

# REFUNDS AND CREDITS OF INTERNAL REVENUE TAXES 1931

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## REPORT OF THE JOINT COMMITTEE ON INTERNAL REVENUE TAXATION

Pursuant to Section 710 of the Revenue Act of 1928

AND

REPORT OF THE STAFF OF THE JOINT COMMITTEE  
TO THE COMMITTEE



JANUARY 30, 1933.—Referred to the Committee on Ways and Means and  
ordered to be printed

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## JOINT COMMITTEE ON INTERNAL REVENUE TAXATION

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L. H. PARKER, *Chief of Staff*

G. D. CHESTEEN, *Assistant Chief*.

COLIN F. STAM, *Counsel*.



## LETTER OF TRANSMITTAL

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JOINT COMMITTEE ON INTERNAL REVENUE TAXATION,  
*Washington, January 30, 1933.*

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

SIR: Pursuant to section 710 of the revenue act of 1928, I have the honor to submit a report by the Joint Committee on Internal Revenue Taxation, dated January 28, 1933, covering refunds and credits of internal-revenue taxes for the calendar year 1931.

Very respectfully,

JAMES W. COLLIER,  
*Chairman.*

## REPORT OF THE JOINT COMMITTEE ON INTERNAL REVENUE TAXATION

(Pursuant to the revenue act of 1928)

WASHINGTON, D. C., *January 28, 1933.*

Section 710 of the revenue act of 1928 requires that all refunds and credits in excess of \$75,000 shall be reported to the Joint Committee on Internal Revenue Taxation by the Commissioner of Internal Revenue. This section also requires an annual report to Congress of such refunds and credits, including the names of all persons to whom amounts are credited or payments made, together with the amounts credited or paid to each.

Pursuant to the above provision of law, the joint committee has caused its staff to examine all such refunds and credits made by the commissioner during the calendar year 1931, and to submit a report thereon to the committee. This is the fourth report made under the revenue act of 1928. The first report was submitted on June 8, 1929, and covered the period June 1 to December 31, 1928. The second report was made on June 20, 1930, and embraced the calendar year 1929. The third report was made on January 12, 1932, and covered the calendar year 1930.

A complete copy of the report for the calendar year 1931 is attached hereto. Part I of this report contains a list of the names of all persons to whom refunds or credits have been made and shows the amounts paid or credited to each. The committee submits this list and states that it agrees with the records of the Treasury Department.

While it is not required by law, the committee deems it advisable to also submit to the Congress Part II and Part III of the staff report. These parts cover an analysis and general survey of overassessments. The committee does not specifically approve or disapprove of Part II and Part III of the report. The Treasury Department has prepared an analysis of the overassessments reported to the joint committee and this has been included as a supplement to Part II.

Respectfully,

JAMES W. COLLIER,  
*Chairman.*

## LETTER OF SUBMITTAL

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CONGRESS OF THE UNITED STATES,  
JOINT COMMITTEE ON INTERNAL REVENUE TAXATION,  
*Washington, December 5, 1932.*

Hon. JAMES W. COLLIER,  
*Chairman Joint Committee on Internal Revenue Taxation,*  
*Washington, D. C.*

MY DEAR CHAIRMAN: There is submitted herewith a report on refunds and credits of internal-revenue taxes in excess of \$75,000, as required by section 710 of the revenue act of 1928.

The report covers the calendar year 1931, and may be summarized as follows:

1. The total overassessments, including interest, in excess of the \$75,000 limit, for the calendar year 1931 amount to \$38,709,828.48. This is considerably less than such overassessments, including interest, for the calendar year 1930 which amounted to \$97,503,653.36.

2. Taken as a whole, the final determinations of the commissioner in these cases have been carefully and accurately made, and are not open to serious criticism. In disposing of a few of the old cases which have been pending for years, some differences of opinion have inevitably arisen, but the department has cooperated in every way by making a review of all the issues raised.

Respectfully submitted.

