1958
Joseph Donohue, American Thrift Assembly; Roger F. Murray, R. C. Vogt (National Society of Professional Engineers); and George S. Geffs, January 24, 1958
Moriz Drefus
George H. Frates, Washington representative, National Association of Retail Druggists, January 24, 1958
G. Keith Funston, president, New York Stock Exchange, January 24, 1958
J. G. Hardenbergh, V. M. D., executive secretary, American Veterinary Medical Association, January 24, 1958
Stephen H. Hart, counsel to the National Livestock Tax Committee, January 10, 1958
Joseph D. Henderson, American Association of Small Business, January 9, 1958

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Kenneth S. Keyes, president, National Association of Real Estate Boards, January 24, 1958
Dan Lacy, managing director, American Book Publishers Council
Joseph D. Lanterman, vice president, American Steel Foundries, and chairman of the Federal taxation committee, Illinois State Chamber of Commerce, January 9, 1958
Howard Lindsay, Authors League of America
Walter Maynard, chairman, Federal Taxation Committee, Investment Bankers Association of America, Washington, D. C., February 7, 1958
Joe McMullen, vice president, Nevada Society of Certified Public Accountants, January 24, 1958
D. S. Molen, Colorado Bar Association, January 15, 1958
Hon. Abraham J. Multer, Representative from New York, January 9, 1958
Dr. Emmett J. Murphy, director, industrial relations committee, National Chiropractic Association, January 24, 1958
Will E. Neal, Representative in Congress from West Virginia, January 24, 1958
Nelson B. Neff, Nevada State Medical Association, January 24, 1958
William D. O'Brien, M. D., secretary, Nevada State Medical Association, January 24, 1958
W. A. Penrose, Flat Veneer Products Association, January 13, 1958
Henry S. Reuss, Representative in Congress from Wisconsin, January 24, 1958
E. Douglas Schwantes, president, the Chicago Bar Association, January 24, 1958
B. F. Sears, Illinois State Bar Association, January 24, 1958
Barclay Shaw, on behalf of the National Association of Insurance Brokers, Inc., January 24, 1958
Willard Swire, executive director, the American National Theatre and Academy, January 24, 1958
Chester D. Swope, D. O., chairman, Department of Public Relations, American Osteopathic Association, January 24, 1958
William D. Wheeler, Jr., M. D., secretary, Medical Society of the County of New York, January 24, 1958
J. Arthur Younger, Representative in Congress from California, January 24, 1958

In addition to those witnesses who specifically urged the committee's consideration of H. R. 9 and H. R. 10, the following witnesses recommended the enactment of legislation which would provide a tax deduction for amounts set aside by individuals for their retirement:

Economics and Taxation Council, Chamber of Commerce of Greater Philadelphia, January 24, 1958
Stephen H. Hart, attorney, National Live Stock Tax Committee, Denver, Colo., January 10, 1958
Kansas State Chamber of Commerce, January 24, 1958
Dr. Floyd W. Pillars, vice chairman, Council on Legislation of the American Dental Association, accompanied by Bernard F. Conway, secretary of the council, January 24, 1958
Mr. Mitchell M. Shipmen, general counsel, National Council of Salesmen's Organizations, Inc., January 24, 1958
Vaux Owen, president, National Federation of Federal Employees, January 15, 1958

Herbert L. Smith, Jr., president, Frank Wiley and W. Byron Sorrell, Mobile Home Dealers National Association, January 24, 1958

Teachers Insurance & Annuity Association of America, January 24, 1958

Wendell W. Witter, Dean Witter & Co., San Francisco, Calif., January 24, 1958

The following witnesses testified in support of other specific legislation:

Clarence R. Miles, Chamber of Commerce of the United States, January 24, 1958

In favor of H. R. 380 which would allow both the employed and the self-employed to receive a tax deduction for money set aside for retirement.

Jerome J. Keating, vice president, Government Employees Council, Washington, D. C., February 7, 1958

H. R. 5551 should be enacted. It would be fairer to exclude the amount of contribution to the retirement fund and to tax the employee on these amounts when he retires.

Representative Carl D. Perkins (Kentucky), February 7, 1958

Urges that the committee give consideration to permitting individuals under railroad retirement systems to deduct as an expense the moneys withheld for retirement purposes.

Lester P. Schoene, in behalf of the Railway Labor Executives' Association and the Brotherhood of Locomotive Engineers, Washington, D. C., February 7, 1958

H. R. 5551 should be enacted. This bill would exclude from income for tax purposes, and from wages for withholding purposes, amounts deducted from the compensation of employees pursuant to the railroad retirement taxing act, the social security taxing act, and the civil service retirement system. Not to allow these exactions as a deduction amounts to double taxation.

Thomas Stack, president, National Railroad Pension Forum, Inc., January 20, 1958

H. R. 5551 should not be passed. This bill, which would exempt the amount of taxes paid to certain retirement funds, would extend relief where it is least needed.

PART IV

Deduction for Educational Expenses

PART IV

DEDUCTION FOR EDUCATIONAL EXPENSES

The following witnesses testified in support of H. R. 4662 (Mr. King) which, if enacted, would allow a deduction from gross income for certain amounts paid by a teacher for his further education:

LeRoy Anderson, Representative in Congress from Montana, January 15, 1958

Frank Balthis, field representative, Illinois Education Association, January 16, 1958

George E. Burke, executive secretary, Rhode Island Institute of Instruction, January 15, 1958

Charles E. Chamberlain, Representative in Congress from Michigan, January 15, 1958

Lionel DeSilva, on behalf of the California Teachers Associations, January 15, 1958

James B. Deweese, president of Kentucky Association of School Administration, on behalf of the Kentucky Education Association, January 15, 1958

Isabel Epley, chairman, legislative committee, Pittsburgh Association, January 15, 1958

C. A. Erickson, supervisor, Yakima Public Schools, Yakima, Wash., January 15, 1958

George J. Hecht, chairman, the American Parents Committee, Inc., January 15, 1958

H. H. Helble, principal, Appleton High School, Appleton, Wis., January 15, 1958

R. C. Henderson, principal, Emma B. Clemons School, January 15, 1958

Otto F. Huettner, president, Northeastern Wisconsin Education Association, January 15, 1958

Coya Knutson, Representative in Congress from Minnesota, January 15, 1958

Helen MacFarland, Willimantic, Conn., January 15, 1958

Russell V. Mack, Representative in Congress from Illinois, January 15, 1958

Malcolm U. McClinchie, in behalf of the New Jersey Education Association, January 15, 1958

John P. McDowell, president, Ohio Education Association, January 15, 1958

Michigan Education Association, January 15, 1958

Thomas M. Pelly, Representative in Congress from Washington, January 15, 1958

Richard H. Poff, Representative in Congress from Virginia, January 15, 1958

MacRae Shannon, member of the legislative committee, Illinois Education Association, January 15, 1958

Joseph Siegman, chairman, legislative committee, Pennsylvania State Education Association, January 15, 1958

Dr. Ruth Stout, vice president, National Education Association, January 15, 1958

Cleveland A. Thomas, principal, Francis W. Parker School, January 15, 1958

Thor C. Tollefson, Representative in Congress from Washington, January 15, 1958

Walter H. Warfield, chairman of the board, Monterey Public Schools, Monterey, Calif., January 15, 1958

H. C. Weinlick, executive secretary, Wisconsin Education Association, January 15, 1958

The following is a brief digest of testimony given by witnesses who urged support of other specific legislative proposals:

Hon. Victor L. Anfuso (New York), February 6, 1958

Urges enactment of his bill, H. R. 3601, which grants a special deduction to taxpayers for educational expenses up to $1,000 which they incur in connection with the college education of their dependent children.

Hon. Henry A. Dixon, Representative (Utah), January 20, 1958

Urges support of his bill, H. R. 6131, which is designed to allow a deduction from gross income for certain amounts paid by a teacher for his further education.

Carl Elliot, Representative in Congress from Alabama, January 15, 1958

Urges support of H. R. 5466 (Mr. Elliot), a bill to permit schoolteachers and administrators to deduct expenses of attending classes to acquire additional training or education.

Glenard P. Lipscomb, Representative in Congress from California, January 15, 1958

Urges support of H. R. 5390 (Mr. Lipscomb), a bill to allow teachers a deduction not to exceed $600, for certain expenses incurred for further education.

Hon. Abraham J. Multer, Representative, 13th District of New York, January 9, 1958

Urges support of H. R. 808, allow a deduction for income tax purposes of certain expenses incurred by the taxpayer for the education of a dependent.

George M. Rhodes, Representative in Congress from Pennsylvania, January 14, 1958

In favor of H. R. 10503, a bill to permit a deduction to teachers for amounts paid for further education.

George M. Rhodes, Representative in Congress from Pennsylvania, January 14, 1958

In favor of H. R. 4594, a bill to allow a credit of 30 percent of amounts paid for tuition to institutions of higher education.

John J. Riley, Representative in Congress from South Carolina, January 15, 1958

Urges support for H. R. 6724 (Mr. Riley), a bill to permit schoolteachers and administrators to deduct expenses of attending classes to acquire additional training or education.

Paul G. Rogers, Representative in Congress from Florida, January 15, 1958

H. R. 9928 (Mr. Rogers, Florida) would enable schoolteachers to deduct expenses for tuitions, books, living expenses, etc., while away from home, up to $600.

In addition to testimony supporting specific proposed legislation, the following witnesses urged the committee to act favorably on the various bills which would permit teachers to deduct certain expenses incurred in further education:

F. E. Bass, executive secretary-treasurer, Tennessee Education Association, January 15, 1958

Bernard Ehrlick, attorney at law, in behalf of the National Association and Council of Business Schools, January 15, 1958

Conrad A. Hoff, representative of Minneapolis and St. Paul division, Minnesota Education Association, January 15, 1958

Robert R. Martin, superintendent of public instruction, Commonwealth, January 15, 1958

George McGovern, Representative in Congress from Michigan, January 15, 1958

Clarence R. Miles, on behalf of the Chamber of Commerce of the United States, January 15, 1958

M. D. Mobley, executive secretary, American Vocational Association, Inc., January 15, 1958

Hon. Emmet F. Byrne, Third District of Illinois, February 4, 1958

Appeared in favor of H. R. 7127 and H. R. 5194. The exemptions should be increased as follows: Where a child of the taxpayer is in grade school, $700; where the child is in high school, $800; where the child is in college, $900 or $1,100.

The following witnesses testified in support of legislation which would provide a tax credit or a deduction for tuition payments of students:

Dr. Oliver C. Carmichael, president, Converse College, Spartanburg, S. C., February 6, 1958

Urges support of his tuition tax credit plan which would provide a tax credit to the taxpayer up to $300 for tuition-paid institutions of higher learning.

Ray Farabee, president, and Reginald H. Green, vice president, United States National Student Association, January 15, 1958

Urge legislation providing for deductions from taxable income or credits against tax for expenses incurred by a taxpayer for the education of a student.

John F. Meck, in behalf of the American Council on Education, Washington, D. C., January 15, 1958

Endorses the principles in H. R. 765, introduced by Mr. McCarthy, and H. R. 1064, by Mr. Boggs, and several other similar bills. The basic features of these bills are as follows:

(1) Only payments made to the institutions themselves would qualify. These qualifications are set forth in present section 151 (e) (4) and section 170 of the 1954 Code.

(2) It would only apply in the case of higher education, that is, above the 12th grade.

(3) There would be allowed a tax credit equal to 30 percent of the above expenses with a ceiling of $450.

The suggestion was made that any immediate effect on the revenues would be recouped by the Government in future years because of the increased productivity resulting from a college education.

Carl D. Perkins, Representative in Congress from Kentucky, January 15, 1958

The cost of maintaining a dependent in college should be deductible. Also, exemption should be increased from $600 to $800.

PART V

Handicapped

Part V

HANDICAPPED

The following witnesses testified in support of H. R. 1154 (Mr. Keogh) which, if enacted, would provide a deduction for income-tax purposes in the case of disabled individuals, for expenses for transportation to and from work; and would provide an additional exemption for income-tax purposes for a taxpayer or spouse who is physically or mentally incapable of caring for himself:

W. P. Anderton, M. D., secretary, Medical Society of the State of New York, January 14, 1958
Ray Battles, assistant to the master, National Grange, January 14, 1958
Andrew J. Biemiller, director, Department of Legislation, AFL–CIO, January 14, 1958
Eugene Butler, president and editor, the Progressive Farmer, January 14, 1958
Frank Childers, Washington representative, National Institute of Social Welfare, January 14, 1958
Christian Herald, January 14, 1958
G. M. Cook, executive secretary, International Convention of Disciples of Christ, January 14, 1958
Floyd Cramer, president, Washington Heights Federal Savings & Loan Association, New York, N. Y., January 14, 1958
Nicholas Crisa, president, The Lamp-Lighters, New York, January 14, 1958
Honorable Ed Edmondson, Representative (Oklahoma), January 14, 1958
Electrical Union World, January 14, 1958
Joe Foss, Governor, South Dakota, January 14, 1958
Gordon M. Freeman, international president, International Brotherhood of Electrical Workers, January 14, 1958
Averell Harriman, Governor of New York, January 14, 1958
Brooks Hays, Representative in Congress from the State of Arkansas, January 14, 1958
Senator B. B. Hickenlooper, January 14, 1958
Robert E. Howe, director, Labors Non-Partisan League, January 14, 1958
Kay Jackson, secretary, the Chicago Polio Swim Club, January 14, 1958
Ben Kauffman, national executive director, Jewish War Veterans of the USA, January 14, 1958
Harold A. Keats, executive director, National Association Veterans Employment Council, January 14, 1958
Frederick R. Knubel, January 14, 1958
Victor F. Kubly, PNC, national adjutant and legislative director, the Military Order of the Purple Heart, Inc., January 14, 1958
Sylvia Lawry, executive director, National Multiple Sclerosis Society, January 14, 1958
Paul L. Lehman, professor of divinity, Harvard Divinity School, January 14, 1958

A. McClusky, chairman legislative, American War Dads, Inc., January 14, 1958
R. J. McCracken, the Riverside Church, New York, January 14, 1958
John S. McLees, January 14, 1958
Queenie Melville, cochairman, legislative committee, the Indoor Sports Club, Inc., January 14, 1958
Clarence J. Munter, grand master, Independent Order of Odd Fellows of the State of New York, January 14, 1958
New England District 1, the Indoor Sports National Hookup, January 14, 1958
New York Times, January 14, 1958
Martin R. O'Connor, member, law firm, Locke, Locke & Purnell, Dallas, Tex., January 14, 1957
D. George Paston, Disabled Officers Association, January 14, 1958
James G. Patton, president, National Farmers Union, January 14, 1958
Samuel M. Peck, M. D., president, American Academy of Compensation Medicine, Inc., January 14, 1958
Ella Phares, secretary, Rocky Mountain Institute of Social Welfare, January 14, 1958
Senator Charles E. Potter, January 14, 1958
Nina Broderick Price, chairman, New York City committee, National Woman's Party, January 14, 1958
Paul R. Ramaglia, president, National Amputation Foundation, January 14, 1958
Eleanor Roosevelt, January 14, 1958
Harry A. Schweikert, Jr., executive secretary, Eastern Paralyzed Veterans Association, January 14, 1958
Rosario Scibilia, executive director, Catholic War Veterans, January 14, 1958
Paul Sifton, national legislative representative, International Union, United Automobile, Aircraft Implement Workers of America, UAW, January 14, 1958
Sioux City Journal, January 14, 1958
Hon. John J. Sparkman, United States Senate, accompanied by Bill Erikson, counsel for the Small Business Committee, February 4, 1958
Ester C. Stamats, director, Christian social relations, National Council of the Churches of Christ, January 14, 1958
James F. Taylor, president, Hillsborough County Society for Crippled Children, Tampa, Fla., January 14, 1958
John W. Thomas, executive secretary, Council on Christian Social Progress, the American Baptist Convention, January 14, 1958
P. E. Waite, chairman, legislation commission, the American Legion, Department of Missouri, Inc., January 14, 1958
Maurice Ward, president, Joint Handicapped Council, January 14, 1958
M. M. Witherspoon, director, Grand Lodge, Free and Accepted Masons of the State of New York, January 14, 1958
Brennan Wood, Representative of National Amputation Foundation, January 14, 1958

The following is a brief digest of testimony given by witnesses urging support of other specific legislative proposals:

Samuel K. McConnell, executive director, United Cerebral Palsy Associations, January 14, 1958

This witness supported H. R. 5017 (Mr. Herlong) and H. R. 7036 (Mr. Machrowicz), bills to permit additional exemptions for disabled persons and for disabled dependents of taxpayers.

George M. Rhodes, Representative in Congress from Pennsylvania, January 14, 1958

In favor of H. R. 5396, a bill to aid the handicapped.

In addition to those witnesses who urged support of specific legislation for the relief of handicapped persons, the following witnesses urged the committee to grant tax relief to the physically handicapped:

W. H. Anderson, First Methodist Church, Bridgeport, Conn., January 14, 1958

Herbert H. Aptekor, executive director, Jewish Community Service of Long Island, January 14, 1958

Emik A. Avakian, Stamford, Conn., February 7, 1958

Mrs. Theodore S. Chapman, president, the General Federation of Women's Clubs, January 14, 1958

Matthew J. Diserio, January 14, 1958

Grace Freymann, Georgia Warm Springs Foundation, January 14, 1958

W. C. Hushing, cochairman, legislature department, AFL-CIO, January 14, 1958

Murray M. Magloff, January 24, 1958

J. C. McGlon, general vice president, International Association of Machinists, January 14, 1958

J. Mason Stapleton, Jr., assistant minister, Whitmire Methodist Church, Whitmire, S. C., January 14, 1958

Adlai E. Stevenson, January 14, 1958

Nathan Sukon, January 14, 1958

PART VI

Depreciation

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PART VI

DEPRECIATION

American Institute of Laundering, January 13, 1958

Goodwill should be subject to depreciation.

Lincoln Arnold, chairman, tax committee, American Mining Congress, January 21, 1958

To encourage the installation of facilities to abate water and air pollution and indirectly aid in this national program, it is recommended that such expenses be treated like charitable contributions and deducted on a current basis rather than recovered through depreciation.

Travis Brown, counsel for the Associated General Contractors of America, Inc., February 6, 1958

A more realistic policy toward depreciation should be taken. The rate of depreciation should be geared to the type of business in which the equipment is actually used, and to the particular contractor involved. The service should not force retroactive changes in salvage value when the salvage-value policy of a contractor has been consistently followed.

James W. Cassedy, Motor & Equipment Wholesalers Association, February 6, 1958

A special deduction of 3 percent of investment in plant and equipment should be provided in order to offset the effect of inflation.

William A. Crichley, chairman, tax policy committee, Manufacturing Chemists' Association, January 21, 1958

Taxpayers should be permitted to write off the cost of purchased goodwill, trademarks, trade names, and similar intangible assets over a reasonable length of time, for example, 60 months.

William A. Crichley, chairman, tax policy committee, Manufacturing Chemists' Association, January 21, 1958

The code should be amended to permit a taxpayer to give realistic weight to obsolescence attributable to technological changes.

Homer Davison, president, American Meat Institute, January 24, 1958

More flexibility should be granted taxpayers in changing their methods of depreciation.

T. D. Durand, secretary and assistant general counsel, Air Transport Association of America, January 24, 1958

Taxpayers should have more freedom to change from one method of depreciation to another.

Clyde T. Ellis, general manager, National Rural Electric Cooperative Association, January 24, 1958

The liberalized methods of depreciation (sec. 167, 1954 Code) should be repealed.

Vernon Herndon, manager, Palmer House, accompanied by Arthur Packard, chairman, governmental affairs committee, American Hotel Association, and Charles Merritt, Counsel, January 14, 1958

Periods for depreciation methods should be made more realistic, and the sum-of-the-digits method should not be whittled down.

Rev. William T. Hogan, professor of economics and director of economics program, Fordham University, New York, N. Y., January 15, 1958

The maintenance of, and increase in, productivity is of prime importance to the economy in general and must be maintained and increased because: (1) It is the principal means at our dipsosal for increasing the Nation's wealth; (2) it is the means of controlling inflation; and (3) it presents a means to compete with foreign producers. To accomplish this one of the following solutions could be adopted. The first would provide that the total plant be revalued each year with the percentage of depreciation charges remaining constant. The second which could be used by companies who charged depreciation on individual asset basis would require (1) an index to revalue the assets each year; (2) the determination of the life span of each asset; and (3) the amount written off would be deducted from the original value and the resultant value spread over the remaining life. In this way full replacement value could be recovered. The third would permit the charge off in any given year, of the difference between the original cost of the asset which is replaced in that year and the actual replacement cost. This difference would be established by a cost or price index.

Kansas State Chamber of Commerce, January 24, 1958

Business should have greater discretion in fixing its depreciation policy.

Leonard E. Kust, general tax counsel, Westinghouse Electric Corp., January 14, 1958

Intangibles should be amortizable. A tax concession should be offered for expenditures for basic research, perhaps in the form of a tax credit.

Clarence D. Laylin, in behalf of the Council of State Chambers of Commerce, Washington, D. C., February 7, 1958

A wider latitude should be allowed in the choice of the method and rates of depreciation.

Hon. John Lesinski, Representative, 16th District of Michigan, January 9, 1958

Repeal rapid depreciation allowances granted by 1954 Code.

Lybrand, Ross Bros. & Montgomery, January 24, 1958

Purchased goodwill and other intangibles should be permitted to be written off ratably over a period not less than 60 months. This amendment should be retroactive to 1954.

Frederick T. Marston, in behalf of the Lithographers National Association, Inc., Washington, D. C., January 15, 1958

Stated that the proposals outlined by Rev. William T. Hogan and Fred W. Peel would provide adequate tax relief from the inflationary

squeeze in the case of members of the Lithographers National Association, Inc.

Joseph F. McGowan, controller, Cerro de Pasco Corp., January 24, 1958

Urges an amendment, retroactive to 1954, to permit goodwill, trademarks, formulas, etc., to be treated as deferred expenses and deducted ratably over a period of not less than 60 months.

National United States Radiator Corp., Johnstown, Pa., January 15, 1958

Faster writeoff periods would make available additional funds for research and expansion.

W. A. Paton, school of business administration, University of Michigan, Ann Arbor, Mich., January 30, 1958

It is vital that every effort be made to safeguard capital conservation and formation. To permit this, a taxpayer should be allowed to deduct an amount sufficient to replace the productive capacity consumed in operation, free of tax. It is in the area of plant investment that risk of inflation is most acute, not in inventory. Yet those who invest primarily in inventory have the benefit of the LIFO method. Some form of LIFO is needed for plant investment. One solution would be to permit the deduction of the difference between the replacement cost and the total amount of deductions allowed on a particular installation. Another method, somewhat more preferable, would be to use the method followed in France. Under this method a factor would be applied to each dollar invested to reflect the amount of inflation in each dollar.

Fred W. Peel, Washington, D. C., January 15, 1958

The following plan was suggested so as to allow sufficient depreciation to maintain investments in real terms (not price inflated dollars) and is referred to as "reinvestment depreciation." This plan would allow a deduction in the year of reinvestment of the difference in the original cost and the replacement cost as determined by a price index constructed or chosen by the Government. The basis for tax purposes of the newly acquired property would be its cost minus the amount of the reinvestment depreciation allowance deducted. In this way total depreciation deductions would never exceed the actual dollar cost.

Maurice E. Peloubet, C. P. A., New York City, January 15, 1958

Referred to reinvestment depreciation and endorsed in principle the recommendations made by Rev. William T. Hogan and Fred W. Peel.

Horace W. Peters, in behalf of the American Iron Ore Association, January 21, 1958

To encourage the installation of facilities to abate water and air pollution and indirectly aid in this national program, it is recommended that such expenses be treated like charitable contributions and deducted on a current basis rather than recovered through depreciation.

Elmer W. Pfeil, president, Machinery Dealers National Association, Washington, D. C., January 15, 1958

Recommends that the accelerated depreciation provisions of the 1954 Code be amended to extend this acceleration to the buyer of a used machine tool.

G. L. Phillippe, chairman, national committee on Federal taxation, Controllers Institute of America, January 15, 1958

The enactment of a realistic schedule of useful lives for assets is urgently needed. Any revenue loss would merely be temporary.

Gregory S. Prince, vice president, Association of American Railroads, Washington, D. C., February 7, 1958

Railroads have failed to prosper in a period of general prosperity. Relief in some form should be offered if railroads are to continue. Two measures that would be of relief are: (1) A deduction for reinvestment depreciation, and (2) a 20-year maximum life for depreciable assets.

Under the reinvestment depreciation proposal a deduction would be allowed for funds spent for capital facilities to the extent of the difference between the original cost of items retired and their adjusted cost as marked up by an index prepared by the Secretary of the Treasury.

H. C. Smith Oil Tool Co., Compton, Calif., January 24, 1958

Present depreciation rates are extremely outmoded.

Leonard Spacek, in behalf of Arthur Andersen & Co., (public accounting), Chicago, Ill., January 15, 1958.

Recommends the following amendment to section 167 (f) so as to recognize the change in the purchasing power of the dollar:

Add the following immediately after the present wording of section 167 (f): property "adjusted to reflect the change in the purchasing power of the dollar between the year of acquisition of the property involved and the current taxable year. The change in purchasing power of the dollar is computed on the basis of appropriate indices published by official governmental bodies."

This proposal is made to clarify the substance of the testimony rather than as a recommendation of specific wording. The proposal is one concerning basic policies underlying our tax laws.

Charles Stewart, president, Machinery and Allied Products Institute, Washington, D. C., January 10, 1958

Accelerated depreciation methods should apply to used property, should not be restricted to assets with long life, and depreciation should be based on replacement costs.

Jesse L. Swords, president, Swords Bros.-McDougal Co., Inc., January 13, 1958

The present I. R. S. service procedure of setting up salvage value for equipment, and the extension of the life of heavy equipment is protested.

Tyre Taylor, Southern States Industrial Council, February 6, 1958

In order to permit industry to maintain a high degree of efficiency, Congress should establish a formula for determining depreciation on the basis of replacement cost.

Cranston Williams, general manager, American Newspaper Publishers Association, January 15, 1958

Present Treasury policy regarding depreciation is no longer realistic in view of technological progress and the increased cost of replacement.

PART VII

Depletion

PART VII

DEPLETION

Horace M. Albright, in behalf of the United States Borax & Chemical Corp., New York City, January 22, 1958

Borax should receive a 23-percent rate of percentage depletion in view of the increased strategic uses now being made of this mineral.

Lincoln Arnold, chairman, tax committee, American Mining Congress, January 21, 1958

It is believed that the original intent of Congress was to limit the percentage depletion allowance to 50 percent of the net income from the property from which the ore was produced, regardless of the form of its ownership, corporation, partnership, or individual, and regardless of the manner in which the operation was financed. To meet this standard, deduction should be made for only those expenses directly connected with the production of the income from that property and not be a deduction of expenses applicable to other property and the code should be changed to definitely state this policy.

1. The 50-mile limitation in section 613 (c) (2) should be increased to 100 miles. This is the distance from the point of extraction to the plant in which the ordinary treatment process is applied.

2. Section 614 should be amended to permit the following:

(*a*) A mine can be treated as a separate property even though it may be only part of a single deposit in one tract of land.

(*b*) More than one aggregation of properties can be made within an operating unit.

(*c*) "Operating unit" shall be deemed to mean any two or more properties which may conveniently and economically be operated together as a single unit, and the taxpayer's determination of what constitutes an operating unit shall be presumed to be correct unless it is clearly unreasonable.

(*d*) The election to make an aggregation can be deferred until the first year in which development expenditures are made.

3. Depletion on mine tailings: Under proposed regulations there will be uncertainty as to whether or not depletion is available in the future to a person who acquires such property and tailings in a tax-free exchange from a person who, prior to the effective date of the 1954 code, acquired the property and tailings in a similar tax-free exchange. This uncertainty should be cleared up by specific provision to the effect that depletion is available where the owner acquires the property in a series of tax-free exchanges even though one or more of such exchanges may have taken place prior to the effective date of the 1954 code.

Depletion should be available to the mineowner who acquires mine tailings as an integral part of the mineral properties from which they were derived, provided the tailings do not constitute a major part of the total value of the properties.

4. Rate of depletion: In addition to the above, it is recommended that the percentage depletion rate for coal be increased.

It is recommended that the existing limitations on deductions on exploration expenditures be repealed.

Rolla D. Campbell, president, National Council of Coal Lessors, Inc., January 21, 1958

Aggregation of nonoperating mineral interests.—The 1954 Code provided a different treatment for aggregation than that allowed under the interpretation of the 1939 Code. It is suggested that taxpayers be allowed to use a combination of both the old and new methods and not be limited to either one or the other. (See suggested draft in the record.)

Percentage depletion allowances to corporations which are paid to stockholders as dividends should be free of taxes to the stockholder.

Mortimer M. Caplin, Perkins, Battle & Minor, Charlottesville, Va., January 31, 1958

Percentage depletion is one of the glaring inequities under present law. The rates should at least be lowered.

Charles O. Galvin, professor of law, Southern Methodist University, School of Law, Dallas, Tex., January 29, 1958

On the question of percentage depletion, there is simply a lack of statistical material on which to base a sound judgment as to the wisdom of the provision.

Robert E. Garrett, in behalf of the Alabama Mining Institute, January 21, 1958

Recommends a minimum percentage depletion allowance of 5 percent of the taxpayers total allowable cost of recovery because, in some cases, the 50 percent results in no depletion allowance.

Harry Goldsmith, in behalf of Slip-Ons, Inc., January 8, 1958

Percentage depletion allowances to oil companies are unfair to other types of businesses.

Otto Gressens, chairman, tax committee, National Coal Association, January 21, 1958

1. The percentage depletion rate for coal should be increased to at least 15 percent.

2. There should be excluded from the computation of taxable income from the property, items not directly related to the production of income from the mining property.

Otto Gressens, chairman, tax committee, National Coal Association, January 21, 1958

All of the limitations on the deduction of exploration expenditures should be removed.

Richard S. Kitchen, Edwin C. Johnson, Fred L. Hartley, and Hover T. Lentz, in behalf of the Committee for Oil Shale Development, Denver, Colo., January 21, 1958

Under House Joint Resolution 327 a 27½ percent depletion allowance would be given to all natural deposits when used as a source of synthetic liquid fuel the same as now given oil and gas. The resolution

would establish a cutoff point for ordinary treatment process at a point including retorting of oil shale and hydrogenation of coal.

The following endorse the recommendations of the Committee for Oil Shale Development:

Representative J. Edgar Chenoweth of Colorado
Senator Frank A. Barrett of Wyoming
Dr. Charles H. Prien, University of Denver, Colorado
Fred V. Larson and Frederick H. Larson, independent oil shale operators
Dr. Tell Ertl, consulting geologist
R. E. Cheever, city manager, city of Grand Junction, Colo.
A. C. Rubel, president, Union Oil Company of California
Howard N. Yates, executive vice president, Colorado State Chamber of Commerce, Denver
H. E. Linden, president, the Oil Shale Corp.
Representative Byron G. Rogers of Colorado
Senator Gordon Allott of Colorado
Representative Wayne N. Aspinall of Colorado
Colorado State Chamber of Commerce
Rocky Mountain Oil & Gas Association
Colorado Mining Association
Mountain States Association
Western Governors Congress
Senator John A. Carroll of Colorado

Representative Elizabeth Kee of West Virginia, January 21, 1958

Urges that the depletion rate for coal be raised from the present 10 percent to at least 15 percent.

Hon. John Lesinski, Representative, 16th District of Michigan, January 9, 1958

Reduce the depletion allowance of oil and gas companies from 27½ percent to 15 percent.

Horace W. Peters, in behalf of the American Iron Ore Association, January 21, 1958

1. *Taxable income from the property.*—It is believed that the original intent of Congress was to limit the percentage depletion allowance to 50 percent of the net income from the property from which the ore was produced regardless of the form of its ownership, or manner of financing corporation, partnership, or individual, and regardless of the manner in which the operation was financed. To meet this standard, deduction should be made for only those expenses directly connected with the production of the income from that property and these deductions should not be increased by interest paid on indebtedness, nor by taxes based on income, nor by taxes and other charges which depend on the form of ownership, amount of net income, or methods of financing.

2. *Allowance of depletion to stockholders.*—A stockholder of a corporation which owns or operates mineral property and whose income is derived principally through mining should be allowed to deduct a reasonable percent of the dividends received from such corporation in determining his taxable income. This principle is recognized in the Canadian tax system.

Horace W. Peters, in behalf of the American Iron Ore Association, January 21, 1958

1. *Removal of 4-year limitation.*—Since section 615 is of no further benefit to those mine owners who are faced with large annual expenditures, the 4-year allowance has been used up, and it is recommended that the Congress extend the allowance for another 4-year period.

2. *Removal of the annual limitation.*—Where exploration expenditures fluctuate year-by-year, an inequity exists and this can be eliminated by removing the $100,000 annual limitation and substituting an overall 4-year limitation.

3. *Increase in overall dollar limitation.*—The $100,000 per year limitation on exploration costs enacted in 1954 has lost much of its value due to increased cost and inflationary pressures. For these reasons, the limitation should be increased to $200,000 per year.

4. *Clarification of "cutoff point" between exploration and development.*—Considerable confusion exists with respect to the precise point to which expenditures cease to be "exploration expenditures" and become development expenditures. This confusion arises because the wording of the two sections (secs. 615 and 616) was not adequately correlated. It is suggested that section 615 (a) be amended to read as follows:

> In the case of expenditures paid or incurred during the taxable year, *and prior to the disclosure of the existence of ores or minerals in commercially marketable quantities*, for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral [and paid or incurred before the beginning of the development stage of the mine or deposit], there shall be allowed as a deduction in computing taxable income so much of such expenditures as does not exceed $100,000. (Italicized words indicate addition, bracketed words indicate deletion.)

Representative Alfred E. Santangelo of New York

Appeared on behalf of his bill, H. R. 7609, which would provide an annual human depletion deduction of 15 percent in the case of a professional athlete.

John J. Trenam, in behalf of the Bay Dredging & Construction Co., Tampa, Fla., January 22, 1958

Under present law, mollusk shells receive a 5 percent rate of percentage depletion. This 5 percent is applied to the "gross income from mining." The code should be amended by H. R. 2034 to provide that "mining" includes the transportation from the point of extraction to the dockside plant or mill of the mine owner or operator, or to a dockside sales point, as is not in excess of 50 miles.

PART VIII

Accounting Methods

PART VIII

ACCOUNTING METHODS

American Bar Association

Allow the right to spread compensation received over a period of 36 months or more where the 80 percent test is determined with reference to income received or accrued in the taxable year and prior years and without reference to compensation received in subsequent years.

Lincoln Arnold, chairman, tax committee, American Mining Congress, January 21, 1958

In many cases, a taxpayer may be prevented from making normal replacements of LIFO inventory within the 1-year period and an extension of time is warranted. It is, therefore, believed that the normal 1-year period for replacements be extended on a permanent basis to involuntary liquidation of inventories where the failure on the part of the taxpayer is due to circumstances beyond reasonable control including inability to obtain such goods in the open market.

Thomas J. Beddow, Gardner, Morrison & Beddow, January 24, 1958

The code should be amended to make it clear that an employer can fund a retirement plan with a trustee and that the employer will not lose the benefit of deducting payments when they are made by the trust to the employee. The employee, it should be made clear, should only be taxed when he receives the payment from the trust fund.

Jacquin Bierman, partner, J. K. Lasser & Co., New York City, January 24, 1958

Section 452 should be enacted as respects payments received in advance for subscriptions to periodicals and newspapers to be delivered in the future.

Fleming Bomar, American Automobile Association, accompanied by Russell Singer and Norman Thompson, January 24, 1958

Automobile associations are required to pay income taxes in excess of their true net income. This is caused by the artificial treatment of advance dues received by these associations.

Section 452 should be reenacted in, at least, a limited form such as proposed by H. R. 3104 (Mr. Simpson) and H. R. 223 (Mr. Herlong).

J. D. Durand, secretary and assistant general counsel, Air Transport Association of America, January 24, 1958

Sections 452 and 462 should be restored.

Homer Davison, president, American Meat Institute, January 24, 1958

Section 462 should be reenacted, and the problem of the accrual of vacation pay should be particularly dealt with. The problem of involuntary disposal of LIFO inventory should be corrected. Annual filing of form 941 (FICA) should be permitted.

Sidney B. Gambill, Reed, Smith, Shaw & McClay, Pittsburgh, Pa., January 30, 1958

Section 462 should be reenacted.

William Goldman, on behalf of Goldlowr, Inc., January 24, 1958

In favor of H. R. 4566, a bill which would amend the code to exclude from gross income punitive damages received from antitrust actions, and would spread back the compensatory portion over the period during which the violation is considered to have occurred.

Wallace M. Jensen, general chairman, committee on Federal taxation, American Institute of Certified Public Accountants, New York City, accompanied by Matthew F. Blake, John P. Goedert, Thomas J. Graves, Benjamin Grund, Leslie Mills, and Maxwell A. H. Wakely, February 3, 1958

Specified expense reserves should be allowed as deductions and specified items of prepaid income should be permitted to be deferred with due regard to the transitional problems. The existence of a demonstrable natural business year should be accepted as a valid basis for a change of taxable year. It should be made clear that gross income does not include receipts or accruals from others as reimbursement for expenses except to the extent that the reimbursement is compensation in whole or in part for services or use of capital.

Joseph D. Lanterman, vice president, American Steel Foundries, and chairman of the Federal taxation committee, Illinois State Chamber of Commerce, January 9, 1958

Section 452 and section 462 should be reenacted to bring tax accounting more into harmony with generally accepted accounting principles. Section 472 should be revised to permit the revaluation of inventories at market when lower than cost. Section 1321 should be revised to broaden the definition of "involuntary liquidation" to cover replacement of LIFO inventories. At present these provisions are very restricted.

Section 453 (c) should be further amended to prevent a hardship on those changing from the accrual method of accounting to the installment method.

Scott W. Lucas, Washington counsel, Mobile Homes Manufacturers Association, January 24, 1958

In favor of H. R. 9481, to permit the exclusion from income of certain dealers' reserves.

C. E. McLamb, McLamb Machinery Co., Inc., January 24, 1958

In favor of H. R. 9481, a bill to permit accrual-basis taxpayers to exclude from income that part of the face value of notes withheld by finance companies as "dealer's reserve."

Gerald L. Phillippe, Controllers Institute of America, January 24, 1958

In the allocation of tax among members of an affiliated group, no single method of allocation should be required. Reorganization expenses and other items should be amortizable. The problem of the involuntary liquidation of LIFO inventories should be dealt with. Sections 452 and 462 should be reenacted.

J. S. Seidman, in behalf of the New York Board of Trade, New York City, February 3, 1958

Accounting principles should be used in determining taxable income instead of lumping of income into the year when money is collected in advance.

Charles Stewart, president, Machinery & Allied Products Institute. Washington, D. C., January 10, 1958

Vacation pay reserves should be permitted by statute.

Frank Wiley and W. Byron Sorrell, Mobile Home Dealers National Association; statement submitted by Herbert L. Smith, Jr., president, January 24, 1958

H. R. 9481 should be enacted to resolve a serious conflict between the Tax Court and several circuit courts on the question of dealers' reserves. This bill would also provide that the part of the financing charge credited to the dealer's account, contingent upon payment of the note to maturity, would not be included in gross income.

Cranston Williams, general manager, American Newspaper Publishers Association, January 24, 1958

Section 452 should be reenacted to permit the accrual of prepaid expenses.

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PART IX

Regulated Investment Companies

PART IX

REGULATED INVESTMENT COMPANIES

C. D. Baker, mayor, city of Las Vegas, Nev., January 3, 1958

H. R. 8702 (Mr. Curtis) provides a deduction from the gross income of an individual for amounts received as "exempt-interest dividends" and would be of great benefit to issuers of State and municipal securities.

Jeff B. Bates, State treasurer, State of South Carolina, January 31, 1958

H. R. 8702 will provide real and substantial aid to States and their subdivisions without cost to the Federal Government.

Jay T. Bell, executive director, Colorado Municipal League, January 31, 1958

H. R. 8702 or similar proposals would assist in the financing of many vitally needed local improvements.

Edward B. Burr, executive director, National Association of Investment Companies, New York City, accompanied by Vincent L. Broderick, January 31, 1958

The witness appeared in support of H. R. 8810, H. R. 8811, and H. R. 8812. These bills would encourage the sale of municipal bonds by permitting the tax-free pass through of the interest on tax-exempt bonds to investors in regulated investment companies investing largely in municipal securities.

Richard D. Byrd, councilman, city of Baltimore, Md., January 31, 1958

Opposed to H. R. 8702 in that it would exempt stockholders of personal holding companies from tax on the earnings of municipal bonds held by the personal holding company.

Carl H. Chatters, comptroller, city of Chicago, Chicago, Ill., January 31, 1958

The witness spoke in favor of H. R. 8702, as well as H. R. 8810, H. R. 8811, and H. R. 8812. These bills will make available money for municipal purposes, thus avoiding the necessity of Federal aid.

Charles C. Dahl, mayor, city of San Diego, Calif., January 31, 1958

H. R. 8702 would broaden the market for bonds of State and local governments.

Robert E. Develle, Director, Department of Finance, City of New Orleans, La., January 31, 1958

H. R. 8702 would be of inestimable value to State and local governments in attracting capital.

Richardson Dilworth, mayor, city of Philadelphia, Pa., January 31, 1958

H. R. 8702 would broaden the market for municipal bonds.

Edgar Fuller, executive secretary, Council of Chief State School Officers, January 31, 1958

In favor of H. R. 8702 as an aid to the building of new schools. This bill, by permitting a pass through of tax-exempt interest on State and municipal bonds, would broaden the market of these bonds.