L. H. PARKER,  
*Chief of Staff.*

# REPORT ON REFUNDS AND CREDITS OF INTERNAL REVENUE TAXES, 1931

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## FOREWORD

Refunds and credits of internal-revenue taxes in excess of \$75,000 have been reported to the Joint Committee on Internal Revenue Taxation by the commissioner since February 28, 1927, with the exception of the period from April 25, to May 29, 1928. These reports were first required under the first deficiency act, 1927. (H. R. 16462, February 28, 1927, ch. 226, 44 Stat. 1254.) This act contained the following provision:

Refunding taxes illegally collected: For refunding taxes illegally collected under the provisions of sections 3220 and 3689, Revised Statutes, as amended by the revenue acts of 1918, 1921, 1924, and 1926, including the payment of claims for the fiscal year 1928 and prior years, \$175,000,000, to remain available until June 30, 1928: *Provided*, That no part of this appropriation shall be available for paying any claims allowed in excess of \$75,000 until after the expiration of sixty days from the date upon which a report giving the name of the person to whom the refund is to be made, the amount of the refund, and a summary of the facts and the decision of the Commissioner of Internal Revenue is submitted to the Joint Committee on Internal Revenue Taxation.

No reports were required in the first deficiency act, 1928 (December 22, 1927, ch. 5, 45 Stat. 30), or in the Treasury appropriation act of March 5, 1928 (ch. 126, 45 Stat. 162). But the revenue act of 1928, in section 710, specifically required the commissioner to make such reports to the joint committee. Section 710 of the revenue act of 1928 reads as follows:

SEC. 710. *Refunds and credits to be referred to joint committee.*—No refund or credit of any income, war-profits, estate, or gift tax, in excess of \$75,000, shall be made after the enactment of this act, until after the expiration of thirty days from the date upon which a report giving the name of the person to whom the refund or credit is to be made, the amount of such refund or credit, and a summary of the facts and the decision of the Commissioner of Internal Revenue is submitted to the Joint Committee on Internal Revenue Taxation. A report to Congress shall be made annually by such committee of such refunds and credits, including the names of all persons and corporations, to whom amounts are credited or payments are made, together with the amounts credited or paid to each.

As the revenue act of 1928 was not enacted until May 29, 1928, and as the appropriation under the first deficiency act, 1927, became exhausted on April 25, 1928, the commissioner did not report to the joint committee any credits or refunds made during the period April 25, 1928, to May 29, 1928. The first report submitted to Congress (H. Doc. 43, 71st Cong., 1st sess.) under the revenue act of 1928 covered the 7-month period from May 29, 1928, to December 31, 1928. However, there was included in this report an analysis of the refunds made during the 14-month period February 28, 1927, to April 24, 1928, and reported to the committee pursuant to the first deficiency act, 1927. The second report on refunds and credits was made by the joint committee to Congress on June 20, 1930. This



report (H. Doc. 478, 71st Cong., 2d sess.) covered all refunds and credits in excess of \$75,000 reported to the joint committee by the commissioner during the calendar year 1929. The third report on refunds and credits was made on January 12, 1932. This report (H. Doc. 223, 72d Cong., 1st sess.) embraces all refunds and credits in excess of \$75,000 reported to the joint committee by the commissioner during the calendar year 1930. The report now submitted constitutes the fourth report and embraces the refunds and credits in excess of \$75,000 reported by the commissioner to the committee during the calendar year 1931.

There has been no change in the policy of the committee as to its functions with respect to its examination of refunds and credits since the publication of the first report. In the first report the intent of Congress in requiring such examination was analyzed as follows:

First. It appeared to be the purpose that the joint committee should inform the Congress not only as to the amounts of the refunds and credits over \$75,000, but also as to the principal causes of such repayments.

Second. It appeared to be the purpose that the joint committee and its staff should study these cases in order to inform themselves as to the practical operation and effect of our internal-revenue system of taxation.

Third. It appeared to be the purpose that the joint committee, or its authorized agents, should call to the attention of the Treasury Department any final tax determinations resulting in refunds or credits which might seem erroneous, or doubtful, or worthy of further investigation and review.

The above-named purposes have been carefully kept in mind during the entire period during which refunds and credits have been submitted to the committee. It has been recognized, however, that the committee has no actual power of approval or disapproval of these refund cases, and that the duty of the committee in this respect has been fulfilled when comments or criticisms have been submitted to the Treasury for consideration.

## SUMMARY

This report is divided into three parts:

Part I consists of a list of refunds and credits in excess of \$75,000 allowed in the calendar year 1931, which list is required to be reported to the Congress under section 710 of the revenue act of 1928.

Part II contains an analysis of overassessments. This analysis shows the total amounts of the overassessments and the principal causes for their allowance. There is also contained in Part II a brief resumé of each case, alphabetically arranged. An analysis of these overassessments has also been prepared by the Treasury Department and is included as a supplement to Part II.

Part III consists of a general survey of the overassessment situation.

The most important facts and conclusions presented in the report are summarized as follows:

1. The total overassessments, including interest, allowed during the calendar year 1931 in cases involving refunds and credits over \$75,000 amounted to \$38,709,828.48. This total includes not only refunds and credits but also the abatements included with these

adjustments. The rate of overassessment was, therefore, \$3,225,819 per month. This rate was 60 per cent less than the rate shown in the report for the calendar year 1930, which was \$8,125,304 per month. From February, 1927, to December 31, 1930, the average monthly rate of overassessment with interest was \$9,514,449. The rate in 1931, therefore, represents a decrease of 66 per cent over the average rate for the preceding four years. This indicates a very satisfactory decline in Treasury outgo due to tax adjustments, although such decline is somewhat magnified by the inclusion of abatements.

2. A more conservative picture of the situation in 1931 may be shown by comparing the monthly rates at which credits and refunds have been made in that year with previous years. Credits and refunds directly affect the revenue whereas abatements represent merely the elimination of an incorrect charge on the books of the Government. For the period from February, 1927, to December, 1928, the average monthly rate at which taxes were refunded and credited, not including interest, amounted to \$6,945,717. For the calendar year 1929 this rate was \$4,514,387, for the calendar year 1930 the rate was \$4,571,011, and for the calendar year 1931 the rate was \$2,144,652. Thus, the rate for the calendar year 1929 decreased 35 per cent over the preceding period, while the rate for 1930 increased about 1 per cent over that for 1929. The monthly rate for 1931 was 53 per cent less than for 1930. A conclusion that refunds and credits are declining is, therefore, fully justified.

3. Cash refunds allowed in excess of \$75,000 amounted to only \$15,773,240 in 1931, in comparison with cash refunds of \$27,174,872 in 1930. This shows a decrease of about 42 per cent.

4. The principal causes of the overassessments reported to the committee during 1931 are as follows:

	Per cent
Estate tax.....	15
Foreign taxes.....	11
Special assessment.....	10
Invested capital.....	9
Depreciation.....	9
Inventory adjustments.....	8

From the above table, it is apparent that estate tax adjustments are the principal single cause of overassessments. However, these adjustments include an abnormally large amount of abatements due to the bureau policy of assessing the entire estate tax before the evidence of payment of State death taxes can be submitted. It is understood that this policy, which results in a distorted tax picture, has recently been changed. It is believed that the overassessments attributable to this cause will show a decided decrease in the picture. The second principal cause of overassessments is found in the credit or deduction of foreign taxes paid. The revenue act of 1932 substantially limits these credits, so that a future decline in this item may also be expected. The special assessment and invested capital adjustments relate only to the excess-profits tax years 1917 to 1921, inclusive. The provisions relating to these subjects were undoubtedly the most troublesome ever introduced into the revenue acts. However, they will be out of the picture when these old tax years are finally



closed. In the future it is probable that depreciation will constitute the most frequent basis for refunds. The taxes for the excess-profits tax years 1917-1921, inclusive, are gradually being settled. This is shown by the following comparative table:

<i>Total overassessments for the excess-profits tax years</i>		Per cent
14-month period, Feb. 28, 1927-Apr. 24, 1928-----		88
7-month period, May 29, 1928-Dec. 31, 1928-----		77
12-month period, Jan. 1, 1929-Dec. 31, 1929-----		71
12-month period, Jan. 1, 1930-Dec. 31, 1930-----		59
12-month period, Jan. 1, 1931-Dec. 31, 1931-----		53

5. In the majority of cases the refunds and credits reported by the commissioner have not been open to serious criticism. Differences of opinion have, however, arisen in disposing of some of the excess-profits tax cases which have long been pending. In such cases, the points in controversy have been discussed and reviewed with the department. During the calendar year 1931, 115 cases were reported to the committee. Serious controversy arose in only 11 of these cases, 5 of which involved the same issue. The cooperation of the department is shown by the following facts with respect to the disposition of these 11 cases:

One case was changed to conform in part with the views of the staff of the committee.