Arthur J. Gardner, mayor, Erie, Pa., January 31, 1958

Encourages passage of H. R. 8702.

George J. Gruner, vice president, John Nuveen & Co., January 31, 1958

The enactment of H. R. 8810, H. R. 8811, and H. R. 8812 would enable the small investor to invest in municipal bonds and would open new markets for municipal securities.

Alfred Haight, counsel to the State comptroller, New York Department of Audit and Control, New York, substituting for Arthur Levitt, comptroller of the State of New York, January 31, 1958

The witness appeared in favor of H. R. 8810, H. R. 8811, and H. R. 8812. Permitting the interest on tax-free municipal and State bonds to pass through to investors in regulated investment companies investing largely in State and local securities would encourage the marketing of municipal bonds.

R. James Harvey, mayor, city of Saginaw, Mich., January 31, 1958

H. R. 8702 would broaden the market for municipal bonds.

F. Cleveland Hedrick, Jr., Washington, D. C., January 31, 1958

In favor of H. R. 8810, H. R. 8811, and H. R. 8812 as an aid to broadening the municipal bond market.

Bernard F. Hillenbrand, executive director, National Association of County Officials, January 31, 1958

H. R. 8702 would increase the market for county bond issues without significant loss of revenue to the Federal Government.

Wesley L. Lance, majority leader, New Jersey Senate, legislative joint committee, Trenton, N. J., January 31, 1958.

The problem of financing school construction is national in scope. H. R. 8810, H. R. 8811, and H. R. 8812 should be enacted as a step to encourage the sale of school bonds.

J. W. Latham, vice president, Deposit Guaranty Bank & Trust Co., Jackson, Miss., January 31, 1958.

H. R. 8702 would broaden the market for State and local bonds by attracting capital from investment companies.

Daniel F. McDevitt, mayor, city of Reading, Pa., January 31, 1958

Urges prompt and favorable action on H. R. 8702.

David R. McGuire, Jr., chief administrative officer, city of New Orleans, La., January 31, 1958

In favor of H. R. 8702 to strengthen the municipal bond market.

R. E. Morrison, mayor, city of Great Bend, Kans., January 31, 1958

Urges the enactment of legislation to permit regulated and unregulated investment companies to pass through interest on municipal bonds tax free.

Albert Monacelli, chairman, National Committee for Municipal Bonds, Inc.; also introduced written statement of Edgar Fuller, January 31, 1958

The witness spoke in favor of H. R. 8702 and H. R. 9058. These bills are broader than H. R. 8810, H. R. 8811, and H. R. 8812 in that they would not limit the pass-through of exempt interest to companies regulated by the Securities and Exchange Commission and would not require that 90 percent of the investment of a particular company be in tax exempts. H. R. 8702 and H. R. 9058 would add breadth to the municipal bond market.

Ivan Nestingen, mayor, city of Madison, Wis., January 31, 1958

In favor of H. R. 8702, which is designed to broaden the market for State and local bond issues.

W. F. Nicholson, mayor, city and county of Denver, Colo., January 31, 1958

H. R. 8702 would create a favorable market for municipal bonds.

Edward C. Olson, mayor, city of Burbank, Calif., January 31, 1958

In favor of H. R. 8702 as an aid to the marketing of municipal bonds.

Archibald Peisch, Small Business Association of New England

Real-estate investment companies should be given same treatment as security investment companies, that is, the pass through treatment of income.

John J. Purchio, mayor, city of Hayward, Calif., January 31, 1958

In favor of H. R. 8702 as an aid to States and municipalities in marketing bonds.

Ben T. Schleicher, mayor, city of Rockford, January 31, 1958

In favor of H. R. 8702 to improve the municipal bond market.

Frank A. Sedta, mayor of Buffalo, N. Y., January 31, 1958

Urges enactment of H. R. 8702 to provide relief for the municipal bond market.

M. E. Sensenbrenner, mayor, city of Columbus, Ohio, January 31, 1958

H. R. 8702 would broaden the market for municipal bonds.

S. L. Sholley, president, Keystone Custodian Funds, January 31, 1958

The witness spoke in favor of H. R. 8810, H. R. 8811, and H. R. 8812. These bills will enable the small investor to have access to issues of municipal bonds and at the same time enjoy the benefit of skilled management, diversification, and other advantages.

Samuel S. Stratton, city of Schenectady, N. Y., January 31, 1958

H. R. 8702 would make it easier for cities to meet their urgent revenue needs.

Austin J. Tobin, executive director, Port of New York Authority, New York City, January 31, 1958

The witness opposed H. R. 8702 and favored H. R. 8810, H. R. 8811, and H. R. 8812. H. R. 8702 singles out personal holding companies for special beneficial treatment. The revenue loss involved in H. R. 8702 would not be counterbalanced by a gain for the State and local governments.

Harold M. Tollefson, in behalf of the American Municipal Association, Washington, D. C., January 31, 1958

The witness spoke in favor of H. R. 8702. The fears expressed by those who feel that the consideration of H. R. 8702 may lead to the loss of the exemption of interest on municipal bonds are not founded. Municipal bonds will continue to be widely held.

Raymond R. Tucker, mayor, city of St. Louis, Mo., January 31, 1958

H. R. 8702 would generally increase the interest of investment companies in municipal bonds.

John C. van Eck, Jr., president, International Investors, Inc., January 20, 1958

Taxpayers should have the option of filing notice to shareholder sent by regulated investment company in accordance with section 853 (c) with their returns in lieu of form 1116 as proof of credit under section 905 (b).

Ben West, mayor, city of Nashville, Tenn., January 31, 1958

H. R. 8702 would considerably reduce the cost of interest on State and local bonds.

PART X

Mutual Savings Banks and Building and Loan Associations

PART X

MUTUAL SAVINGS BANKS AND BUILDING AND LOAN ASSOCIATIONS

Harold P. Braman, managing director of the National Savings and Loan League, February 6, 1958

Suggests that additional taxation of savings and loan institutions will have an adverse effect upon the economy of the country. Based on past experiences, the 12-percent reserve figure is an absolute minimum for the proper operation of such associations.

Henry A. Bubb, chairman, legislative committee, United States Savings & Loan League, January 27, 1958

Any adverse legislation against savings and loan associations would be undesirable. Such legislation would increase Federal spending in housing and would dissuade the establishment of proper reserves by the associations.

Edward P. Clark, president, the Arlington Five Cents Savings Bank, accompanied by Fred Oliver and John Sapienza, January 27, 1958

The 12-percent reserve allowed mutual savings banks and loan associations is not excessive and should not be changed. The present allowable deduction does not prejudice commercial banks.

C. W. Curry, president, Georgia Bankers Association, January 23, 1958

In favor of H. R. 8737 (Mr. Curtis). This bill reduces the limitation on additions to reserve for bad debts from 12 to 5 percent and limits the deduction for dividends paid on deposits to 3 percent of the withdrawable accounts.

Alan J. Dolliver, president, Credit Finance Services, Inc., Wilmington, Del., January 23, 1958

Favored H. R. 8737 (Mr. Curtis) as a step toward correcting tax inequalities.

Charles W. Gilbert, Oswego City Savings Bank, Oswego, N. Y., January 27, 1958

If commercial banks desire savings and loan associations taxed as commercial banks, then the commercial banks should be willing for savings and loans to have same privileges enjoyed by commercial banks. Opposed to H. R. 8737.

R. E. Gormley, vice president, Georgia Savings Bank & Trust Co., January 23, 1958

Savings and loan and mutual savings companies are no longer infant industries. H. R. 8737 should be enacted to eliminate tax favoritism extended to savings and loan and mutual savings companies.

Monroe Kimbrel, member, legislative committee, American Bankers Association, accompanied by Lee P. Miller, vice president, American Bankers Association, February 6, 1958

There should be uniformity of treatment between commercial banks and mutual savings and loan associations. At present, lack of uniformity exists because of the different treatment of reserves for bad debts. H. R. 8737, with one amendment, should be enacted to correct this disparity in treatment. The amendment should provide that the maximum percentage for bad debt reserves be based on loans rather than on withdrawal accounts.

Arthur T. Roth, president, Franklin National Bank of Long Island, January 23, 1958

Savings and loan associations are unfairly competing with commercial banks. H. R. 8737 should be enacted with a change permitting savings and loan associations and savings banks to deduct from taxable income that amount of dividends equal to the maximum rate interest permitted by the Federal Reserve Board to be paid by commercial banks on savings deposits.

L. Shirley Tark, president, Main State Bank, Chicago, Ill., accompanied by R. E. Gormley, Alan Dolliver, Ralph L. Zaun, January 23, 1958

Testified in favor of H. R. 8737 (Mr. Curtis), a bill to reduce the reserve for loss allowance for savings and loan associations from 12 to 5 percent.

Ralph L. Zaun, vice president, Grafton State Bank, Grafton, Wis., January 23, 1958

Savings and loan associations are favored over banks. H. R. 8737 (Mr. Curtis) should be enacted to correct this favoritism.

PART XI

Foreign Income

PART XI

FOREIGN INCOME

American Bar Association

Repeal section 6046 of the 1954 Code which requires the filing of a return with respect to formation or reorganization of foreign corporations.

Purchases outside of the Western Hemisphere should not be taken into account in determining whether a corporation qualifies as a Western Hemisphere trade corporation.

Lincoln Arnold, chairman, tax committee, American Mining Congress, January 21, 1958

1. *Use of subsidiary for carrying on a portion of the business.*—Section 921 of the 1954 code provides (as did sec. 109 of the 1939 code) that a domestic corporation cannot qualify as a "Western Hemisphere trade corporation" unless it meets the test, among other tests, that 90 percent or more of its gross income is derived from the active conduct of a trade or business.

It is recognized that the mere receipt of dividends is not, in itself, sufficient to constitute the active conduct of a trade or business. However, regulations under section 921 of the code, adopted on August 21, 1957, provided for the first time, *without any qualification*, that—

> Dividends received by a corporation do not represent income derived from the active conduct of a trade or business.

A corporation which is engaged in the active conduct of trade or business should not be disqualified as a Western Hemisphere trade corporation merely because some division of that business which it is actively conducting is, to meet local law or administrative or practical requirements, conducted through a subsidiary from which dividends and interest are received. In such a situation, the subsidiary's activities are an integral part of the operation as a whole. The parent in such a case is not in the position of an ordinary stockholder.

The compulsion to operate a division of the business (such as local transportation facilities) may arise out of requirements of local law, or it may arise out of administrative or practical requirements. In any such case, the parent corporation should not be excluded from the Western Hemisphere trade corporation treatment.

2. *"Incidental" purchases.*—Section 921 of the code defines a Western Hemisphere trade corporation as being one which, among other things, does all of its business "(other than incidental purchases)" in the Western Hemisphere. The Western Hemisphere trade corporation concept was enacted to encourage United States capital to invest in that area and to provide competitive equality with foreign capital so invested. In keeping with that policy, a Western Hemisphere trade corporation should be allowed to purchase wherever economically feasible the materials, supplies, and equipment for the

Western Hemisphere business without losing its eligibility for Western Hemisphere trade corporation treatment.

It is recommended that section 921 be amended so that the phrase "(other than incidental purchases)" will read "(other than purchases)."

John Barker, manager of taxation, General Mills, Inc., January 20, 1958

A loss carryover should be permitted to the domestic parent corporation of a foreign subsidiary where the parent continues the business of the subsidiary. Losses on foreign investments should be treated in the same manner as losses on domestic investments. In favor of H. R. 6248 (Mr. Herlong) and H. R. 4247 (Mr. Simpson), to remove the per-country limitation on the foreign-tax credit.

The Pakistan convention should be adopted to promote harmony and good will in the free world.

The Pakistan people believe their exemption from income tax for new industry is an inducement for new industry to enter Pakistan. If the United States collects the foreign tax, the Pakistan people will feel that the attraction is lost.

Roy Blough, professor of international business, Graduate School of Business, Columbia University, January 20, 1958

The credit for foreign taxes is basically sound. The approach to the problem of foreign investment should be to create a climate of tax neutrality rather than encouragement or discouragement. The extent of the effectiveness of tax incentives is questionable. The deferment of taxation on foreign earned income is preferable to lowering the rates on foreign earned income.

Francis C. Brown, Schering Corp., Bloomfield, N. J., January 20, 1958

The foreign income tax should not be reduced by the per country limitation.

William A. Crichley, chairman, tax policy committee, Manufacturing Chemists' Association, January 21, 1958

1. Income from foreign sources should be taxed at a rate of 14 percentage points lower than that from domestic sources.

2. Domestic corporations with branches abroad should be permitted to defer payment of taxes until such foreign income is brought back to the United States. This would be similar to the treatment now given dividends received from foreign subsidiaries.

3. Limitation on foreign tax credit: Taxpayers should be permitted an election to apply either a per country or overall limitation in computing the maximum allowable credit for foreign taxes paid.

4. Carryback and carryover of foreign tax credit: Taxpayers should be allowed a 2-year carryback and a 5-year carryover of foreign taxes in excess of amounts allowable as credits in the taxable year.

Cecil B. Dickson, assistant to the president, Motion Picture Export Association Inc., January 20, 1958

In favor of H. R. 234 (Mr. Ikard), a bill to provide the removal of the 30 percent withholding tax on nonresident aliens and nonresident corporations earning fixed or determinable income in the United States. A removal of this withholding feature would encourage foreign countries to eliminate their withholding taxes and thus encourage the export of American films.

Cecil B. Dickson, Motion Picture Export Association, Inc., January 20, 1958

Section 904 of the Internal Revenue Code operates unfairly by placing a per country limitation on the foreign tax credit. A taxpayer should be able to elect between the per country limitation and an overall limitation on the tax credit. H. R. 6248 (Mr. Herlong) should be amended to provide for this election.

Dante B. Fascell, Representative in Congress from Florida, January 20, 1958

In favor of H. R. 6248 (Mr. Herlong), a bill to permit a taxpayer to treat collectively all foreign income and all foreign taxes paid, for purposes of determining the credit against United States taxes on foreign income.

Charles Goodwin, Jr., Esq., New York City, January 14, 1958

The dividends received credit should apply to dividends received from resident foreign corporations.

Robert J. Kelliher, chairman, tax committee, National Foreign Trade Council, Inc., January 20, 1958

Income from foreign branches should be exempt from tax until it is returned to the United States. A taxpayer should be able to elect between the application of the overall limitation or the per country limitation. The taxpayer should be able to carry an unused foreign tax credit forward. The negotiation of tax treaties should be intensified, and such treaties should include tax incentive features.

John E. Higgiston, Jr., Newman & Bisco, January 24, 1958

In favor of H. R. 876 (Mr. Philbin). This bill would provide that section 2104 (a) of the 1954 Code would apply to all decedents dying after December 31, 1953. This section provides that stocks in foreign corporations are not subject to the estate tax when held in the United States by a nonresident not a citizen.

Matthew J. Kust, attorney-at-law, Washington, D. C., January 20, 1958

American investment should be encouraged to go abroad by issuance of exemption or partial exemption certificates by the State Department or other agency.

Joseph D. Lanterman, vice president, American Steel Foundries, and chairman of the Federal taxation committee, Illinois State Chamber of Commerce, January 9, 1958

American firms doing business abroad should be allowed a credit of 14 percent of the amount of the corporation income tax in respect to such business.

Hon. John Lesinski, Representative, 16th District of Michigan, January 9, 1958

Repeal the Western Hemisphere Trade Corporation provision of the 1954 Code which permits a 38-percent tax by such corporations as compared to a 52-percent tax on domestic corporations.

Fred W. Peel, committee on taxation, United States Council of the International Chamber of Commerce, Inc., January 20, 1958

The 14-point differential should be broadened to apply to all foreign earned income. Foreign income should not be taxed until it is re-

turned to the United States. A domestic subsidiary corporation should be treated as a foreign subsidiary if substantially all of its income is earned abroad. A taxpayer should have an annual election either to use the per country limitation or the overall limitation. Tax treaties should be used more often.

Horace W. Peters, in behalf of the American Iron Ore Association, January 21, 1958

1. *Use of a subsidiary for carrying on a portion of the business.*—There are situations in which a Western Hemisphere corporation may receive dividends or interest from a subsidiary which would disqualify it under the 90-percent rule. In some instances, because of the lack of public utility services, it is necessary for the corporation to construct a railroad or electric power facilities, and to meet local law, administrative or practical requirements, such facilities must be owned and operated by a corporation in such foreign country. The receipt of dividends or interest from utility companies under circumstances such as these should not bar the domestic corporation from qualifying for Western Hemisphere tax treatment.

2. *Incidental purchases.*—The present statute can be, and undoubtedly has been, circumvented through the use of a non-Western Hemisphere trade corporation to make purchases outside of the Western Hemisphere followed by a resale to a Western Hemisphere trade corporation. It is therefore recommended that the word "incidental" be stricken from section 921.

Gerald L. Phillippe, Controller Institute of America, January 24, 1958

Section 902 (b) should be amended to provide that a foreign corporation, to obtain a credit for taxes paid by a subsidiary, be required to own the lesser of 50 percent of the stock of the subsidiary or the maximum amount allowed by the foreign country. Taxpayers should be allowed an annual election between the overall limitation on the foreign tax credit and the per country limitation. The President's proposals for encouraging foreign trade should be enacted.

Where a domestic parent corporation insures the assets of its foreign subsidiary, no tax should be imposed on the proceeds of the insurance if the proceeds are contributed to the foreign subsidiary, which in turn replaces the assets destroyed.

James W. Riddell, January 20, 1958

Memorandum of Mr. Riddell regarding statutory treatment of foreign income was inserted in the record at the request of Mr. Curtis.

Henry B. Sargent, American & Foreign Power Co., Inc., January 20, 1958

In support of H. R. 6248 (Mr. Herlong) and H. R. 7247 (Mr. Simpson), bills which would modify the per-country limitation on the foreign-tax credit.

Paul D. Seghers, chairman, Federal tax legislative committee, Federal Tax Forum, Inc., January 20, 1958

The tax on foreign-business income should be eliminated, or some other solution should be developed to encourage foreign trade.

Charles Stewart, president, Machinery Allied Products Institute, Washington, D. C., January 10, 1958

Defer taxing foreign source income where reinvested; change concept of foreign income; improve operation of foreign tax credit and loosen up qualifications for Western Hemisphere.

Stanley S. Surrey, professor of law, Harvard University, January 20, 1958

The best approach to taxation of foreign income is to allow exemption of foreign earnings until they are returned to the United States, rather than by lowering rates on foreign-earned income. Tax treaties should not be used for the purpose of lowering taxes on United States citizens or corporations doing business abroad.

Corlos E. Toro, manager, World Trade Department, Greater Detroit Board of Commerce, January 20, 1958

Income taxes on earnings from foreign sources should be reduced, and tax on foreign branch operations should be postponed until the income is returned to this country.

John C. van Eck, Jr., president, International Investors, Inc., January 20, 1958

The limitation on the foreign-tax credit contained in section 904 should be removed.

PART XII

Estate and Gift Taxes

PART XII

ESTATE TAX AND GIFT

Harry Kenneth Allen, Department of Economics, University of Illinois, January 29, 1958

The credit of 80 percent against the basic Federal estate tax for State inheritance taxes paid should be extended to the additional tax. This would provide a needed source of revenue for the States.

American Bar Association

Provide for similar tax treatment with respect to distributions by estates and trusts to charitable or noncharitable beneficiaries. Allow individuals a deduction for expenses of estate tax planning.

Robert Anthoine, School of Law, Columbia University, January 29, 1958

The estate and gift tax structure should be strengthened by an integrated transfer tax. This would be preferable to raising the income tax rates, since the anti-incentive features are not so present in the case of estate taxes.

Thomas J. Beddow, Gardner, Morrison & Rogers, Washington, D. C., January 22, 1958

The law should specifically provide that widows' allowances shall be eligible to qualify under the marital deduction. Accordingly, section 812 (c) of the 1939 Code and section 2056 of the 1954 Code should be amended to accomplish this purpose.

Robert P. Bonnie, secretary, Kentucky Color & Chemical Co., January 13, 1958

The Federal estate tax should be abolished. If this is not possible, estate taxes should be payable in 10 years in certain cases.

B. E. Bronston, Miami, Fla., January 8, 1958

Expenses for estate planning should be deductible as business expenses.

Mortimer M. Caplin, Perkins, Battle & Minor, Charlottesville, Va., January 31, 1958

The gain on the sale of depreciable property should be taxed as ordinary income to the extent attributable to past depreciation allowances. The basis of property should not receive a stepped-up basis at death. Instead, the adjusted basis should be increased by the amount of estate tax paid with respect to that property.