One case was withheld pending further review.

The remaining cases were not changed, but some of the issues raised had the effect of more clearly defining the policy of the bureau with respect to other cases.

In addition to the foregoing, one case, which had been withheld from payment in 1930 because of issues raised by the staff of the committee, was closed in conformity with the staff's views with a substantial reduction in the allowance.

The net result of the changes is a saving of approximately \$318,000 in favor of the Government. This saving is less than 1 per cent of the total overassessments allowed, but is sufficient to justify the expense of the committee examination, which amounts to only 6 per cent of the saving effected.

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PART I

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LIST OF CREDITS AND REFUNDS  
OF OVER \$75,000 EACH  
FOR THE  
CALENDAR YEAR 1931

(As required by Section 710, Revenue Act of 1928)

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PART I

Refunds and credits reported to the Joint Committee on Internal Revenue Taxation by the Commissioner of Internal Revenue, under the provisions of section 710 of the revenue act of 1928

Name of taxpayer and address	Years involved	Abatements	Credits	Refunds	Original and additional assessments	Net over-assessments allowed	Previously allowed	Final tax collected	Interest	Per cent tax reduction
<i>January, 1931</i>										
1. American Arch Co., New York <sup>1</sup>	1918, 1919, 1920			\$120, 711.33	\$744, 117.37	\$120, 711.33		\$622, 988.64	\$74, 407.81	16.22
2. Camp, J. L., estate of, Norfolk, Va.	1925			129, 768.76	168, 738.94	129, 768.76		58, 970.18	8, 498.96	76.90
3. Carbon Steel Co., Pittsburgh, Pa. <sup>2</sup>	1919			376, 329.03	3, 296, 733.35	376, 329.03	\$711, 730.60	2, 208, 693.72	237, 858.71	33.00
4. Ellerman & Bucknall, Steamship Co. (Ltd.), London, England	1919				264, 290.00	80, 547.69		183, 742.31		30.48
5. Good, Daniel, estate of, Buffalo, N. Y. <sup>3</sup>	1926, 1927, 1928		\$80, 547.69		89, 968.21	89, 073.62		889.59	12, 791.33	92.01
6. Greve, Clara M., estate of, Brooklyn, N. Y. <sup>4</sup>	1928		100, 000.00		124, 101.84	100, 000.00		24, 101.84	8, 344.31	80.58
7. Manufacturers Light & Heat Co., Pittsburgh, Pa.	1920, 1921			75, 619.00	449, 795.76	75, 619.00		374, 176.76	34, 071.85	16.81
8. Robertson, Andrew D., estate of, Shamokin, Pa.	1928	\$100, 138.29		197, 345.74	371, 604.77	297, 484.03		74, 120.74	21, 662.07	80.05
9. Shevlin, James, estate of, Brooklyn, N. Y.	1924			81, 623.38	253, 974.54	81, 623.38		172, 351.16		32.14
10. Warren Bros. Co., Cambridge, Mass.	1927			110, 778.95	219, 809.63	110, 778.95		109, 030.68	13, 655.51	50.40
11. Wheeling Steel & Iron Co., Wheeling, W. Va.	1918, 1919		181, 556.47		3, 864, 639.74	181, 556.47		3, 683, 083.27	4, 351.38	4.70
12. Whitaker-Glessner Co., Wheeling, W. Va.	1919	2, 348.28	210, 603.55		1, 318, 349.31	212, 951.83		1, 105, 397.48		16.15
Total		102, 486.57	661, 787.33	1, 092, 176.19	11, 166, 144.46	1, 836, 450.09	711, 730.60	8, 597, 546.37	415, 641.93	
<i>February, 1931</i>										
1. Berkshire Knitting Mills, Reading, Pa. <sup>5</sup>	1920, 1922			103, 108.28	2, 012, 154.29	103, 108.28		1, 679, 924.00	95, 849.25	15.36
2. Deering, Charles, estate of, Chicago, Ill.	1921, 1923			573, 059.90	767, 275.26	573, 059.90	206, 084.70	192, 215.36	112, 692.88	74.96
3. Fitzgerald, Mary Ann, estate of, New York.	1927	524, 110.60		89, 020.49	739, 621.00	613, 131.09		146, 489.91	6, 586.00	80.72
4. Illinois Addressograph Manufacturing Co., Chicago, Ill. <sup>6</sup>	1915-1923		17, 336.95	55, 294.64	1, 788, 817.52	72, 631.59	648, 884.74	1, 032, 679.42	36, 219.17	40.33

<sup>1</sup> Withheld for 1921 deficiency, \$417.40.  
<sup>2</sup> Includes notice of refund of \$854.79 to correct excess interest collection.  
<sup>3</sup> Interest credited to account of Sarah E. Good.  
<sup>4</sup> Interest credited to outstanding taxes.  
<sup>5</sup> Barred by statute, \$23,087.31.  
<sup>6</sup> Withheld for adjustment in connection with proposed deficiencies for 1924, 1925, and 1927, \$34,621.77.

*Refunds and credits reported to the Joint Committee on Internal Revenue Taxation by the Commissioner of Internal Revenue under the provisions of section 710 of the Revenue Act of 1928—Continued*

Name of taxpayer and address	Years involved	Abate-ments	Credits	Refunds	Original and additional assessments	Net over-assessments allowed	Previously allowed	Final tax collected	Interest	Per cent tax re-duction
<i>February, 1931—Continued</i>										
5. Kingan & Co., (Inc.), Indianapolis, Ind. <sup>1</sup>	1923		\$104, 154.37		\$318, 260.19	\$104, 154.37		\$214, 111.82	\$42, 023.44	32.73
6. Nashville Industrial Corporation, Old Hickory, Tenn. <sup>8</sup>	1925-1928		100, 177.40		176, 083.22	100, 177.40		75, 905.82	17, 172.65	56.89
7. North American Oil Consolidated, San Francisco, Calif. <sup>9</sup>	1924, 1926, 1927		27, 290.00		449, 132.28	27, 290.00		371, 720.72	3, 574.62	60.76
8. Norwalk Tire & Rubber Co., Norwalk, Conn.	1918-1920	\$71, 071.63	19, 877.19		477, 036.84	90, 948.82		386, 088.02		19.07
9. Orlando Petroleum Co., Topeka, Kans. <sup>10</sup>	1920			\$89, 420.54	278, 553.92	89, 420.54		189, 133.38	2, 532.34	32.10
10. Union Bag & Paper Corporation, New York.	1917-1919		85, 407.99		900, 081.79	85, 407.99	\$26, 511.52	788, 162.28	653.54	12.43
11. Vacuum Oil Co., New York <sup>11</sup>	1918									
12. Wolverine Petroleum Corporation, St. Louis, Mo. <sup>12</sup>	1924-1926			77, 496.22	222, 802.42	77, 496.22		113, 047.34	18, 231.40	34.78
Total		595, 182.23	354, 243.90	989, 400.07	8, 149, 824.73	1, 938, 826.20	881, 430.96	5, 189, 478.07	265, 535.38	
<i>March, 1931</i>										
1. Briggs Manufacturing Co., Detroit, Mich.	1928			203, 020.65	533, 660.00	203, 020.65		330, 639.35	17, 415.62	28.04
2. F. L. Carlisle & Co. (Inc.), New York	1929	323, 471.61		8, 077.09	703, 136.15	331, 548.70		371, 587.45	17, 145.05	47.15
3. Coban, Helen F. estate of, New York	1920-1924, 1926		89, 385.20		91, 328.63	89, 305.20		1, 933.43	36, 293.66	96.82
4. Elton Corporation, New York	1927, 1928			84, 077.71	198, 875.60	84, 077.71		114, 707.89	11, 133.58	42.28
5. J. F. Feder & Co. (Inc.), New York	1929		75, 337.67		128, 741.62	75, 337.67		53, 403.95	1, 811.06	58.62
6. The Fleischmann Co. and subsidiaries, New York	1918, 1919, 1921		104, 418.07		4, 723, 169.84	104, 418.07	1, 595, 374.58	3, 023, 377.19	968.73	35.99
7. Judson, Reile K. (Mrs.), Grosse Pointe Park, Mich.	1927, 1928		192, 581.62		193, 612.58	192, 581.62		1, 030.96	20, 726.11	99.47
8. Kansas City Southern Railway Co., Kansas City, Mo. <sup>1</sup>	1926, 1927									
9. Lawrence Manufacturing Co., Lowell, Mass. <sup>2</sup>	1910			98, 009.48	680, 568.33	98, 009.48	86, 060.58	496, 498.27	63, 361.11	27.05
10. Newark News Shipbuilding & Dry Dock Co., Newport News, Va.	1919, 1922-1924		888, 723.89		2, 647, 798.32	888, 723.89		1, 789, 074.43		32.43
11. Paines Pipe Line Co., Independence, Kans. <sup>3</sup>	1915-1927		1, 886, 036.80	405, 452.86	39, 392, 071.03	2, 291, 489.66	77, 690.41	36, 378, 645.99	1, 369, 787.33	6.01
12. Spiegel, May, Stern Co. (Inc.), Chicago, Ill.	1928		76, 991.10		164, 494.66	76, 991.10		87, 503.56	6, 232.99	46.80
Total		323, 471.61	3, 283, 484.35	798, 637.79	49, 437, 456.76	4, 405, 593.75	1, 769, 125.57	42, 648, 492.47	1, 527, 877.23	