Robert E. Carter, chairman, governmental affairs committee, National Retail Furniture Association, January 24, 1958

There should be allowed as a deduction from the gross estate life insurance taken out to cover estimated estate tax liability. Estate taxes should be payable in 10 installments where the assets of the estate consist largely of investments in closely held corporations.

Dr. Gerhard Colm, chief economist, National Planning Association, Washington, D. C., February 7, 1958

The yield from the estate and gift taxes should be increased by lowering exemptions.

Col. Richard W. Coward, in behalf of the Associated Industries of Alabama, Birmingham, Ala., January 28, 1958

The gift and estates taxes should be abolished, but, if continued, should be modified to eliminate hardship. These taxes tend to cause mergers of small businesses.

Richard Daniels, attorney, Washington, D. C., January 22,1958

Losses incurred by an executor on the sale of stock should be allowed as a deduction from the gross estate.

Robert B. Dresser, in behalf of the Associated Industries of Rhode Island, the Campaign for the 48 States, and the Committee for Constitutional Government, Providence, R. I., February 7, 1958

The estate and gift taxes should be abandoned to the States.

George B. Furman, Robertson, Furman & Murphy, Washington, D. C., January 22, 1958

The estate should not be required under section 2039 of the 1954 Code to include the value of contingent annuities of the decedent.

Stephen H. Hart, attorney, National Live Stock Tax Committee, Denver, Colo., January 10, 1958

Fifteen months is not sufficient time for an estate to raise money to pay estate tax, where assets are tied up in a farm or ranch.

Prof. M. Slade Kendrick, New York State College of Agriculture, Cornell University, Ithaca, N. Y., January 28, 1958

The estate and gift taxes should be overhauled and integrated. The estate and gift tax rates should be sharply increased.

Clarence D. Laylin, in behalf of the Council of State Chambers of Commerce, Washington, D. C., February 7, 1958

Estate taxes should be lowered to the point where the maximum rate is 50 percent. The gift tax rates should not exceed three-fourths of the estate tax rates. Steps should be taken to eliminate the doubling up of the estate tax and the income tax on the same earnings. Proposals to integrate the estate and gift taxes should be eliminated.

Howard Lindsay, Authors League of America January 24, 1958

Authors' heirs are discriminated against under section 691, in that royalties are considered income in respect of a decedent even though on the author's death the work had not been sold. As a result, for income tax purposes, the heir does not acquire a new basis for the inherited literary property.

Albert R. Mugel and Manly Fleischmann, on behalf of Ann O. Kennedy, et al., trustees January 22, 1958

The 1954 Code provided for a date-of-death basis for nonprobate assets which were taxable in the gross estate of a decedent. However, this basis provision was applicable only where the decedent died after December 31, 1953. This stepped-up basis provision should be made to apply to property sold after the effective date of the 1954 Code, rather than applying the date of death of the decedent.

Fletcher E. Nyce, executive vice president, Central Trust Co., Cincinnati, Ohio, January 22, 1958

A credit against the estate tax should be permitted for capital gains taxes paid within 10 years of death. The credit should be full where the tax is paid within 5 years prior to death, and 50 percent where paid more than 5 years but less than 10 years prior to death.

Philip C. Pendleton, in behalf of the Family Tax Association, Bryn Athyn, Pa., January 22, 1958

A deduction from the gross estate should be allowed (in an amount up to 5 percent of the adjusted gross estate) for bequests to each child of a taxpayer, provided the bequest amounts to an outright bequest.

Pennsylvania Bar Association, letter of February 5, 1958

Opposes any type of premium payment test.

Harry J. Rudick, Lord, Day & Lord, New York City January 30, 1958

Reduce the estate and gift tax rates but strengthen the structure of the taxes.

James D. Tracy, counsel for the Kewaunee Manufacturing Co., Adrian, Mich., January 9, 1958

Proposes an amendment to section 6161 of the 1954 Code which would provide that if more than half of an estate consists of stocks in a closely held corporation, the payment of estate tax shall be extended for a period up to 10 years upon request.

Andrew B. Young, chairman, Federal tax committee of the tax section of the Pennsylvania Bar Association, February 3, 1958

Where an executor transfers property in satisfaction of a marital deduction bequest or legacy, there should be no gain or loss. Trust property subject to a general power of appointment by will should be treated consistently with other property subject to the estate tax and the property should have as its basis the value at the date of death or the value 1 year after death. The basis of property transferred prior to death should not have to be adjusted to reflect prior depreciation and depletion as provided in section 1017 (b) (9). The Secretary of the Treasury should have discretion in extending the time for payment of Federal estate taxes where reversionary interests and State inheritance taxes are involved.

The "premium payment test" should not be adopted in determining the inclusion of life insurance proceeds in an estate.

PART XIII

Cooperatives

PART XIII

COOPERATIVES

Harry J. Beernink, president, National Council of Farmer Cooperatives; accompanied by Leonard L. Silverstein, special tax counsel; and James Harmonson, Jr., general counsel of the National Council of Farmer Cooperatives, January 27, 1958

No corporate income tax should be imposed on farmer cooperatives where there is a bona fide agreement between the farmer patron and the cooperative to retain in the cooperative the patronage refund and this intent is evidenced to the patron in some noncash form. The patron should be taxed on his share of the earnings so evidenced. The farmer should have the option of including the noncash allocation in his income either in the year of allocation or in the year of redemption.

E. L. Boatner, president, Alabama Warehouse Co., Inc., January 23, 1958

Business, particularly small business, is adversely affected by the tax-free status of cooperatives.

Harold H. Bobier, Pure Seal Dairy, Inc., Flint, Mich., January 23, 1958

Cooperatives engaged in processing and distributing activities should be taxed as other businesses.

C. W. Bonner, president, Bonner Packing Co., and on behalf of J. B. Cella II, vice president, Cella Vineyards, January 27, 1958

The exemption extended to cooperatives should be discontinued. If this exemption continues, more and more businesses will be forced out of business and less revenue will be received by the Government.

D. W. Brooks, general manager, Cotton Producers Association, January 27, 1958

The cooperative has been of great benefit to the farmer. Farmers are willing to pay tax on their share of the earnings of the cooperative. Most farmers are now paying the tax on their allocated part of the cooperatives earnings. The farmer should have the option of including the allocated earnings in his income either in the year of allocation or the year in which the certificate of allocation is revolved.

Usher L. Burdick, Representative in Congress from North Dakota, January 23, 1958

Opposed to H. R. 502 (Mr. Mason), a bill to alter the taxation of cooperatives.

Cantelow-Law Gin & Warehouse Co., Wetumpka, Ala., January 23, 1958

It is unfair for cooperatives to expand with tax-free profits.

Austin W. Carpenter, executive director, Eastern Merchants, Inc., Sherburne, N. Y., January 23, 1958

There should be genuine tax equality between cooperatives and competing concerns, not a compromise which would still leave a substantial advantage in the hands of cooperatives.

J. E. Carter, manager, Fairmont Foods Co., Lawton, Okla., January 23, 1958

To preserve the free-enterprise system, it is necessary to have tax equality between cooperatives and private business.

Robert E. Carter, chairman, governmental affairs committee, National Retail Furniture Association, January 24, 1958

The tax burden would be more equitably distributed if the opportunity for tax avoidance were removed from certain exempt organizations, such as cooperative corporations.

Benjamin F. Castle, executive vice president, Milk Industry Foundation, Washington, D. C., January 23, 1958

The growth of cooperatives has been tremendous, largely through acquisitions. The tax exemption extended to cooperatives is a step toward socialism. However, some tax consideration could be safely extended to small cooperatives. The present system of exempting cooperatives is unfair to private business.

M. H. Conner, president, Eufala Cotton Oil Co., January 23, 1958

Tax-free cooperatives enjoy a great advantage over other business because of their ability to purchase new equipment before paying taxes.

Barnes Cox, Dadeville Fertilizer & Gin Co., Dadeville, Ala., January 23, 1958

It is unfair that co-ops continue to go tax free.

William A. Crichley, chairman, tax policy committee, Manufacturing Chemists' Association, January 21, 1958

In the interest of fairness and equity, cooperatives should be taxed on the same basis as a regular business corporation.

Clarence Davis, manager and secretary, Littlefield Farmers Cooperative Gin, January 23, 1958

The Internal Revenue Code provisions regarding cooperatives should be left as they are.

Hon. Clifford Davis, Member of Congress (Tennessee), January 28, 1958

H. R. 4265 should be enacted. This bill would impose a tax, at regular corporate rates, on cooperatives, but would permit the patrons to receive a credit for the tax paid by the cooperative.

Roy B. Davis, general manager, Plains Cooperative Oil Mill, Lubbock, Tex., January 23, 1958

Both producer and shipper have benefited from the cooperative.

Economics and Taxation Council, Chamber of Commerce of Greater Philadelphia, January 24, 1958

The tax exemption of cooperatives should be carefully reviewed.

C. K. Elliott, representing American National Livestock Association, Kansas City, Mo., and Independent Livestock Marketing Association of Columbus, Ohio, January 23, 1958

There must be tax equality if we are to preserve our democratic system of free enterprise and produce the necessary revenue for good government.

Charles Ellis, Jr., president, Mutual Fertilizer Co., January 23, 1958

The competition from cooperatives becomes more vicious every year.

John H. Else, in behalf of the National Retail Lumber Dealers Association, Washington, D. C., February 7, 1958

Under present law not all groups are bearing their fair share of the tax load. Legislation should be enacted to eliminate the favoritism extended to such groups as cooperatives.

M. W. Espy, president, Espy Fertilizer Co., Headland, Ala., January 23, 1958

Cooperatives should be taxed the same as other enterprises.

Roger Fleming, director of Washington office, American Farm Bureau Federation, January 27, 1958

All corporations, including cooperatives, should not be taxed on earnings distributed to shareholders or patrons. No withholding tax should be imposed on dividends of corporations, including cooperatives.

E. O. Gibbs, southwestern division manager, Fairmont Foods Co., January 23, 1958

Cooperatives should be required to pay income taxes comparable to the taxes paid by their competitors.

J. E. Hall, president, Soperton Guano Co., Soperton, Ga., January 23, 1958

When the Government particularly needs money, it is unfair for cooperatives to be tax free.

Patrick B. Healy, assistant secretary, National Milk Producers Federation, accompanied by M. R. Garstang and Mack Gebbert, January 27, 1958

No tax should be imposed on cooperatives. The farmer only should be taxed.

Fred V. Heinkel, president, Missouri Farmers Association, accompanied by William W. Beck, general counsel, January 27, 1958

The farmer and his cooperative are inseparable. Cooperatives should be encouraged by (1) the repeal of the tax imposed on farmers' cooperatives; (2) allowing the cooperatives to maintain their tax exemption even though the products of nonmembers are marketed and purchases are made from nonmembers, not in excess of 25 percent of the total value of products marketed or purchases made.

Kenneth Holum, secretary, South Dakota Association of Cooperatives, January 23, 1958

Farm cooperatives should be encouraged rather than discouraged. There should be no tax imposed on the cooperative itself. Each

member should be taxed on his share of the earnings, including patronage refunds.

P. S. Jackson, president, Peterman Agricultural Co., Peterman, Ala., January 23, 1958

Co-ops should be taxed just the same as private business.

N. H. Kiley, executive secretary, New York State Retail Hardware Association, Inc., January 23, 1958

Cooperatives should be taxed on the same basis as other forms of business.

Ray King, president and general manager, Georgia Fertilizer Co., Valdosta, Ga., January 23, 1958

Not only should co-ops and their patrons be taxed the same as other businesses and their owners, but the co-op bank should be abolished.

J. M. Lescure, Sealtest Western Maryland, January 23, 1958

The tax advantage extended to cooperatives should be eliminated.

W. Herschel Lovett, Lovett & Co., Inc., Wrightsville, Ga., January 23, 1958

It is unfair for small-business men to have to compete with tax free cooperatives.

Roswell Magill, representing Grain and Feed Dealers National Association, Washington, D. C., January 23, 1958

Income realized by cooperatives should in fairness be taxed on the same basis as the income realized by other competing corporations. The proposal to tax cooperatives only upon the portion of their income after cash distributions, or notes possessing a determinable market value, is seriously objectionable.

Noah M. Mason, Representative in Congress from Illinois, January 28, 1958

Facts submitted with respect to certain cooperatives to show they are not struggling co-ops. Taxpaying business is being increasingly absorbed by cooperatives.

Edwin E. Merriman, Edwin E. Merriman, Douglas & Abbe, Lubbock, Tex., January 27, 1958

Section 522 of the 1955 Code (relating to the taxation of cooperatives) is workable in its present form and should not be altered.

A. S. Moake, representing Southwestern Peanut Shellers' Association, San Antonio, Tex., January 23, 1958

Cooperatives and their members should be taxed in exactly the same manner as other forms of businesses and their owners.

Arthur Morris, Dothan Guano Co., January 23, 1958

It is grossly unfair for one business to have to compete with a tax-free organization.

National Association of Refrigeration Warehouses, January 7, 1958

In favor of H. R. 501, Mr. Mason (eliminate tax advantage of cooperatives).

Robert H. North, executive secretary, International Association of Ice Cream Manufacturers, accompanied by Brady Bryson, special counsel on tax matters for the Joint Committee on Taxation of the Milk Industry Foundation and the International Association of Ice Cream Manufacturers, January 23, 1958

The earnings of cooperatives should be taxed as other corporations are taxed, no deduction being granted for distributions. Each member should be taxed on distributed income and on the corporate tax paid by the cooperative. However, a tax credit should be given the patron in the amount of the tax paid by the cooperative.

Joseph J. O'Connell, Jr., on behalf of the National Tax Equality Association, January 23, 1958

Cooperatives should be taxed as other corporations. Give the farmer the credit for the corporate tax paid. This "tax credit" plan is preferable to allowing a deduction for dividends paid in cash by cooperatives.

J. H. Owens, president, Roanoke Guano Co., Roanoke, Ala., January 23, 1958

The expansion of cooperatives is due largely to their ability to accumulate earnings tax free.

Howard A. Parker, chairman of the Committee for the Fertilizer Industry for Tax Equality, Chicago, Ill., January 23, 1958

Tax equality is necessary to give small, private operators an equal opportunity.

Robert T. Patterson, associate professor of public finance, Claremont Men's College and Claremont Gradaute School, January 23, 1958

In favor of H. R. 501 (Mr. Mason), a bill to alter the taxation of cooperatives. Cooperatives and their patrons should be taxed in the same manner as other companies and shareholders.

F. L. Putnam, president, Whiting Milk Co., Charlestown, Mass., January 23, 1958

Cooperatives should not have a tax advantage over privately established business.

A. L. Reed, public information committee of the Cotton Industries, Dallas, Tex., January 23, 1958

In computing the taxable income of a cooperative only the following distributions should be deductible:

(1) cash dividends on capital stock paid directly to farmer members; and

(2) cash patronage dividends paid directly to farmer members.

Louise B. Roche, Roche Manufacturing Co., Dublin, Ga., January 23, 1958

The fertilizer industry particularly feels the impact of unfair competition from cooperatives.

R. H. Rowe, vice president and secretary, United States Wholesale Grocers' Association, January 23, 1958

Adequate taxation of cooperatives is necessary for the survival of independent food wholesalers.

Kenneth C. Royall, representing National Wholesale Hardware Association, January 23, 1958

The cooperative should pay the same tax as regular corporations, regardless of what approach is used for the patrons.

Wilfrid E. Rumble, National Federation of Grain Cooperatives, January 27, 1958

Farm cooperatives are entirely different from private corporations, and it is perfectly proper for Congress to tax each differently. The farmer shall pay tax on his share of the income. Cooperatives are no threat to private enterprises and are not avoiding taxes.

Clyde H. Shaffer, president, Breyer Ice Cream Co., Philadelphia, Pa., January 23, 1958

Since cooperatives pay little or no tax, they are able to undersell proprietary companies and to retain money to expand.

Hon. Sid Simpson, Representative in Congress, Illinois, January 23, 1958

Private serum-manufacturing companies are being treated unfairly under present law.

Adolph Skinner, president, Anthony Pure Milk Co., Nashville, Tenn., January 23, 1958

Cooperatives should be required to pay their fair share of taxes and to bear their fair share of the defense burden.

Edward E. Slettom, executive secretary, Minnesota Association of Cooperatives, January 27, 1958

Farmer cooperatives are essentially different from other business enterprises. Cooperatives are the only weapon with which a farmer can obtain some bargaining power.

C. O. Smith, C. O. Smith Guano Co., Moultrie, Ga., January 23, 1958

Cooperatives should be taxed exactly as other businesses.

Sunkist Growers, Inc., January 28, 1958

In rebuttal to Mr. Mason's statement of facts regarding California Fruit Growers Exchange.

Albert J. Thille, Agricultural Council of California, January 27, 1958

Patrons receiving patronage allocations from cooperatives should have the option of paying the tax either in the year of allocation or in the year cash is received.

H. L. Thompson, Jr., vice chairman, committee on cooperatives, National Wholesale Hardware Association, January 27, 1958

H. R. 4265 (Mr. Davis) would be the best solution to the cooperative problem. This bill repeals the special provisions for taxation of farmers' cooperatives and provides that a cooperative may not deduct patronage dividends in computing taxable income, but the recipient of the dividend shall be allowed a tax credit for his portion of the tax paid by the cooperative.

E. M. Thorne, president, the Millen Fertilizer Co., Millen, Ga., January 23, 1958

Co-ops should be taxed exactly the same as other companies.

Hon. Jerry Voorhis, executive director, Cooperative League of the U. S. A., January 27, 1958

The cooperative is the little peoples' way of keeping their independence and of strengthening their economic position. The basic idea of the 1951 act should be clarified and strengthened.

D. E. Wilks, manager, Fairmont Foods Co., Topeka, Kans., January 23, 1958

The tax advantage extended to cooperatives should be eliminated.

Guy H. Williams, in behalf of the Associated Veterinary Laboratories, Inc., Kansas City, Mo., January 23, 1958

Tax-exempt cooperative serum manufacturers are unfairly competing with private serum manufacturers.

S. B. Williams, Hurtsboro Fertilizer Co., Hurtsboro, Ala., January 23, 1958

It is unfair for cooperatives to escape taxes.

George Wilson, Dyersburg, Tenn., January 29, 1958

The tax exemption for consumer cooperatives should be carefully examined.

PART XIV

General

PART XIV

GENERAL

A. Dividends

Harry Kenneth Allen, Department of Economics, University of Illinois, January 29, 1958

The discrimination against corporations should be eliminated by allowing as a deduction the amount of dividends paid to shareholders. This would also correct the discrimination in favor of debt financed corporations.

American Gas Association, New York, N. Y., January 24, 1958

The tax on intercorporate dividends should be eliminated.

American Institute of Laundering, January 13, 1958

Tax reduction is needed so that enough savings will be available for expansion and creation of new business. Dividends should be deductible by a corporation.

Tax laws should be generally simplified.

American Taxpayers Association, Inc., January 10, 1958

Ten percent of dividends on common stock should be deductible.

George W. Anderson, executive vice president, American Transit Association, January 14, 1958

It was proposed that H. R. 3538 (Mr. Simpson) be enacted to permit transit companies a deduction with respect to dividends paid and received on certain preferred stock.

John M. Balliet, Appelton, Wis., January 24, 1958

A withholding tax should be imposed on dividends.

Rolla D. Campbell, president, National Council of Coal Lessors, Inc., January 21, 1958

The present 4 percent tax credit for dividends received by individuals should be substantially increased and the 85 percent intercorporate dividend credit increased to 100 percent.

Mortimer M. Caplin, Perkins, Battle & Minor, Charlottesville, Va., January 31, 1958

Withholding of tax on dividends should be instituted to prevent the loss of revenue in this area.

Dr. Gerhard Colm, chief economist, National Planning Association, Washington, D. C., February 7, 1958

The present method of giving relief in the higher brackets, such as the dividends received credit, is not desirable. Instead, a deduction for dividends paid would be sounder. Full integration of the corporate income tax with the individual income tax is not desirable.

Edison Electric Institute, January 24, 1958

The tax on intercorporate dividends should be eliminated.

G. Keith Funston, president, New York Stock Exchange, January 30, 1958

The dividend received exclusion should be raised to $100, and the credit should be increased to 10 percent.

Harry Goldsmith, in behalf of Slip-Ons, Inc., January 8, 1958

The present dividend exemption should be abolished.

Otto Gressens, chairman, tax committee, National Coal Association, January 21, 1958

Instead of the present 85 percent credit for dividends received from another corporation, the credit should be 100 percent.

R. M. Guntert, president, Guntert & Zimmerman Construction Division, Inc., Stockton, Calif., January 24, 1958

The tax on dividends should be eliminated. No tax should be imposed on reinvested earnings.

Joseph D. Henderson, managing director, American Association of Small Business, Inc., January 9, 1958

Consideration be given to exemption from taxation corporate earnings set aside for dividends.

Independent Natural Gas Association of America, January 24, 1958

The tax on intercorporate dividends should be eliminated.

Paul E. Jackson, president, Jackson & Hedrick, February 5, 1956

Cash dividends should not be taxed if they are reinvested in other equity securities within 120 days after receipt. This would have a favorable effect on interest rates and would make the currency more stable.

Kansas State Chamber of Commerce, January 24, 1958

Dividends paid should be deductible.

Joseph B. Lanterman, vice president, American Steel Foundries, and chairman of the Federal taxation committee, Illinois State Chamber of Commerce, January 9, 1958

The 15 percent tax on dividends received by a domestic corporation from another domestic corporation should be eliminated.

Clarence D. Laylin, in behalf of the Council of State Chambers of Commerce, Washington, D. C., February 7, 1958

The intercorporate dividend tax should be eliminated, and the 2-percent penalty on consolidated returns should be repealed.

Hon. John Lesinski, Representative, 16th District of Michigan, January 9, 1958

Eliminate the 85 percent exemption of intercorporate dividends and make such dividends taxable in full, excepting certain public utilities and repeal the 4 percent dividend credit for individuals.

Walter Maynard, chairman, Federal taxation committee, Investment Bankers Association of America, Washington, D. C., February 7, 1958

The dividend received credit should be increased to 20 percent.

Charles Stewart, president Machinery and Allied Products Institute, Washington, D. C., January 10, 1958

Gradual elimination of double taxation of dividends, and elimination of 2 percent tax on consolidated returns.

Stanley S. Surrey, professor of law, Harvard University, January 29, 1958

The present dividend credit is not a solution to the double-taxation problem. Instead, the corporation should be permitted to deduct dividends paid or the taxpayer should receive a credit for the corporate tax paid.

B. Tax-Exempt Organizations

American Bar Association

Limit the exemption of churches, conventions, or associations of churches to that portion of the unrelated business income of the church which is attributable to the investment of its own funds and exclude from the exemption that portion of the unrelated business income attributable to other than own funds.

Paul Blanshard, Protestants and Other Americans United for Separation of Church and State, January 27, 1958

Churches should be taxed on their unrelated business income. There should be a full investigation of tax-exemption practices in the field of religious organizations. Those who receive income and turn it over to a church should be taxed on the income. Any exemption of earnings of religious organizations should be based on the function performed rather than on who directs it. Churches having religious orders should not be favored.

Merwin Brandon, vice president, Underwriters' Laboratories, Inc., January 23, 1958

The present tax exemption for organizations testing solely for public safety is in the public interest and should not be eliminated.

Charles H. Callison, National Wildlife Federation, accompanied by Robert M. Paul, C. R. Gutermuth, and Howard Zahniser, January 27, 1958

The mere compliance with regulations for lobbyists should not endanger the tax-exempt status of an organization. Such compliance should not be construed as prima facie evidence that a substantial part of its activities consist in lobbying.

Joseph Campana, Credit Union League, accompanied by Albert P. LaVelle, January 27, 1958

Credit unions do not compete with banks but are a supplement to the banking activity.

Moriz Dreyfus on behalf of the Bureau of Salesmen's National Associations, Inc., M. J. Mantler, managing director, and L. L. Silverstein, Washington counsel, January 9, 1958

Proposes amending section 501 (c) (6) to provide a statutory definition of "business league" which would exempt from income tax all voluntary membership organizations, such as trade associations, institutes, and others whose members have a common business interest, which are not incorporated for profit and no part of whose income reverts as dividends to the members.

Proposes amending section 513 to exempt income from established and traditional sources common to such groups, including the sale of their own periodicals and publications and of advertising therein and from trade shows and exhibits, so long as the income so obtained, over and above a reasonable reserve for contingencies, is disbursed for the purpose for which exemption has been granted.

Leonard Feleman, chairman, governmental affairs committee of the National Licensed Beverage Association, January 23, 1958

All exempt organizations which engage in commercial activity in competition with public restaurants should be taxed on their business income. Certain exempt organizations are exempted from the tax on unrelated business-income provisions and are abusing their tax-exempt status.

Food and Drug Research Laboratories, Maspeth, N. Y., January 23, 1958

Endorses statement of Lewis Harris, advocating elimination of exemption for organizations testing for public safety.

Dr. Clifford C. Furnas, chancellor of the University of Buffalo, January 23, 1958

The exemption extended to scientific organizations engaging in research should not be narrowed by limiting the exemption only where "basic" research is involved. Research cannot be arbitrarily divided into "basic" and "applied."

Horace R. Hansen, counsel, Group Health Foundation of America, January 27, 1958

Deduction for estate, gift, and income taxes should be allowed for contributions to organizations operating facilities for furnishing hospital or medical services, and which are tax exempt as nonprofit under either section 501 (c) (3) or (4).

Lewis E. Harris, representing the American Council of Independent Laboratories, January 23, 1958

The tax exemption extended to organizations which test for public safety should be repealed. It serves no useful purpose, provides unintended benefits, and provides unfair tax-favored competition. The exemption to colleges, universities, and hospitals for income from research should be limited to the situation where the results of the research are made public.

Clifford V. Heimbucker, certified public accountant, vice president of Trustees for Conservation, January 24, 1958

Scientific organization should be allowed to advocate legislation without fear of losing its tax exempt status.

Vernon Herndon, manager, Palmer House, accompanied by Arthur Packard, chairman, governmental affairs committee, American Hotel Association; and Charles Merritt, counsel, January 14, 1958

It was urged that tax-exempt establishments be required to report and pay tax on their unrelated business income when they compete with hotels.

W. O. Knight, Jr., president, Credit Union National Association Inc.; accompanied by Julius Stone, H. Vance Austin, and James W. Grant, January 27, 1958

The tax-exempt status granted to credit unions should not be repealed. These organizations have a very stabilizing effect on the economy.

George R. LeSauvage, on behalf of the National Restaurant Association, January 24, 1958

Tax-exempt establishments competing with restaurants should be taxed on their business activities.

George W. McKeag, the General Assembly of the Presbyterian Church, January 27, 1958

Churches should be taxable on their unrelated business income.

Hon. Abraham J. Multer, Representative, 13th District of New York, January 9, 1958

Urges support of H. R. 801, amend section 103 of the 1954 Code to provide that the interest on certain obligations issued by the States and their political subdivisions shall not be tax exempt.

National Tuberculosis Association, January 23, 1958

In general sympathy with H. R. 3234 (Mr. Hays, Arkansas) and H. R. 3253 (Mr. Simpson, Pennsylvania), bills to require charitable institutions to report as administrative expenses the salaries of those receiving more than $4,000. However, all salaries paid to employees in excess of $4,000 should not be considered as administrative expenses, since some employees having certain administrative duties also carry on health education, rehabilitation, etc.

David W. Richmond and Barron K. Grier, January 27, 1958

In favor of H. R. 8268 and H. R. 9691, bills to permit the exclusion from gross income of limited partnership interests set in trust for charitable purposes. This income should not be treated as unrelated business income.

W. B. Uptagrafft, president, Friends Credit Union, Mobile, Ala., January 27, 1958

Opposed to H. R. 502 (Mr. Mason). Credit unions should remain tax exempt.

H. T. Walton; Campbell Hunter; M. B. Parks, Jr.; Margaret Burks; Thomas E. Pearson; Max Cooke; Blanche Nemer; James W. Morris, Jr.; David T. Smith; J. O. Styers, Winston-Salem, N. C., January 27, 1958

Opposed to H. R. 502 (Mr. Mason). Credit unions should remain tax exempt.

Harry W. Wolkstein, senior member, Harry W. Wolkstein & Co., certified public accountants, February 6, 1958

Municipalities should not be allowed to use their exemption to subsidize private industry. There is a growing tendency on the part of municipalities to abuse section 103 of the Internal Revenue Code.

Andrew B. Young, chairman, Federal tax committee of the tax section of the Pennsylvania Bar Association, February 3, 1958

The tax-exempt status of an exempt organization should not be retroactively removed. The exemption of churches from the tax on unrelated business income should be restricted.

R. H. Youngblood, president, Wilmington A. C. L. Employees, Federal Credit Union, Wilmington, N. C., January 23, 1958

Opposes H. R. 502 (Mr. Mason). The tax exemption accorded credit unions is justified.

C. Insurance

American Life Convention, Clais Adams, executive vice president and general counsel; Life Insurance Association of America, Eugene M. Thore, vice president and general counsel, January 24, 1958

Exempt from tax the investment income earned on insured pension plans funded by annuity, endowment, or life-insurance contracts purchased from life-insurance companies. This proposal would equalize the tax exemption allowed on investment income earned by pension plans funded by uninsured sources.

Extend the exclusion from gross income of amounts received under life-insurance contracts paid by reason of the death of the insured to include transfers to a stockholder of a corporation in which the insured is a stockholder, between certain members of a family, and to a trust under corporate buy-and-sell agreements.

Larry J. Desmond, the Reciprocal Inter-Insurers' Federal Tax Committee, February 6, 1958

Reciprocal insurance companies are bearing their fair share of the taxload. Reciprocals are completely different from other forms of insurance organizations and should be treated accordingly.

John J. Wicker, Jr., counsel, Mutual Insurance Committee on Federal Taxation, February 6, 1958

The present system of taxing mutual fire and casualty companies should not be changed. No competitive advantages develop from present law. The proposals of the National Committee for Insurance Taxation are unsound. They would not benefit the Treasury, would injure many stock companies, would place a double tax on mutual, and would grant a windfall to certain stock companies.

Arlindo S. Cate, attorney, National Committee for Insurance Taxation, January 14, 1958

The present tax law discriminates against stock casualty insurance companies in favor of mutual companies. All casualty insurance companies should be taxed alike.

Ambrose B. Kelly, general counsel, Associated Factory Mutual Fire Insurance Companies, January 14, 1958

Mutual casualty insurance companies which are on the premium deposit system should be taxed under section 831.

Herbert F. Walton, National Committee for Insurance Taxation, January 14, 1958

The tax on all casualty insurance companies should be the sum of (*a*) 1 percent of net premiums written, after dividends to customers;

and (*b*) regular corporate rates on net taxable investment income with present capital gain treatment.

D. Deductions, Exclusions, and Credits

Raymond L. Adams, Tax Management and Planning, New York City, January 14, 1958

Commutation expenses should be treated as business expenses rather than personal expenses.

American Bar Association

Allow individuals to carry over any excess contributions to the next 2 succeeding taxable years as is now available to corporate taxpayers. Also allow a deduction of certain expenses incurred by a taxpayer in connection with appearances before congressional committees.

American Gas Association, New York, N. Y., January 24, 1958

Losses on investment by corporations (when made for the purpose of advancing their main business) should be deductible in the year of loss. Casualty losses should not have to be applied to the gain from the sale of property used in the trade or business. Stock issuance expenses, reorganization expenses, and other items should be amortizable.

American Institute of Laundering, January 13, 1958

Capital expenditures, up to a limit, should be deductible in the year of expenditure.

Hon. Victor L. Anfuso (New York), February 6, 1958

Urges enactment of his bill, H. R. 4737, which proposes to exclude from the gross income of taxpayers interest received from United States savings bonds.

Thomas C. Atkeson, professor of taxation, College of William and Mary, Williamsburg Va., January 29, 1958

There should be a minimum standard deduction of at least $250. Taxpayers with very low incomes would receive a significant benefit from such a provision. The present $600 gross income filing requirement should be increased to $850, plus the allowable old-age exemption. Married persons filing jointly would have to file if their gross income equals or exceeds $1,450, plus the allowable old-age exemption. Married persons filing separately would have to file if their gross income exceeded $725, plus the allowable old-age exemption.

The present definition of dependent is unnecessarily restricted by the requirement of relationship. The test for dependency exemption should be one of chief support.

Gross income should be defined to include social-security payments, other than survivor payments. Such a provision would not hurt an individual relying chiefly on social-security payments for his or her livelihood.

Hon. Overton Brooks, Member of Congress, Louisiana, February 6, 1958

H. R. 6077 should be enacted. This bill would generally increase the limit on medical deductions and permit a carryover of the unused medical deduction for 5 years. In view of the increased cost of medical expenses, present limitations are highly unrealistic.

Mortimer M. Caplin, Perkins, Battle & Minor, Charlottesville, Va., January 31, 1958

The present charitable-contribution provisions offer a double benefit to a taxpayer, since he may deduct the fair market value of the gift and does not pay a tax on the gain at the time of the gift. The amount of the deduction should be limited to the adjusted basis of the property or the market value, whichever is lower.

Dean Chaffin, president, National Automobile Dealers Association, February 6, 1958

Dealers in personal property using the accrual method should be permitted to exclude from gross income amounts withheld by banks and finance companies for notes purchased from such dealers. H. R. 8623 and H. R. 8632.

Alger B. Chapman, Chapman, Walsh & O'Connell, Washington, D. C., January 30, 1958

The reasonableness of charitable accumulations should be judged on a 4-year basis rather than on a single year. The charity should be able to correct the excess accumulation without losing its exemption.

Hon. William A. Dawson, Representative (Utah), January 14, 1958

Divorced women, widows, and widowers should be permitted the child-care deduction even though another contributor to the support of the children is entitled to claim them as dependents.

Moriz Dreyfus, on behalf of the Bureau of Salesmen's National Associations, Inc., M. J. Mantler, managing director, and L. L. Silverstein, Washington counsel, January 9, 1958

Propose that the term "ordinary and necessary business expenses," including those items of expense essential to the independent livelihood of commissioned commercial travelers, such as laundry and valet services, sample-room costs, etc., whether or not such costs would be personal items to other taxpayers, be treated as deductible business expenses.

Edison Electric Institute, January 24, 1958

Losses on investments in subsidiaries should be allowed in full in the year of the loss. Casualty losses should not have to be applied against gains from sales of property used in the trade or business. In determining the net operating loss carryover for 5 years, fractional years should not be treated as a year.

Clyde T. Ellis, general manager, National Rural Electric Cooperative Association, January 24, 1958

Advertising expenses of private power companies should be investigated to determine how much of these expenditures were used for propaganda purposes.

Elisha Gray II, president, Whirlpool Corp., January 14, 1958

A tax credit should be permitted to those making contributions to colleges and universities for basic research.

Walter C. Hecker, St. Louis, Mo., January 30, 1958

In favor of H. R. 130 (Mr. Curtis, Missouri), a bill to extend the statute of limitations for filing a claim for credit or refund where judicial decision on similar facts is rendered adversely to the Commissioner.

Arno Herzberg, January 24, 1958

H. R. 8623 and H. R. 8632 should be enacted to resolve the question of the taxability of dealers' reserves. These bills would postpone the tax on dealers' reserves and holdbacks, under certain circumstances, until they are paid to the dealer or are used to satisfy an obligation of the dealer.

E. R. Jennings, New York, N. Y., January 24, 1958

The $2,500 per capita limitation on the medical expense deduction should be removed.

August Junge, president, Junge Bread Co., Joplin, Mo., January 13, 1958

Business must be permitted to retain more earnings for expansion.

Corl A. Leach, Journal Press, Columbia, Mo., January 24, 1958

Present law provisions in respect to casualty losses penalize a person who carries insurance because the loss is deductible but the insurance premiums are not. This should be corrected.

George R. LeSauvage, on behalf of the National Restaurant Association, January 24, 1958

Employers should not be required to withhold income tax on the tips of employees. The value of meals furnished a proprietor should not be taxable income.

Howard Lindsay, Authors League of America, January 24, 1958

An author should be allowed a deduction for depletion of his work amounting to 25 percent of gross income. Copyrights should be treated as capital assets.

John L. McMillan, Representative in Congress from South Carolina, January 10, 1958

Section 175 of the code should be liberalized to permit land being initially prepared for farming to be considered as having been used at the time taxpayer makes expenditures for soil and water conservation or for erosion expenditures, if within 12 months after the expenditures are made, the land is used for farming.

F. D. Mott, M. D., executive director, Community Health Association, Detroit, Mich., January 27, 1958

Charitable deduction should be allowed for contributions to nonprofit hospital and/or medical-care organizations which are classified either under section 501 (c) (3) or 501 (c) (4).

Hon. Abraham J. Multer, Representative, 13th District of New York, January 9, 1958

Urges support of H. R. 804, to exempt from taxation the interest received from loans guaranteed under title III of the Servicemen's Readjustment Act of 1944; also H. R. 807, exempt from income tax, annuities, and pensions paid by the United States to its employees; and H. R. 2481, provide for the waiver of income taxes on series E United States savings bonds.

George L. Russ, president, Insurance Agents' International Union, AFL–CIO, January 14, 1958

Debit insurance agents should be treated as "outside salesmen" under section 62 (2) (D) of the code.

John Z. Schneider, chairman, committee on Federal law and legislation, National Association of Life Underwriters, January 14, 1958

Debit life-insurance agents should be entitled to the benefits extended to "outside salesmen," A transferee for value of an insurance policy should not be required to include the proceeds of the insurance in his income to the extent of the excess of cost, if the transferee has an insurable interest.

J. S. Seidman, in behalf of the New York Board of Trade, New York City, February 3, 1958

Where the expense allowance is merely a reimbursement to the employee, that amount should not be required to be shown on the employee's return.

Charles Stewart, president, Machinery and Allied Products Institute, Washington, D. C., January 10, 1958

The 5 percent limitation on charitable contributions by corporations should be increased, or a more liberal averaging method provided.

Bert Thompson, managing director, Jockeys' Guild, Inc., accompanied by C. Ray Robinson, attorney, January 20, 1958

A jockey's period of earnings is extremely short. An annual deduction of 15 percent should be permitted to jockeys, or some other method devised to prevent the overtaxing of short-period earnings.

John A. Vander Ark, director, National Union of Christian Schools and the National Association of Christian Schools, Grand Rapids, Mich., January 15, 1958

Endorsed H. R. 645, introduced by Mr. Ford. Endorsement is made of the increase in the charitable-contribution limitation for individuals from 20 percent to 30 percent, but stated that his organization cannot receive the benefit of this until contributions are interpreted by law to include payments to member schools. Congressman Ford's bill is an attempt to correct this condition.

J. C. Weinberg, Weinberg & Ward, public accountants, Birmingham, Ala., January 15, 1958

The deduction for child care should be a gross income deduction, rather than an itemized deduction, with a limit of $600, $500, or $400.

B. B. Wooley, B. B. Wooley & Co., certified public accountants, January 15, 1958

Remove the limitation on the medical-expense deduction.

Hon. Herbert Zelenko, Representative (New York), January 20, 1958

This witness spoke in favor of H. R. 6912 (Mr. Zelenko), a bill to provide a deduction for human depreciation in the amount of 1 percent of income for each year of age beyond 44 years. This deduction would apply only against earned income.

E. Corporate and Individual Rates and Exemptions

Harry Kenneth Allen, Department of Economics, University of Illinois, January 29, 1958

Congress should prepare a plan to reduce taxes promptly when unemployment reaches 5 million. The reduction should be 10 percent in individual income taxes and somewhat less in others.

American Taxpayers Association, Inc., January 10, 1958

The cutting of national expenditures is the No. 1 problem today. The reduction of surtaxes on individuals should be the first reform made. (For additional proposals, see printed record.)

Hon. Victor L. Anfuso (New York), February 6, 1958

Urges enactment of his bill, H. R. 3601, which proposes to raise the existing tax exemptions from $600 to $800 for all taxpayers and their dependents.

Robert Anthoine, School of Law, Columbia University, January 29, 1958

One chief difficulty with our present tax system is the fact that different types of income are taxed differently. It would be preferable to reduce the top rates and eliminate the disparity in treatment. If this were done, there would no longer be any need for many special provisions. Rates in the first bracket should also be reduced, or the exemptions raised.

Some thought should be given to imposing at least a nominal tax on pension and profit-sharing plans.

Another difficulty in present law is draftmanship. There appears to be a tendency to try to spell out every conceivable transaction which might occur. It would appear better to be more brief and more general in approach.

William C. Antoine, chairman, subcommittee on Federal taxation and Government expenditures, Pennsylvania State Chamber of Commerce, January 24, 1958

Present individual income-tax rates should be lowered at once to a range of from 19 to 82 percent. Successive reductions should be made until the top rate is 50 percent or less. Corporate rates should be lowered to 47 percent, or at least 50 percent. The present exemptions for individuals should be retained.

Proposals to impose a graduated corporate-income tax should not be adopted.

Changes in corporate rates are not enough to aid small business.

(For additional recommendations, see written statement.)

S. J. Arnold, general manager, California Taxpayers' Association, January 13, 1958

A revision downward of taxes would stimulate American business and the American people.

Charles A. Byrne, January 15, 1958

Exemptions should be increased to at least $1,000. The growth of the Federal Government should be halted.