April, 1931

1. Brady, James Cox, estate of, New York.	1927	1, 549, 292.10	---	178, 319.42	2, 067, 917.59	1, 727, 611.52	---	340, 306.07	21, 122.30	83.54
2. Crown Willamette Paper Co. (Maine)	1924, 1925	---	149, 964.15	42, 072.68	1, 139, 209.92	192, 036.83	---	904, 354.74	49, 605.59	16.86
3. Equitable Life Assurance Society of the United States, New York.	1917	---	---	169, 447.51	817, 782.71	169, 447.51	15, 678.90	632, 656.30	107, 058.33	22.64
4. International Telephone Sales and Engineering Corporation, Chicago, Ill.	1920	---	---	103, 868.09	291, 796.35	103, 868.09	1, 448.46	186, 479.80	22, 758.49	36.09
5. Parker, Mary E. (Mrs.), Portland.	1928	---	---	132, 582.00	141, 553.21	132, 582.00	---	8, 971.21	14, 213.42	93.66
6. Singer Manufacturing Co., Elizabeth, N. J. <sup>8</sup>	1921, 1922, 1924	---	114, 877.38	---	5, 508, 939.22	114, 877.38	43, 817.66	4, 856, 547.18	22, 054.82	2.88
Total	---	1, 549, 292.10	264, 841.53	626, 289.70	9, 967, 199.00	2, 440, 423.33	60, 945.02	6, 929, 315.30	236, 812.95	---
May, 1931										
1. Aluminum Goods Manufacturing Co., Manitowoc, Wis. <sup>19</sup>	1918, 1920	---	76, 190.52	130.94	1, 709, 730.10	76, 321.46	---	1, 633, 408.04	961.92	4.46
2. Atkinson, Thomas, estate of, Baltimore, Md.	1924	---	---	122, 634.79	142, 064.82	122, 534.79	3, 546.95	15, 973.08	46, 212.40	88.76
3. Cleveland Railway Co., Cleveland, Ohio.	(1910-1913, 1915-1917, 1928, 1929)	20, 448.81	173, 610.76	---	703, 836.13	194, 059.57	---	509, 776.56	4, 563.31	27.57
4. Columbian Carbon Co., Wilmington, Del.	1923-1928	---	---	82, 420.90	1, 422, 232.27	82, 420.90	---	1, 339, 811.37	24, 510.77	5.80
5. Copley, Ira C., Aurora, Ill.	1926, 1928	---	---	92, 944.17	664, 102.27	92, 944.17	---	571, 158.10	8, 933.28	14.00
6. Delaware, Lackawanna & Western Coal Co., New York.	1920	---	1, 693.41	93, 747.58	2, 009, 126.62	95, 440.99	9, 606.61	1, 904, 079.02	54, 351.28	5.22
7. Denver & Rio Grande Western Railroad Co., Denver, Colo.	1924, 1925	---	242, 044.96	---	363, 114.24	242, 044.96	---	141, 069.28	49, 877.60	63.18
8. Diamond Match Co., New York.	1918-1920	---	184, 585.08	127, 388.27	1, 259, 761.44	311, 973.35	---	947, 788.09	194, 082.87	24.76
9. Illinois Traction Co., Chicago, Ill. <sup>20</sup>	1918, 1919	---	110, 595.49	---	168, 457.66	110, 595.49	287.49	---	71, 302.23	65.81
10. Life Insurance Co. of Virginia, Richmond, Va.	1919, 1920	---	---	215, 072.38	321, 982.15	215, 072.38	---	106, 909.77	105, 172.63	66.80