Mortimer M. Caplin, Perkins, Battle & Minor, Charlottesville, Va., January 31, 1958

At the present time there is very low morale among taxpayers. This is caused by: (1) extremely high tax rates, (2) the complexity of the law, (3) tax gimmicks, (4) tax favoritism, and (5) poor enforcement.

To correct this situation, the following is recommended: A reduction of rates at the top and bottom coupled with the elimination of special relief provisions such as the dividends-received credit and exclusion, the sick-pay exclusion, and the retirement income credit.

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An averaging device should be included in the tax law to aid taxpayers with widely fluctuating incomes. This would eliminate the necessity of the capital-gains provisions to a great extent. If the capital-gains provisions are to be retained, the holding period should be increased to at least 1 year and the alternative tax should be eliminated.

As long-range projects, there should be set up a commission to study the revenue code in detail. Also, the establishment of a Court of Tax Appeals with noncriminal jurisdiction should be considered.

Dr. Gerhard Colm, chief economist, National Planning Association, Washington, D. C., February 7, 1958

Before lowering taxes, Congress should wait to see what expenditures are required by the Federal Government. If the proposed budget is followed, however, taxes should be lowered by splitting the first bracket of income and granting a slight reduction on the first $1,000. This would be preferable to raising the exemptions. At the same time the fictitiously high rates should be lowered.

An expert committee should be formed to compute the taxes paid by each income group and to propose alternative suggestions in the tax laws under which each group would pay the same taxes at reduced brackets.

Col. Richard W. Coward, in behalf of the Associated Industries of Alabama, Birmingham, Ala., January 28, 1958

Tax rates can be reduced in spite of the present international situation. The revenue loss can be made up by natural growth in the economy and by economy in Government.

William A. Crichley, chairman, tax policy committee, Manufacturing Chemists' Association, January 21, 1958

Recommends that a study be immediately begun with a view toward equitable downward revision of both corporate and individual tax rates.

Hon. John D. Dingell, Member of Congress (Michigan), February 5, 1958

Personal exemptions should be raised either to $700 or $800. H. R. 7065 and H. R. 7066. The revenue loss involved could be made up by eliminating tax favoritism such as accelerated depreciation, the dividends received credit, and the relief extended to Western Hemisphere trading corporations.

Robert B. Dresser, in behalf of the Associated Industries of Rhode Island, the Campaign for the 48 States, and the Committee for Constitutional Government, Providence, R. I., February 7, 1958

A constitutional limitation should be placed on the power of the Federal Government to levy income, estate, and gift taxes.

Loss in revenue would be made up by growth in the economy and by following the recommendations of the Hoover Commission.

Present tax laws have become complex beyond all reason and should be simplified.

Harry Goldsmith, in behalf of Slip-Ons, Inc., January 8, 1958

There should be a graduated corporate-income tax.

Harry Goldsmith, in behalf of Slip-Ons, Inc., January 8, 1958

The personal exemption should be increased by either $100 or $200 when the budget permits.

Otto Gressens, chairman, tax committee, National Coal Association, January 21, 1958

The 2-percent penalty tax on the filing of consolidated returns should be repealed.

R. M. Guntert, president, Guntert & Zimmerman Construction Division, Inc., Stockton, Calif., January 24, 1958

The ceiling tax rate should be 25 percent.

Fred L. Hahn, Westerville, Ohio, February 6, 1958

Consideration should be given to the small taxpayer who is the most in need. A raising of the exemptions to $800 would offer relief not only to the small taxpayer but to all taxpayers, and would bolster the economy.

Walter W. Heller, chairman of the Department of Economics, University of Minnesota, February 4, 1958

In spite of the prospect of a heavy deficit, it may be necessary to cut taxes to combat the recession. If in May the downtrend continues, it may be a good idea to cut the withholding rates 4 percentage points temporarily.

The constant process of evasion of the tax base should be halted. Many of the proposals to aid a particular group have highly undesirable results. Even the proposal to permit a deduction for education expenses would have the effect of giving relief where it is least needed and denying relief where most desirable.

The Federal Government should lend a hand to State and local governments in their tax problems by administrative cooperation, tax credits, tax rebates, and by relinquishing certain tax sources to the States.

Norris O. Johnson, vice president, the First National City Bank of New York, January 29, 1958

A reasonable set of tax rates would encourage an optimistic view of the benefits to be derived from effort. The tax base should be rebuilt.

Kansas State Chamber of Commerce, January 24, 1958

The Federal budget must be balanced. Corporate and individuals taxes must be lowered.

Prof. M. Slade Kendrick, New York State College of Agriculture, Cornell University, Ithaca, N. Y., January 28, 1958

The ceiling income-tax rate should be 65 percent, and personal exemptions should be lowered to $500. The exclusions, deductions, and credits under the income tax should be reexamined.

Lewis H. Kimmel, January 29, 1958

In the individual-income-tax field, present exemptions, credits, and special provisions should be carefully examined to see if each is justified. If the corporate tax base were broadened, the rates could be considerably lowered.

Miss Jessie I. Lanning, secretary of the Kern County Property Owners Association, Inc., Bakersfield, Calif., January 9, 1958

Urges consideration of tax-rate moderation in this session of Congress.

Joseph B. Lanterman, vice president, American Steel Foundries, Chicago, February 9, 1958

Recommends a gradual reduction in individual-income-tax rates to a top rate of 50 percent. Eliminate the 5-percent increment in the normal tax rate on corporations.

The 2 percent additional tax now imposed by section 1053 in respect to consolidated returns should be eliminated.

Clarence D. Laylin, in behalf of the Council of State Chambers of Commerce, Washington, D. C., February 7, 1958

Increased defense requirements must be balanced against the present decline in business in determining whether a tax cut should be enacted to stimulate the lagging economy. It must be noted, however, that a cut in tax rates will not necessarily cause an overall loss of revenue.

Specifically, the present confiscatory progressive rates should be gradually lowered to a point where the maximum rate is 50 percent or less. Present exemptions should remain the same. The reduction or rates would generally reawaken incentive and counteract the shortage of investment capital, particularly in the area of small business.

Corporate taxes should be lowered and some solution found to the problem of the double taxation of corporate earnings.

J. Bracken Lee, national chairman of the organization, For America, Salt Lake City, February 3, 1958

The recommendations of the Hoover Commission should be adopted to provide the necessary defense revenue. At present, at least 50 cents on every dollar spent by the Federal Government is wasted. The only solution is the repeal of the income-tax law which has given far too much power to appointed officials.

Hon. John Lesinski, Representative, 16th District of Michigan, January 9, 1958

Urges support of H. R. 9683; which provides an increase in the personal exemption from $600 to $700.

Walter Maynard, chairman, Federal taxation committee, Investment Bankers Association of America, Washington, D. C., February 7, 1958

Present tax rates encourage extravagance, penalize creative effort, and cause a shift in incentives. The top rate should, within a reasonable time, be brought down to 50 percent, and a 5-year averaging device adopted to alleviate the bunching of income within a short period.

Merle H. Miller, Esq., of the law firm of Ross, McCord, Ice & Miller, Indianapolis, Ind.

Taxes should be generally lowered.

Hon. Abraham J. Multer, Representative, 13th District of New York, January 9, 1958

Urges support of the following:

H. R. 802 to increase the $600 deduction now allowed to a widow or widower to aid in the care of children to a more realistic sum.

H. R. 803 to provide income-tax exemptions for members of the Armed Forces serving outside the United States not to exceed $2,000 per year.

H. R. 809, increase from $600 to $800 the per capita exemption.

Richard A. Musgrave, department of economics, University of Michigan, Ann Arbor, Mich., January 30, 1958

No general tax reduction should be undertaken until it is clear that defense requirements are met. At the same time, if a cut is needed to stimulate the economy, it is necessary to have a flexible system whereby a cut can be made at the proper time. For this reason, the President should be given the authority to make temporary tax cuts.

If and when a need for reduction arises, the bottom rate should be cut rather than a raise made in the exemptions. More specifically, the bottom bracket should be split and a rate of 15 percent applied to the first $1,000.

Robert R. Nathan, national chairman, Americans for Democratic Action, Washington, D. C., January 10, 1958

If the recession continues a tax cut should be allowed mostly in the lowest brackets. Corporate rates should be graduated with the ceiling rate 52 percent.

National U. S. Radiator Corp., Johnstown, Pa., January 15, 1958

Lower corporate tax rates would make available additional funds for research and expansion.

James G. Patton, president, National Farmers Union, Washington, D. C., January 10, 1958

In a tax reform, individual income tax should receive first priority. Personal exemption should be raised to coincide more closely with minimum adequate standards of living. Progressive taxation should be retained with possible lowering in lower brackets. Discriminatory provisions and special relief provisions in the code should be eliminated.

Gerald L. Phillippe, Controllers Institute of America, January 24, 1958

Corporate-income taxes should not be graduated.

Dr. Charles F. Phillips, president, Bates College, February 6, 1958

Tax reduction would actually bring in more revenue, since such a reduction would encourage incentives. The reduction should particularly be made in the upper brackets. The corporate rate should be reduced gradually.

George M. Rhodes, Representative in Congress from Pennsylvania, January 14, 1958

In favor of H. R. 910, a bill to establish a corporate tax rate of 22 percent normal tax and 33 percent surtax.

In favor of H. R. 382, a bill to raise the exemption for dependents from $600 to $800.

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Harry J. Rudick, Lord, Day & Lord, New York City, January 30, 1958

Tax inequality has reached such proportions that it may lead to a breakdown of the income-tax system. To correct this inequality the following steps should be taken:

(1) Allow exemptions against only the first $4,000; $8,000 for married couples;

(2) Reduce the top income bracket to 60 percent;

(3) Eliminate preferential provisions, including the dividends received credit; and

(4) Eliminate preferential rate on first $25,000 of corporate income, and permit the shareholders of small corporations to be taxed on their individual share of the corporate income.

Stanley H. Ruttenberg, director of research, American Federation of Labor and Congress of Industrial Organizaions, January 20, 1958

The taxes on the lower and middle income groups should be lowered. The loss in revenue could be made up by elimination or modification of special relief provisions contained in the code, such as percentage depletion, the dividends-received credit, and the capital-gains provisions.

J. S. Seidman, in behalf of the New York Board of Trade, New York City, February 3, 1958

There should be a balanced budget with debt reduction. It is extremely important to have equity and fairness when rates are high. Tax favoritism should be eliminated and a close look taken at tax exemptions.

An advisory group should be set up to study the entire tax structure.

Arthur A. Smith, vice president and economist, First National Bank in Dallas, and in behalf of the Texas Manufacturers Association, January 10, 1958

A tax commission should be established to study the effect of Federal taxes upon the national welfare. The concept of progressive taxation should be abandoned.

Charles Stewart, president, Machinery and Allied Products Institute, Washington, D. C., January 10, 1958

Gradual reduction of corporate and individual income tax rates.

Stanley S. Surrey, professor of law, Harvard University, January 29, 1958

There is a strong discrepancy between the stated rates of tax and the actual rates paid. This is caused by the many preferential provisions contained in the code, such as tax-exempt interest, percentage depletion, and capital gains.

There should be a reexamination of the tax base with a view toward broadening it. If this is done, rates can be lowered.

Tax enforcement is generally good, but there is considerable lack of enforcement in the area of interest and dividends. A feasible system of withholding on these items should be adopted.

The auditing by the Service could be definitely improved.

Henry P. Taylor, chairman, Virginia Manufacturers Association, Richmond, Va., January 10, 1958

Federal taxes should not be maintained at such a high rate as to interfere with private investment or with the ability of the States and local governments to provide services for expanding populations.

Tyre Taylor, Southern States Industrial Council, February 6, 1958

A modest Federal sales tax would be less injurious to our economy than the present exorbitant income-tax rate.

Fred J. Venner, in behalf of Arkansas State Chamber of Commerce and Association Industries of Arkansas, Inc., January 20, 1958

Retention of earnings is very necessary in the early stages of a business. The corporate surtax exemption should be raised to $50,000.

Robert G. Wertheimer, Babson Institute of Business Administration, Babson Park, Mass., February 7, 1958

The experience of West Germany in the past 10 years offers firm proof that a lowering of income taxes can be economically and socially beneficial.

Frazar B. Wilde, chairman, research and policy committee, Committee for Economic Development; president of the Connecticut General Life Insurance Co., February 3, 1958

The first thing needed is a scaling down of top-bracket rates. These top rates produce little revenue and damage the economy.

At the same time, the tax base should be broadened by eliminating special provisions from the law.

Next, the corporate rates should be moderated and coordinated with the individual income tax rates.

The income tax should be replaced to some degree by an increase in estate and gift tax rates.

B. B. Wooley, B. B. Wooley & Co., certified public accountants, January 15, 1958

Increase the exemptions to a reasonable figure and increase the beginning rates to compensate for the revenue loss. No more than 50 percent of a taxpayer's income should be taken. Increase the corporate surtax exemption to $50,000, and increase surtax rate to 25 or 30 percent.

Paul Ziffren, Ziffren & Ziffren, Los Angeles, Calif., February 7, 1958

Tax rates in excess of 65 percent do not produce revenue but only encourage avoidance.

F. Capital Gains

American Bar Association

Treat proceeds of purchase money obligations in the same manner as if such proceeds were of the original sale.

American Institute of Laundering, January 13, 1958

Business should have the option of not recognizing gain or loss on the sale or exchange of depreciable real property used in the trade or business.

American Poultry & Hatchery Federation, January 13, 1958

Poultry should be considered livestock for purposes of section 1231 (b) of the code.

Robert Anthoine, School of Law, Columbia University, January 29, 1958

The problem of capital gains is quite vexing. The best approach would probably be to return to a system similar to the law in effect between 1934 and 1938, that is, having the tax vary inversely with the length of time the property is held.

Thomas C. Atkeson, professor of taxation, College of William and Mary, Williamsburg, Va., January 29, 1958

The present deduction of 50 percent of net long-term capital from gross income operates to give a preferential medical deduction to those having long-term capital gains. To prevent this, the 50 percent should be made deductible from adjusted gross income.

Francis D. Butler, Iron Ore Lessors Association, Inc., January 14, 1958

The disposition of iron ore under leases for specified royalties per ton should be treated as coal and timber are presently treated, as the sale of a capital asset (H. R. 5135 (Mr. McCarthy, Minnesota)).

Robert E. Carter, chairman, governmental affairs committee, National Retail Furniture Committee, January 24, 1958

There should be a reduction of the alternate tax on capital gains both for corporations and individuals. Where there is an excess of losses over gains (by individuals), the amount allowed as a deduction from gross income should be increased to 75 percent of the excess net short-term capital losses over net long-term capital gains. Noncorporate taxpayers should be allowed to apply net capital losses to $5,000 of ordinary income.

Reuben Clark, attorney at law, Transportation Building, Washington, D. C., January 29, 1958

The best solution to the problem of capital gains is to permit a deferral of tax on capital gains to the extent that the gains are reinvested in other capital assets. Gains not reinvested would be taxed in full, and losses should be allowed in full. This "rollover" provision should not apply to corporations except on depreciable assets.

Where gains are disinvested in 1 year, a 3-year averaging device should be used to spread the gain. Where losses are involved, an ordinary loss should be allowed as a carryover for the succeeding 5 years without limitation.

In order to prevent complete avoidance of tax, gain should be taxed at the death of a taxpayer with an appropriate spread back allowed.

Rolla D. Campbell, president, National Council of Coal Lessors, Inc., January 21, 1958

Since the only justification for the capital gains tax is that it produces revenue, it should be repealed. If this is impossible, then the rate should be reduced to 10 or 15 percent.

Capital gains taxed in the hands of a corporation should be free of tax when passed on to stockholders.

G. Keith Funston, president, New York Stock Exchange, January 30, 1958

The capital-gains tax should be cut in half and, the holding period for long-term capital-gain treatment reduced to 3 months. Increase the maximum capital loss offset to $5,000. Postpone the tax on long-term capital gains where the proceeds of the sale are reinvested within 30 days in a single stock investment.

Charles O. Galvin, professor of law, Southern Methodist University School of Law, Dallas, Tex., January 20, 1958

Capital gains should be taxed on 75 percent of their amount, and the alternative tax should be eliminated.

Sidney B. Gambill, Reed, Smith, Shaw & McClay, Pittsburgh, Pa., January 30, 1958

Our capital gains system is basically wrong. The holding period should be increased to at least 1 year.

Georgia Poultry Federation, January 13, 1958

Poultry should be treated as livestock for purposes of section 1231 (b) of the code.

Edward J. Grassman, in behalf of the Kaolin Clay Association, Washington, D. C., January 22, 1958

Investors in real estate should be treated similarly to investors in stocks so that real-estate investors can obtain capital-gains treatment on investment property.

Joseph D. Henderson, managing director, American Association of Small Business, Inc., January 9, 1958

Recommends the removal of all capital-gains tax limitations on real-estate brokers and developers.

Arno Herzberg, January 24, 1958

Capital-gain treatment should be revised and extended to meet the needs of the present. Changing social values should be encouraged by extension of capital-gains treatment. Investment in men and productive capacities should be encouraged in this manner. No radical steps should be taken to lessen the scope of capital-gains treatment.

Benjamin A. Javits, president, United Shareholders of America, Inc., New York City, January 29, 1958

The holding-period requirement for long-term capital gains should be lowered to 3 months and the rate should be lowered to 15 percent.

Kansas State Chamber of Commerce, January 24, 1958

Capital losses should be deductible in full from ordinary income.

Dan Lacy, managing director, American Book Publishers Council, January 24, 1958

Self-employed authors need the following measure to meet their particular situation: The termination of discrimination against copyrights. Copyrights should be treated as capital assets.

Clarence D. Laylin, in behalf of the Council of State Chambers of Commerce, Washington, D. C., February 7, 1958

The rates on long-term capital gains should be reduced and eventually eliminated. Capital gains and losses, whether long-term or short-

term, should be offset against each other. The deduction of capital losses should be allowed on the same basis that capital gains are taxed.

Walter Maynard, chairman, Federal taxation committee, Investment Bankers Association of America, Washington, D. C., February 7, 1958

The taxation of capital gains should be greatly modified, so that where the taxpayer reinvests there would be no tax. The rate should be cut in half, and the holding period cut to 3 months. In no event should the tax imposed exceed 4 percent of the value of the property sold.

Merle H. Miller, Esq., of the law firm of Ross, McCord, Ice & Miller, Indianapolis, Ind., January 29, 1958

The special breaks to capital gains should be eliminated. The treatment of capital gains tends to encourage inactivity rather than activity. This is particularly true in the real-estate area.

Gerald L. Phillippe, Controllers Institute of America, January 24, 1958

H. R. 9035 (Mr. Simpson), now pending before the Senate Finance Committee, should be enacted. This bill would repeal section 1014 (d) of the code, which provides that stock received under an option exercised after the death of the employee shall have as its basis only the option price. Section 421 of the code (which provides that restricted stock option treatment shall apply only to options exercised within 3 months after termination of employment) should be amended to provide that retired employees shall qualify in any event.

Losses on sales between a corporation and its exempt employees trust should not be disallowed.

Frank G. Raichle, attorney for New York Service Corp., January 30, 1958

In support of H. R. 8563 and H. R. 8768 (Reed-Simpson bills), to permit the postponement of gain derived in the condemnation of a waterworks if the proceeds are reinvested in the stock of any company whose rates are regulated by a Federal or State utility commission.

Nels G. Severin, first vice president, National Association for Home Builders, Washington, D. C., January 10, 1958

Real-estate dealers should be allowed to place certain property in an investment account and obtain capital-gains treatment where property is held for 18 months or more, as provided in H. R. 5707 (Mr. Byrnes).

Real-estate investment trusts should be given treatment similar to security investment companies. The carryback and carryforward provisions should be liberalized.

Where a house is received as a trade-in, gain should be postponed until the house is sold, or up to 2 years.

Clarence L. Turner, certified public accountant, January 13, 1958

Self-insurers suffering a loss should not be penalized by the fact that they have gains from the disposition of property used in the trade or business. H. R. 9208 should be enacted, with amendment, to correct this inequity.

Wendell W. Witter, Dean Witter & Co., San Francisco, Calif., January 24, 1958

For 1 year provide a ceiling rate of 10 percent on capital gains.

G. Other

American Bar Association

Allow trusts the same treatment as corporations with respect to the limitations on assessments and collection on returns originally claiming exempt status and later found not to be exempt.

Recommend an 8-year statute of limitations in the case of false or fraudulent tax returns.

Treat employee contributions under disability benefit plans the same regardless of whether or not the plan is a private plan or a State plan.

Make provisions of section 71 of the 1954 Code applicable to preexisting written separations agreements if both parties to the agreement elect to bring themselves within the new provisions.

George W. Anderson, executive vice president, American Transit Association, January 14, 1958

The present period for the net loss carryover of net operating losses should be extended to 10 years (H. R. 6728 (Mr. Simpson)).

Carter W. Atkins, executive director, Connecticut Public Expenditure Council, Inc., Hartford, Conn., February 7, 1958

The Federal Government is encroaching on the needs of the States by heavy tax rates. Furthermore, certain taxes should be returned to the States; for example, excises and inheritance taxes.

John P. Barnes, Esq., MacLeish, Spary, Price & Underwood, January 29, 1958

Our tax law is full of shocking preferences and inequities. This is caused by a failure to adhere to a consistent definition of net income. Exceptions to the rule have multiplied and the law has grown increasingly complex and inequitable. An example of preferential treatment is that contained in provisions granting capital-gain treatment for special groups. Instead of offering capital-gain treatment, an effort should be made to solve the problem of lumping of income. Another undeserved preference is that of percentage depletion. All in all, earned income bears a disproportionate part of the tax burden.

Congress should stop enacting special provisions for the relief of particular groups, and should, after a careful study, begin to eliminate present inequalities.

Ralph E. Becker, counsel, AV-TAX, January 24, 1958

In favor of H. R. 126 (Mr. Curtis), a bill to provide a formula for tax averaging.

Virginia Neal Blue, January 15, 1958

Careful consideration should be given to the impact of Federal taxes on (1) the home, (2) county- and State-supported schools, and (3) the development of initiative in young people.

Granville S. Borden, February 7, 1958

Proposes that Congress enact legislation entitled "Administrative Tax Reform Act of 1958." The policy of such a proposal would be—

SECTION 1. It is hereby recognized that the continued policies and practices of the Internal Revenue Service, in the exercise of its rulemaking powers and in the exercise of the powers delegated to this Service by Congress to make determinations of Federal income tax liabilities under subtitle A of the Internal Revenue Code have caused severe harrassment to our citizens, have caused excessive controversies and litigation, have resulted in discriminatory determination, and have caused deterioration of the voluntary system of assessment and collection of Federal income taxes—a system which is vital to the survival of our country as a free nation.

It is therefore declared to be the policy of the Congress that the Internal Revenue Service be authorized and charged to determine the income tax liability of all taxpayers (1) as expeditiously as possible, (2) by construing doubtful matters of facts and law in favor of the taxpayers, (3) to consult the Joint Committee on Internal Revenue Taxation through its staff for clarification in cases where any construction under any broad principle pursuant to this policy might be construed to be beyond congressional intent.

B. E. Bronston, Miami, Fla., January 8, 1958

The fact that property is not productive should not raise the inference that it is held for sale in the ordinary course of business;

Real-estate dealers should be allowed to have investment accounts; and

Real-estate trusts should not be taxed as corporations where there are no more than 10 investors and the trust does not have more than $500,000 in assets.

Mortimer M. Caplin, Perkins, Battle & Minor, Charlottesville, Va., January 31, 1958

Revenue enforcement should be strengthened, especially the auditing procedure.

Robert E. Carter, chairman, governmental affairs committee, National Retail Furniture Association, January 24, 1958

No graduated corporate income tax should be imposed on corporations. The corporate surtax exemption should be increased to some figure between $50,000 and $150,000.

A reduction of national debt should precede tax reduction, and no tax reduction should require debt financing.

There should be no increase in social security taxes and benefits.

William L. Cary, professor of law, Columbia University, January 29, 1958

There is too much special legislation in the tax law, resulting in a constant erosion of the tax base. The tax law has become too complex. The 1954 Code did not change this tendency but only intensified it. The tax law should be entirely rewritten. In rewriting the tax law, Congress should assume that there will be a higher demand for revenue, not a lower demand. In order that conflicting points of view might be brought out, it would appear better that the Senate Finance Committee have its own staff.

Dean Chaffin, president, National Automobile Dealers Association, February 6, 1958

The Revenue Code should be amended to provide that a Federal lien for taxes shall not prevail against a mortgagee, pledgee, or purchaser who has no knowledge of such a lien (H. R. 5702).

Chicago & Northwestern Railway Co., January 24, 1958

In favor of H. R. 346 (Mr. Mason), a bill to amend section 723 of the 1939 Code. This bill would provide a fairer method of determining the equity invested capital of a corporation of excess profits purposes.

Lena C. Clauve, January 15, 1958

Single people maintaining a home are severely penalized by present tax laws.

William A. Crichley, chairman, tax policy committee, Manufacturing Chemists' Association, January 21, 1958

It is recommended that the law be amended to provide that no interest shall accrue subsequent to the end of the 3-year statutory period in cases where waivers are given by a taxpayer for the convenience of the Commissioner.

There are several inequities involved in the taxation of compensation which the Ways and Means Committee proposed to correct in 1954 but which still present a serious problem that the committee should again endeavor to correct.

Under existing law and the judicial doctrine of "economic benefit" an employee can be taxed on compensation prior to the time he has an actual or constructive right to realize any income with which to pay the tax. This cannot be justified under any reasonable theory of taxation.

An amendment which the Ways and Means Committee proposed in H. R. 8300 would have dealt with another inequity by making it clear that an employer is entitled at some time to a deduction for compensation which is paid into a nonqualified trust, to the extent that it is later paid to an employee. No reason was given by the Senate for the deletion of the amending provisions approved by the House.

Stephen D'Arrigo, Jr., D'Arrigo Bros. Company of California, January 24, 1958

In favor of H. R. 6794 (Mr. Gubser), a bill to place the burden on the Commissioner of Internal Revenue of determining what is a court precedent.

Moriz Dreyfus on behalf of the Bureau of Salesmen's National Associations, Inc., N. J., Mantler, managing director, and L. L. Silverstein, Washington counsel, January 9, 1958

Private pensions should be available to commissioned salesmen whether or not they may be technically "employees."

David Ellison, on behalf of Twin City Lines, January 14, 1958

The present period for carrying over losses should be increased to 10 years.

John H. Else, in behalf of the National Retail Lumber Dealers Association, Washington, D. C., February 7, 1958

Unrecorded Federal tax liens should not prevail over a mechanic's lien. This constitutes unjust enrichment of the Government.

Homeowners should be granted an incentive to repair their homes. This could be done by allowing a tax deduction for home improvements up to a specified amount.

Charles O. Galvin, professor of law, Southern Methodist University School of Law, Dallas, Tex., January 29, 1958

Downward revision in the tax rates could be made if certain provisions were eliminated. The tax laws have become so complex that revenue agents are unable to enforce them.

The disparity between the taxation of ordinary income and of capital gains is responsible for a considerable amount of litigation and the spending of an unnecessary amount of time by tax practitioners and Government representatives.

The problem of the lumping of income would be best solved by an averaging device.

Sidney B. Gambill, Reed, Smith, Shaw & McClay, Pittsburgh, Pa., January 30, 1958

The present tax laws are the fairest that we have ever known in this country. However, a few changes should be made:

(1) The voluntary disclosure policy should be reinstituted;

(2) Where the Commissioner asserts a fraud penalty or asserts that taxpayer has omitted 25 percent of gross income, and it is determined that there has really been an overpayment, then the taxpayer should be allowed to reopen the statute of limitations and obtain a refund;

(3) Expenditures incurred in search of a prospective business or investment should be deductible even though the business was never entered into;

(4) A discharge in bankruptcy should release a taxpayer from taxes.

James K. Hall, department of economics, University of Washington, Seattle, Wash., January 30, 1958

Sections 534 and 535 (c) of the 1954 Code should be eliminated. The burden should be on a taxpayer to show the reasonableness of accumulation of corporate earnings. Assuming an unreasonableness of accumulation, it is not proper to allow a minimum exemption of $60,000.

Stephen H. Hart, counsel to the National Livestock Tax Committee, January 10, 1958

Livestock producers constitute a large segment of the Nation's small business. It is recommended that (1) that income be averaged; (2) the involuntary conversion provisions be broadened, particularly with respect to replacement requirements; and (3) the estate-tax provisions should be amended to allow payment of tax in installments.

Stephen H. Hart, attorney, National Livestock Tax Committee, Denver, Colo., January 10, 1958

An individual should be allowed to average his income. (Farmers should be allowed 10 years.) The involuntary conversion rules should be liberalized to permit flexibility in the reinvestment of the proceeds.

Vernon Herndon, manager, Palmer House, accompanied by Arthur Packard, chairman, governmental-affairs committee, American Hotel Association, and Charles Merritt, counsel, January 14, 1958

The "convenience of the employer" rule should be extended to proprietors of hotels.

Employers should not be required to pay social security on tip income of employees as proposed.

The present exemptions in the unemployment tax should be retained.

Herbert C. Holdridge, Sherman Oaks, Calif., January 7, 1958

The Federal Government abdicated its power over the monetary system when it set up the Federal Reserve Board. This Board should be abolished and the property returned to the people.

Independent Natural Gas Association of America, January 24, 1958

Amended returns filed by a corporation solely for the purpose of exercising an election should be accepted in lieu of the return previously filed.

Wallace M. Jensen, general chairman, committee on Federal taxation, American Institute of Certified Public Accountants, New York City; accompanied by Matthew F. Blake, John P. Goedert, Thomas J. Graves, Benjamin Grund, Leslie Mills, and Maxwell A. H. Wakely, February 3, 1958

Averaging of income should be permitted for individuals.

A free choice of fiscal years should be permitted for new partnerships none of whose members is a partnership, a trust, or a corporation.

Attention should be given to eliminating disparities in treatment between residents of community property States and other States. Provision should be made for requiring the filing of a combined return by a group of trusts created substantially by 1 grantor for 1 beneficiary.

Kansas State Chamber of Commerce, January 24, 1958

The net operating loss carry forward should be extended to 7 years.

Sidney Kass, New York, N. Y., February 7, 1958

In lieu of present taxes there should be instituted a land-value tax. This tax would not act as an anti-incentive as present laws do. Such a tax would bear just as heavily on unimproved land as on improved land and, therefore, there would be no discouragement from development.

Willford I. King, Committee for Constitutional Government, February 6, 1958

Urges active support of the committee to a movement to amend the Constitution in such a way as to bolster economic freedom, including the right to hold and dispose of property as the owner sees fit, etc.

Dan Lacy, managing director, American Book Publishers Council, January 24, 1958

Self-employed authors need the following measure to meet their particular situation:

A better means of spreading income over the period of earning. The period should be at least 5 years and the 80-percent rule should be eliminated.

Joseph D. Lanterman, vice president, American Steel Foundries, and chairman of the Federal taxation committee, Illinois State Chamber of Commerce, January 9, 1958

Employees receiving reimbursed expenses which do not constitute gross income should not be required to report these reimbursed expenses on the tax return.

The last installment of the individual income tax should be payable on January 31 instead of January 15.

Sections 401 (a) (3) and (4) should be amended so that a pension or profit-sharing plan will qualify if there is no substantial discrimination

in favor of officers. In determining if there is discrimination, outside benefits to exclude employees should be considered.

Sections 533 and 534 should be amended to place upon the Commissioner the burden of proof of improper accumulation, and section 535 should be amended to permit a corporation which has failed to distribute income (and it is later determined that it should have) to avoid a penalty tax by a current distribution.

Specific legislation should be enacted to define the status of guaranteed annual wage plans, savings plans not geared to either pensions or profits, and other plans deferring receipt of compensation.

In favor of H. R. 9035, a bill to remove the present discrimination against stock options exercised after the employee's death.

(For further recommendations on pension and profit sharing plans, see p. 399 et seq. of the record.)

Howard Lindsay, Authors League of America, January 24, 1958

The social-security laws should be amended to provide that authors shall not lose their rights to social-security payments where they receive royalties for works created prior to retirement.

Clifford B. McManus, chairman of the special tax policy committee of the Edison Electric Institute, January 9, 1958

Some means should be found to equalize the tax burdens of publicly owned and privately owned utilities.

Nathaniel Miller, certified public accountant, New York City, January 14, 1958

To cut down on tax litigation, a tax-settlement board should be established.

Hon. Abraham J. Multer, Representative, 13th District of New York, January 9, 1958

Urges support of H. R. 805, which provides that communications relating to income tax which are mailed to a taxpayer shall not bear on the outer covering any markings which disclose information as to taxpayer's income or tax liability.

Robert R. Nathan, national chairman, Americans for Democratic Action, Washington, D. C., January 10, 1958

Progressive taxation is the most important built-in stabilizer of the economy. The difficulty now is investment surplus, not an investment shortage.

Defense expenditures should be adequate but nondefense expenditures should not be cut. Accelerated amortization should be made flexible, that is, used when investment needed and abandoned when not needed. A credit against Federal taxes should be allowed for income taxes paid to the States to encourage States to get away from regressive taxes and to allow them to provide needed facilities.

Dr. Charles F. Phillips, president, Bates College, February 6, 1958

Limitation on Federal spending is only slightly less important than building successful intercontinental missiles. Further deficit spending could bring on greater inflation in the next decade.

Gerald L. Phillippe, Controllers Institute of America, January 24, 1958

Employers' contributions to nonqualified employees' trusts should be deductible in the year payment is made to the employee where the

employees' rights are forfeitable. Coverage under pension and profit-sharing plans should not have to be integrated with coverage under social security.

Where more than one corporation is covered by a pension plan or trust, or both, the plan should be considered as the plan of one employer for the purpose of the various limitations in section 404, unless by reasonable actuarial methods the various limitations can be applied on a separate corporation basis.

A trust indenture establishing a profit-sharing plan for any group of affiliated corporations (whether or not technically affiliated within the meaning of sec. 1504) should be allowed to provide for the allocation of contributions in the tax year to all members of the group, including loss members of the group who contributed nothing and for whom nothing was contributed.

There should be an annual election of the use of consolidated returns.

The tax on intercorporate dividends should be eliminated.

FICA returns should be filed annually rather than quarterly.

Ronald Reagan, Motion Picture Industry Council, January 27, 1958

The effect of high tax rates has been to drive the movie industry abroad. This has resulted in revenue loss to the Treasury and unemployment for workers in the movie industry. It has also had the effect of preventing the presentation of the American way of life to foreign audiences. Also, an averaging of income should be permitted to those whose incomes are subject to wide fluctuation.

Carl S. Shoup, political science faculty, Columbia University, New York City, January 30, 1958

In the short run a tax reduction is indicated, while in the long run a tax increase may well be needed to fulfill our requirements. Great reliance will have to be placed on the income tax in the future. For that reason, the income tax should be reformed. At present there is a deadlock between two groups who want income-tax reforms. One group urges lower rates at the top. The other group would like to eliminate special privileges and thus broaden the tax base.

The principal loopholes in the law today are:

(1) Excessive depletion allowances, together with the option, for gas and oil properties, to deduct intangible drilling costs;

(2) Too favorable treatment for capital gains; and

(3) Exemption for interest on State and local obligations.

If the income-tax structure cannot be modified to meet the demands that will be made upon it, there will be repeated inflation.

Arthur Smithies, Graduate School of Public Administration, Harvard University, Cambridge, Mass., January 30, 1958

A tax reduction is not proper at this time in view of the large defense requirements. Even if the downturn in the economy continues, it would be preferable to counteract the downturn with a reduction of credit restraint, not by tax reduction. As the economy grows, reduction of taxes may be consistent with defense and nondefense revenues.

Charles Stewart, president, Machinery and Allied Products Institute, Washington, D. C., January 10, 1958

Carryback period for losses should be extended.

Pension funds should be permitted to buy the debt obligations of the employer.

New rules regarding reimbursed expenses should be closely scrutinized.

The Renegotiation Act should not be extended.

Willis E. Stone, in behalf of the American Progress Foundation and Know Your Constitutional Government Association, Los Angeles, Calif., February 7, 1958

The Government should not be permitted to engage in competition with private industry. If nonessential Government property were sold back to the States and to the people, taxes could be lowered and the national debt reduced. House Joint Resolution 355 should be enacted to accomplish these objectives.

George Terborgh, research director, Machinery and Allied Products Institute, Washington, D. C., January 10, 1958

Russia's gross national product is approaching that of the United States. We should step up our growth. Our present tax system is ill-suited to growth, since it discourages incentive. In view of inflation, our effective tax rates are considerably higher than what they appear to be.

Frazar B. Wilde, chairman, research and policy committee, Committee for Economic Development; president of the Connecticut General Life Insurance Co., February 3, 1958

Deficiencies in the tax system cannot be corrected by patchwork. A thorough revision is needed. A sound tax system must not discourage work, savings, and investment. It must be equitable and must at the same time raise the needed revenue. Finally, such a system should be as simple as possible.

Tax enforcement should be improved greatly. Present high rates have encouraged evasion of taxes, particularly in the area of dividends. Consideration should be also given to simplifying the individual tax return.

Wendell W. Witter, Dean Witter & Co., San Francisco, Calif., January 24, 1958

Reduce top individual tax rate to 70 percent, preferably 50 percent.

Permit averaging of partnership earnings over a period of 3 to 5 years.

Retirement and profit-sharing funds should be allowed to invest in the obligations of the employer partnership.

Andrew B. Young, chairman, Federal tax committee of the tax section of the Pennsylvania Bar Association, February 3, 1958

Expenses incurred in establishing title to, or possession of, property should not be denied where such expenses are otherwise allowed. Section 212 should be amended to provide that expenditures otherwise deductible under that section shall not be denied solely by reason of the fact that they are incurred in the advance planning of the disposition or administration of taxpayer's estate.

H. L. Zellerbach, chairman of the board, Zellerbach Paper Co., San Francisco, Calif., January 24, 1958

An economy either goes forward or backward; it cannot stand still.

Paul Ziffren, Ziffren & Ziffren, Los Angeles, Calif., February 7, 1958

Serious consideration should be given to forming a bipartisan commission to study the extent of the erosion of the tax base. Consideration should also be given to the restoration of the earned-income credit.

Serious consideration should be given to modifying the decentralization of the Service so that taxpayers might obtain a more uniform interpretation of the laws. Furthermore, the Service should discontinue legislating and should concentrate on enforcement.

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CONTENTS

OUTLINE OF THE TAXATION OF LIFE INSURANCE COMPANIES

Section I. The Taxation of Life Insurance Companies Since 1921

Since 1921 life insurance companies have been taxed, in effect, at the ordinary corporation rates but only on their free investment income, i. e. their net investment income (interest, dividends, rents, etc., less investment expenses, depreciation on rented property, etc.) less an amount, variously computed, intended to reflect the amount required to be added to reserves and otherwise needed to meet policy obligations. This deduction has been computed as follows:

1921 to 1931

Each company deducted 4 percent of its *own* insurance *reserves.*

1932 to 1941

Each company deducted 3¾ percent of its *own* insurance *reserves.*

1942 to 1948

Each company deducted the same percentage of its *net investment income.* This percentage reflected (1), in part, the portion of net investment income which the entire industry actually added to its reserves during the preceding year, and (2), in part, the portion of net investment income that the industry would have needed for its reserves if all reserves had been on an arbitrary 3¼ percent basis. The percentage deductions actually allowed for each year on this basis were as follows:

	Percent		*Percent*
1942	93	1946	95. 95
1943	91. 98	1947 (no tax paid)	100. 68
1944	92. 61	1948 (no tax paid)	102. 43
1945	95. 39		

1949 to 1950 (1950 stopgap formula)

For these years each company deducted a percentage of its net investment income—that portion of net investment income which the entire industry needed during the preceding year for its reserves. These percentages were:

	Percent
1949	93. 55
1950	90. 63

1951 to 1954 (1951 stopgap formula)

For these years the tax was 6½ percent of each company's net investment income (3¾ percent of the first $200,000). This was the same, mathematically, as a tax at 52 percent (30 percent on the first $25,000) on net investment income after deducting 87½ percent of this income. This may be compared with what the deduction would

have been under the 1949–50 formula (which is based on actual experience):

[Percent]

	1951 stopgap formula	1949–50 formula
1951	87½	87.76
1952	87½	85.43
1953	87½	81.67
1954	87½	76.00

1955 to 1957 (1955 stopgap formula)

For these years the deduction was 87½ percent of the first $1 million of net investment income and 85 percent of the remaining income. This can be compared with what the deduction would have been under the 1949–50 formula (which is based on actual experience):

[Percent]

	1951 stopgap formula	1940–50 formula
1955	87½ to 85	73.84
1956	87½ to 85	70.69
1957	87½ to 85	68.54

The 1955–57 law also provided a more comprehensive definition of net investment income; taxed the income of a life insurance company from accident and health and other nonlife operations in substantially the same way as the income of a mutual casualty company; closed several loopholes; and provided a maximum tax for small new companies based upon the overall income as reported to State insurance commissioners.

The bill as passed by the House also would have allowed a deduction of 95 percent of investment income attributable to pension fund annuities and policies, and a deduction of 90 percent with respect to the investment income related to ordinary annuities. These deductions would have been in lieu of the regular 85-percent deduction on these portions of a company's business. The Senate deleted these two special deductions and substituted the deduction of 87½ percent of the first $1 million of investment income to benefit small companies.