<sup>7</sup> Interest credited to tax due for fiscal year ended Oct. 31, 1921.

<sup>8</sup> Interest credited to 1924 tax.

<sup>9</sup> Withheld for adjustment in connection with deficiencies for prior years, \$50,121.56.

<sup>10</sup> Notice of refund.

<sup>11</sup> Entire overassessment of \$130,560 withheld in connection with proposed deficiencies for 1920 and 1921.

<sup>12</sup> Withheld for adjustment in connection with a deficiency for 1923, \$32,258.86.

<sup>13</sup> Interest credited to outstanding account.

<sup>14</sup> Entire overassessment of \$118,593.69 withheld in connection with proposed deficiencies for 1918, 1919, 1920, and 1925.

<sup>15</sup> Notice of refund.

<sup>16</sup> Barred by statute, \$644,244.97.

<sup>17</sup> Barred by statute of limitations, \$10,995.14; withheld in connection with proposed deficiency for 1928, \$31,823.21.

<sup>18</sup> Barred by statute of limitations, \$104,008.44; withheld for adjustment in connection with proposed deficiency for 1928, \$389,688.56.

<sup>19</sup> Includes notice to refund of \$130.94 to correct excess interest collection.

<sup>20</sup> Barred by statute of limitation, \$57,594.58.



*Refunds and credits reported to the Joint Committee on Internal Revenue Taxation by the Commissioner of Internal Revenue under the provisions of section 710 of the Revenue Act of 1928—Continued*

Name of taxpayer and address	Years involved	Abate-ments	Credits	Refunds	Original and additional assessments	Net over-assessments allowed	Previously allowed	Final tax collected	Interest	Per cent tax re-duction
<i>May, 1931—Continued</i>										
11. Louisville Gas & Electric Co. of Dela-ware, Louisville, Ky. <sup>21</sup>	1922-1925		\$125,721.78	\$68,942.53	\$486,612.81	\$194,664.31		\$270,761.75	\$75,701.10	40.00
12. Nestles Food Co. (Inc.), of New York, and subsidiaries, New York <sup>22</sup>	1918, 1919	\$8,749.29		78,434.58	151,469.33	87,183.87		64,244.58	55,858.49	57.56
13. Pittsburgh Plate Glass Co., Pitts-burgh, Pa.	1917, 1918, 1920-1925	79,025.44	183,854.79	430,253.86	16,349,417.21	693,134.09	\$16,265.09	15,640,017.43	231,450.76	4.34
14. Puget Sound Tug Boat Co., Seattle, Wash.	1917	46,916.66	115,275.70		245,134.62	162,192.36		82,942.26		66.16
15. Sanford-Day Iron Works (Inc.), Knox-ville, Tenn.	1917-1921			175,645.07	1,129,162.51	175,645.07	25,166.73	928,350.71	80,068.85	17.78
Total.		155,140.20	1,213,572.49	1,487,515.07	27,146,194.08	2,856,227.76	54,853.47	24,156,290.64	1,003,057.49	
<i>June, 1931</i>										
1. Albert Pick & Co., New York <sup>23</sup>	1927, 1928			173,676.48	390,163.87	173,676.48		216,487.39		44.51
2. Amoskeag Manufacturing Co., Boston, Mass.	1919, 1921, 1927		406,785.68		2,672,045.47	406,785.68	155,528.92	2,109,730.87	4,636.41	21.04
3. James, Ellen S., estate of, New York	1917	67,813.09		75,970.96	414,389.74	143,784.05		270,605.69	60,839.21	34.70
4. Fairstock Trust, Chicago, Ill. <sup>24</sup>	1918, 1919, 1921-1923	194,718.94		712,812.37	915,404.47	907,531.31	15.59	7,857.57	234,433.93	99.14
5. Kelly Axe Manufacturing Co., Charles-ton, W. Va. <sup>25</sup>	1917-1919, 1921									
6. Long-Bell Lumber Co., Kansas City, Mo. <sup>26</sup>	1925, 1926		74,945.91	103,070.78	962,157.53	178,016.69		782,519.58	42,722.84	18.50
7. Mahler, Baruch, estate of, Cleveland Heights, Ohio	1924			79,553.76	82,592.78	79,553.76		3,039.02	23,410.60	96.32
8. Morris, Samuel W., Philadelphia, Pa.	1924-1928			102,848.54	114,303.39	102,848.54		11,454.55	18,983.64	80.98
9. Oxford Paper Co., New York	1920	100,182.40	47,534.46	99,983.56	1,928,222.19	247,700.42	31,526.50	1,648,995.27	67,602.95	14.48
10. Pfister & Vogel Leather Co., Milwau-kee, Wis.	1918, 1919			316,804.90	1,567,513.76	316,804.90	109,952.15	1,140,756.71	202,964.86	27.23
11. Singer Manufacturing Co., Elizabeth, N. J.	1923		138,700.50		2,659,847.16	138,700.50	6,873.51	2,514,273.15	53,901.29	5.47
12. Soden, Peter, estate of, Kansas City, Mo.	1921			178,964.34	186,790.94	178,964.34	3,710.00	4,116.60	97,405.63	97.80
13. United Fuel Gas Co., Charleston, W. Va.	1917			150,669.92	1,749,137.06	150,669.92	1,061,337.89	537,129.25	100,616.55	69.29
Total.		362,714.43	667,966.55	1,994,355.91	13,642,568.36	3,025,036.89	1,368,944.56	9,246,965.65	907,527.91	