Section II. Principal Proposals Suggested for the Taxation of Life Insurance Companies

PART 1. TOTAL INCOME APPROACH

I. IN GENERAL

This approach in general would tax life insurance companies on their additions to surplus plus payments to stockholders. Looked at differently it would tax life-insurance companies on receipts from all sources (that is, investment income and receipts from premiums) reduced by: (1) operating expenses, (2) policyholder claims and net increases in reserves set aside for these claims, and (3) dividends paid out to policyholders.

II. WHO HAS ADVOCATED

The Treasury Department has suggested that this approach be given first consideration. Also, Mr. McCormack has introduced a bill in the 85th Congress, H. R. 13707, which follows this general approach. It is understood that many, although not all, of the mutual insurance companies look with favor on this approach.

III. TENTATIVE APPROACH AS WORKED OUT BY CERTAIN INDUSTRY REPRESENTATIVES AND ALSO AS IT APPEARS IN H. R. 13707 [1]

A. Gross receipts

Would include:

1. Insurance premiums, and considerations for annuities and supplementary contracts received;
2. Dividends, interest, rents, royalties, and other investment income;
3. Capital gains (taxed at no more than 25 percent, and with the market value on the effective date to be used as a base); and
4. Any operating income.

B. Major regular deductions allowed

1. Amounts paid to policyholders and beneficiaries by reason of death, maturity, surrender, or other special policy provisions.
2. Increases (decreases would be treated as income) in life insurance policyholders' reserves and in reserves for supplementary contracts, dividend accumulations, etc.
3. Operating expenses and other deductions generally allowed corporations, except that a 20-year carryback of losses is to be allowed.
4. Dividends paid to policyholders.

C. Major special deductions allowed

1. Capital losses to the extent in excess of capital gains are allowed as offsets against ordinary income.
2. For 25 years a deduction is to be allowed for two-tenths of 1 percent of total reserves held just prior to the effective date, for nonparticipating contracts (other than group or annuity contracts). H. R. 13707 would also allow a deduction for two-tenths of 1 percent for increases in the reserves in the taxable year. (Stated to be necessary because certain stock companies have relatively smaller surpluses than mutuals.)
3. $1 per $1,000 of life insurance in force but not over $25,000 a year ($50,000 in H. R. 13707). (For small business.)
4. A special deduction is allowed for those who, because they use the preliminary term method of valuation, understate their reserves on policies in the first year and then offset this in later years. This special deduction in effect shifts deductions from the later years back to the first year.
5. If reserves are strengthened the increase is to be spread evenly over a 10-year period for purposes of taking a deduction (the reverse is true in the case of reserve reductions).

[1] No attempt is made here to present all of the details of the plans. To the extent the main features of H. R. 13707 differ from those under the plan worked out by certain industry representatives, they are shown in parenthesis.

6. A special deduction is allowed for decreases in deficiency reserves in existence on the effective date (i. e., where the gross premium charged is less than the net premiums used in computing the reserve).

D. Contingency reserve deductions allowed

A contingency reserve can be viewed as an earmarked portion of surplus not taxed as long as held by the company. Such a reserve would be built up through the summation of the following annual deductions:

1. Nonparticipating contracts: 7 percent of increase in reserves attributable to such contracts but with an overall limitation of not more than 5 percent of the aggregate of these reserves. (Under H. R. 13707 a deduction is allowed for 1 percent of the increase in the reserves for nonparticipating contracts.[2] In addition, a deduction is allowed of $1.75 for each $1,000 of increased life insurance in force under nonparticipating policies.)

It is stated that there are greater contingent risks in nonparticipating business since in such cases there are no policyholder dividends which may be decreased if all does not go well.

2. (*a*) Aggregate increase in life insurance reserves: 2 percent of annual increase but with an overall limitation of not more than 2 percent of the aggregate of these reserves.

(*b*) For reserves calculated at more than 2½ percent: 5 percent of annual increase for each 1 percent required in excess of the 2½ percent but with an overall limitation of not more than the same percent of the aggregate of reserves. (Under H. R. 13707 a deduction is allowed for 3 percent of the increases in life insurance reserves, reserves for supplementary contracts without life contingencies, policy claim liabilities, and for dividend accumulations.)

This reserve is designed to allow for investment losses and fluctuations.

3. $1 for each $1,000 of increase in life insurance in force, excluding group insurance, but with an overall limitation of not more than 50 cents per $1,000 of the aggregate of such life insurance in force. (Under H. R. 13707 a $2 deduction is allowed for each $1,000 of increase in individual life insurance in force.)

This is designed to cover extraordinary risk losses, such as epidemics or war disasters. It is stated that catastrophic losses become more likely as the population is concentrated in urban areas.

4. Group life, and group and individual accident and health insurance: 2 percent of annual premium income on these contracts but with an overall limitation of not more than 50 percent of the annual premiums on all such insurance in force. (Under H. R. 13707 a $2 deduction is allowed for each $1,000 of group life insurance in force. For disability, death by accident, and health and accident insurance under H. R. 13707, a deduction is allowed equal to 25 percent of the increase in the net premiums on such contracts after policyholder dividends.)

It is stated that losses from writing disability and accident and health insurance sometimes have been large and that it is hard to place reserves for such losses on a sound actuarial basis.

5. Pension and profit-sharing plans: 4 percent of annual increase in reserves on these contracts but with an overall limitation of not

[2] Under H. R. 13707 wherever a deduction is allowed with respect to an increase in a reserve, in insurance in force, etc., a corresponding increase in income is required for decreases in a reserve, insurance in force, etc.

more than 4 percent of the aggregate of such reserves. (Under H. R. 13707 a deduction is allowed for 2½ percent of the increase in pension plan reserves.)

It is noted that noninsured "qualified" pension plans are tax exempt.

E. Transitional adjustment

Taxpayers during the first 4 years could elect to pay a tax based entirely on this total-receipts approach, or a portion based on this approach and a portion based on the 1955–57 "stopgap" formula. If the latter election were made, the portions of the tax computed under each would be as follows:

[Percent]

	Total income	1955–57 stopgap
1. 1958	20	80
2. 1959	40	60
3. 1960	60	40
4. 1961	80	20
5. 1962	100	0

F. Minimum tax

Provided by H. R. 13707 only. This is essentially the 1955–57 stopgap formula but only insofar as it is related to life insurance business. A deduction of 100 percent (instead of 87½–85 percent) of the net investment income related to pension and profit-sharing contracts and to other single and group annuities is allowed. It also differs from the stopgap in that it taxes capital gains.

PART 2. FREE INVESTMENT INCOME APPROACH

I. IN GENERAL

This approach in general would tax life insurance companies only on the portion of their net investment income not required to be set aside as reserves to pay claims of policyholders and beneficiaries. The amount required to be set aside for these reserves can be determined individually for each company, or a ratio of reserve requirements to investment income can be determined for the industry taken as a whole, and then applied to the investment income of individual companies. Some variation of the company-by-company approach was applied from 1921 to 1942, and from that date to the end of 1957 variations of the industry-average approach were applied (see sec. I). The proposal developed by the representatives of the industry, which is described below, makes the computation on a company-by-company basis but provides for adjustments in the reserves which for tax purposes take into account the rate of interest earned on investments rather than the rates assumed in setting the reserve patterns. However, the proposal worked out by the industry departs from a strict investment-income approach in that, in addition to investment income not required for reserves, it taxes income distributed to shareholders of stock companies to the extent these distributions exceed the income otherwise taxed. This supplementary tax is imposed at the time of the distribution.

II. WHO HAS ADVOCATED

As indicated above, some form of the free investment income approach has been applied to insurance companies for many years. It is understood that many of the stock companies, as well as some of the mutual companies, look with favor on some variation of this approach.

III. TENTATIVE APPROACH AS WORKED OUT BY CERTAIN INDUSTRY REPRESENTATIVES [3]

A. Overall scheme of taxation

1. The regular corporate income tax is imposed on what is called "life insurance taxable income." In the case of stock companies, this life insurance taxable income includes not only the normal portion of net investment income but also, in certain cases, an amount representing distributions to stockholders. (This latter aspect is a new feature of the industry plan.)

2. Non-life-insurance business is taxed either at the regular corporate rate on "nonlife insurance taxable income," or at a rate of 1 percent on the *gross* investment income attributable to this business plus the premiums less policy dividends, whichever results in the greater tax. (This is the tax treatment accorded such business under the 1955–57 stopgap formula.)

3. Capital gains are included in the computation of investment income but may not be taxed at a rate of more than 25 percent. Capital losses in excess of capital gains are deductible against ordinary investment income. For purposes of this tax, assets are valued as of the effective date. (This is a new feature of the industry proposal.)

4. "Life insurance taxable income" consists of net investment income less—

(*a*) net investment income allocable to non-life-insurance reserves;

(*b*) the portion of the investment income allocable to life-insurance company reserves, or the deduction for policy and contract liabilities; and

(*c*) a deduction for small business which consists of one-sixth of the net investment income (less the deductions referred to above), but not more than $25,000.

B. Computation of net investment income

It consists of the gross investment income shown less the deductions shown.

1. Gross investment income consists of—

(*a*) dividends, interest, rents, royalties, and other investment income;

(*b*) capital gains (subject to the limitations noted above); and

(*c*) any income from operating a noninsurance business.

2. Major deductions in arriving at net investment income:

(*a*) Tax-free interest and the 85 percent dividends-received deduction;

(*b*) Investment expenses (subject to certain limitations);

(*c*) Capital losses, whether or not in excess of capital gains;

[3] No attempt is made here to present all of the details of the plan.

(*d*) Other expenses generally deductible by corporations but only to the extent attributable to the gross investment income described above. These include deductions for bad debts, real-estate expenses, mortgage-service fees, depreciation, depletion, interest on indebtedness, and trade or business expenses. No net operating loss carryover, however, is available.

C. Computation of policy and other contract liability deduction

1. For policies and contracts other than annuity contracts and those relating to pension and profit-sharing plans, the deduction is determined by making certain adjustments to the amount of investment income required to be set aside to meet future policy claims. The adjustments made are the so-called "Menge" adjustments, which restate the reserves of each company on the basis they would be if there was taken into account the actual rate of interest earned by the company on its investments in that year rather than the rate of interest assumed in setting up the reserve. The portion of the investment income required as the result of these adjusted reserves then constitutes the deduction allowed here. (This adjustment is designed to remove the arbitrary aspect which would otherwise exist if companies were allowed deductions based on assumed rates of earnings rather than actual rates of earnings.)

2. A deduction is allowed for annuity contracts and policies and contracts relating to pension and profit-sharing plans by multiplying the average (unmodified) reserves held for these policies and contracts by the actual interest rate earned.

3. The life-insurance reserve computations in paragraphs 1 and 2 above are increased by 7 percent for reserves computed on a preliminary term basis.

4. A deduction is allowed for interest payable on settlement options, dividend accumulations, and other deposits.

5. The deduction for policy and other contract liabilities as otherwise computed is reduced by the pro rata portion of the investment income representing tax-exempt interest and the 85-percent dividends-received deduction.

D. Increase in life-insurance taxable income for certain stock companies

The purpose of this provision is to secure a minimum tax on amounts distributed to stockholders.

1. To accomplish the result set forth above, the proposal sets up a "tax record account" which initially consists of all existing capital and surplus.

2. Each year there is added to the tax record account all taxable income as determined under the investment-income approach, tax-exempt interest, the dividends-received deductions, and the special exemption for small companies.

3. The tax record account is decreased each year by cash dividends to stockholders and also by any Federal income taxes paid.

4. Taxable income then is increased by the amount by which this account is reduced below a "prescribed standard." The prescribed standard provides that the surpluses existing at the time of the adoption of the plan (set forth in No. 1 above) may not be paid out faster than 5 percent per year.

E. Alternative tax during transition period

During a 4-year transition period the proposal would permit insurance companies to pay a tax on the new basis, or an alternative tax partially on this basis and partially based upon the 1955–57 stopgap formula. If the latter election were made, the portion of the tax computed under each formula would be as follows:

[Percent]

	New free investment income approach	1955–57 stopgap
1. 1958	20	80
2. 1959	40	60
3. 1960	60	40
4. 1961	80	20
5. 1962	100	0

PART 3. A POSSIBLE COMPROMISE APPROACH

I. IN GENERAL

This approach, as its name implies, is designed as a compromise between the total-income and free investment-income approaches. In general terms it assures a *full* tax on net investment income not required to be set aside in reserves for future policyholders' claims, etc. It also taxes *one-half* of any other amounts included in the total income base, primarily, the so-called "underwriting" gains. The deductible reserves allowed in computing these underwriting gains, because of the 50-percent reduction, are much more limited than under the total-income approach set out in part 1 above. Also, this 50-percent reduction in these underwriting gains is not allowed to the extent these gains exceed net investment income.

II. OUTLINE OF APPROACH [4]

A. Overall scheme of taxation

1. First, there is a determination of a free investment-income base.
2. Second, there is a determination of a total-income base.
3. The free investment-income base is then deducted from the total-income base and any remainder is divided by two.
4. The tax base under the compromise approach is the free investment-income base as determined in step 1 above, plus the amount determined under step 3 above.
5. If the total-income base is less than the free investment-income base (including the case where there is an overall loss), the total-income base is to be recomputed without taking into account policyholder dividends as deductions. If, on this basis, the total-income base is less than the free investment-income base, 50 percent of this difference is to be allowed as a reduction in the free investment-income base. (For small new companies this entire difference might be allowed as a deduction.)
6. If other income, that is, the total-income base less the free investment-income base, exceeds the net investment income (without

[4] No attempt is made here to present all of the details of the plan.

reduction for additions to policy reserves), this excess is to be taxed in full without the 50-percent reduction (referred to in step 3 above).

B. Computation of free net investment income

1. The free investment-income base under the compromise approach could be computed on a company-by-company basis but with adjustments in the reserves to restate them on the "Menge" basis so they will reflect interest requirements based upon actual rather than assumed rates of earnings (see the method of computation set forth in pt. 2 above).

2. Alternatively, the free-investment-income base could be computed on an overall or industrywide basis either by permitting the ratio to vary from year to year, depending upon the prior year's experience or by taking some set ratio such as the 85 to 87½ percent provided in the 1955–57 stopgap formula, or some other lower ratio.

3. Under this approach a large percentage of the investment income allocable to qualified pension plans would be omitted from the tax base.

4. The policy and contract liability deduction would be reduced to prevent a double deduction for tax-exempt interest and the 85-percent dividends-received credit, or if an industrywide ratio is used other adjustments would be made to prevent double deductions in these areas.

5. Capital gains would be included in the free investment-income-tax base and losses allowed, at least to the extent of such gains. Also a new basis would be allowed in computing gains, equal to the fair market value of the assets as of January 1, 1958.

C. Computations under total-income base

Generally, this base would be computed in the manner set forth in part 1 above except that the special deductions and contingency reserve deductions would be allowed only to the extent set forth below:

1. A deduction would be allowed for group life and group and individual accident and health insurance equal to 2 percent of the annual premium income on these contracts, but with an overall limitation of not more than 50 percent of the annual premiums on all such insurance in force.

2. A deduction would be allowed for nonparticipating contracts equal to 5 percent of the increase in reserves attributable to these contracts, but with an overall limitation of not more than 5 percent of the aggregate of these reserves.

3. A special deduction would be allowed for those who, because they use the preliminary term method of valuation, understate their reserves on policies in the first year and then offset this in later years. This special deduction in effect shifts deductions from the later years back to the first year.

4. A deduction would be allowed in the case of companies with below-average reserves and low surpluses. Where the ratio of the adjusted reserves (after the Menge adjustment) to surplus is below 5 percent, the company would be eligible for an additional deduction.

5. As under the investment-income base, a large proportion of the investment income allocable at least to qualified pensions and annuities would be free of tax or deductible.

6. Part or all of tax-exempt interest and the 85-percent dividends-received deduction would be allowed as deductible items.

7. Capital gains would be included in the total-income-tax base and losses would be allowed at least to the extent of these gains. In computing gains a new base would be allowed equal to the fair market value of the assets on the effective date.

D. Other considerations

1. As in the case of the total-income and free investment-income approaches, a transitional alternative tax could be provided under which the tax base over a 3- to 5-year period would be shifted gradually from the 1955–57 stopgap approach to the new compromise approach.

2. As under the free investment-income approach, a special feature might be added providing modified tax treatment for small companies.

3. The negative adjustment to the investment income (referred to in A (5) above) could be allowed for 50 percent of any loss from group insurance and group and individual accident and health insurance, whether or not there was an overall loss in underwriting operations.

Section III. Principal Issues in the Taxation of Life-Insurance Companies

A. The basic issue

The basic issue is whether taxable income should be limited to free investment income (net investment income less amounts needed to meet policy obligations), total income ("net gain from operations after dividends to policyholders" as shown in reports to State commissioners of insurance, with appropriate adjustments for tax purposes), or some combination of these approaches.

B. Problems if the free investment income approach is adopted

1. Underwriting income.—Some relatively small companies sell only credit insurance. They have very little investment income but relatively large income from underwriting. Some of them have been paying taxes (based on investment income) of less than 1 percent of stated incomes. Moreover, many larger companies, which have large amounts of investment income, also have substantial amounts of underwriting income from group term insurance (which involves relatively small amounts of investment income). Should such significant amounts of underwriting income be omitted? Alternatively, if free investment income is to be increased in some fashion to reflect underwriting income in whole or part, what adjustments are feasible?

2. Company-by-company or industrywide.—A question which has been debated for many years is whether, in determining the deduction for interest needed to meet policy obligations, each company should deduct the interest required to be added to its reserves in accordance with its own reserve pattern, whether the deduction should be a uniform percentage of net investment income based on the experience of the whole industry, or whether some combination of the two methods is desirable and feasible. If an industrywide ratio is used, is not a question of equity presented as between companies which have different ratios of needs to receipts? On the other hand. if the deduction is based upon the assumed reserve requirements of individual companies, does it not create an arbitrary distinction between companies depending upon voluntary choices with respect to reserve patterns?

3. Actual or arbitrary percentage deduction.—One of the principal issues raised is whether the aggregate amount deducted by the industry should be on some arbitrary basis (such as the 87½ percent to 85 percent formula of the 1955–57 stopgap provision) or whether it should reflect actual experience of the industry (as in the case of the 1949–50 law). For 1957, under the 1955–57 law, the deduction is 87½ percent of the first $1 million and 85 percent of the remainder; whereas under the 1949–50 formula the deduction for 1957 would have been 68.54 percent.

4. Non-life-insurance business.—If the free investment income approach is followed, a question is presented as to the proper tax treatment for non-life-insurance business, such as health, accident, and disability insurance. The question is whether the taxation of only investment income represents an adequate tax treatment for this type of business or whether such business should be taxed in a different manner, as is true where this non-life-insurance business is carried on by stock or mutual casualty companies.

C. Problems if the total income approach is adopted

1. Dividends to policyholders.—Mutual companies charge relatively larger premiums and subsequently pay back unneeded excess premiums as dividends to policyholders. Repayments of excess charges presumably should be deducted in determining taxable income. But several questions arise:

(*a*) It has been suggested that some (or many) mutual companies will pay all or a large part of their current earnings to policyholders, thus eliminating, or minimizing, their income taxes. It has also been suggested that if this happened the position of competing stock companies (which, in general, do not pay dividends to policyholders) would be jeopardized. If this is so, can appropriate restrictive provisions be devised?

(*b*) If the total-income approach were adopted, some mutuals would then have relatively larger surplus funds than other mutual and stock companies. Presumably, for a number of years the companies with larger surpluses could pay relatively higher dividends, and thus pay relatively lower taxes, than competing mutual and stock companies. Can this situation be controlled?

(*c*) Business enterprises are expected to make profits. Presumably, other things being equal, a mutual insurance company would earn proportionately as much profit as a stock competitor. The stock company could distribute a taxed profit to its stockholders; but if a mutual distributed a similar profit to its policyholders should the nature of the distribution eliminate the tax? Can this be controlled?

2. What is income?—Corporations generally are not permitted to deduct reserves for uncertain contingencies. However, life-insurance policies involve very long-term obligations to be satisfied by fixed premiums. Although the technical reserves contain certain margins as to probable mortality and probable interest receipts, it is contended that a substantial part of current income should be retained to meet needs that may develop in the future because of economic depression, epidemics, catastrophes, etc., which would result in high investment or mortality losses.

(*a*) Should deductions for various contingency reserves be allowed to life-insurance companies for fluctuations in investment values, for

losses from disasters where group policies are involved, for losses which may arise as the result of epidemics and so forth, and for losses as a result of the uncertainties of the amount of claims for sickness and accident insurance? If so, what criteria can be developed to determine the amount and timing of permissible deductions for such reserves?

(*b*) It is contended that stock companies do not have policyholder dividends to use as a cushion in a time of adversity, and thus should be permitted to retain a larger proportion of current income (deduct larger amounts as reserves) than their mutual competitors. If so, what criteria can be developed to reflect this larger risk?

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