July, 1931

1. American Agricultural Chemical Co., New York	1919	90,995.33	403,399.45	90,995.33	312,404.12	22.56
2. Barker, Lawrence (Inc.), Los Angeles, Calif. <sup>21</sup>	1924-1927	147,176.48	493,654.46	147,176.48	164,475.28	29.81
3. Columbia Mills (Inc.), New York	1920, 1921	1,328.48	157,220.72	94,315.88	62,904.84	59.99
4. Equitable Trust Co. of New York, New York	1920	277,052.09	741,614.23	277,052.09	464,562.14	37.36
5. Famous Players-Lasky Corporation (Paramount Public Corporation, successor), New York <sup>22</sup>	1918-1920	8,853.28	222,529.92	148,431.93	3,019,369.97	11.57
6. Jones & Laughlin Steel Co. and subsidiaries, Pittsburgh, Pa.	1919, 1920	976,812.31	12,923,736.71	976,812.31	11,946,924.40	7.56
7. Marine Securities Co., Evanston, Ill.	1920	153,070.94	3,093,657.47	153,070.94	878,412.82	33.34
8. Parke, Davis & Co., Detroit, Mich. <sup>23</sup>	1920	4,900.04	821,067.89	217.78	538,915.72	30.03
9. Pictorial Review Co., New York <sup>24</sup>	1923, 1925	75,504.20	211,488.91	75,504.20	135,984.71	35.70
10. Sayles, Frank A., estate of, Providence, R. I.	1923	161,573.61	161,573.61	161,573.61	36,183.63	100.0
11. Westclox Co., La Salle, Ill.	1919-1921	38,117.14	63,950.01	102,067.15	759,955.70	11.84
12. Weyerhaeuser Timber Co., Tacoma, Wash.	1925, 1926	120,016.99	3,155.67	123,172.66	670,239.09	15.52
Total		10,181.76	1,011,728.47	2,643,773.56	20,137,909.68	635,352.02
1. Austin Nichols & Co. (Inc.), Brooklyn, N. Y.	1918, 1919	788,666.05	89,028.63	89,028.63	477,597.68	20.61
2. Busch, Lilly, estate of, St. Louis, Mo.	1928	360,736.83	1,427,673.82	1,149,402.88	278,270.94	80.51
3. National City Bank of New York, New York	1923	138,982.36	225,915.25	138,982.36	86,932.89	61.51
4. Standard Tool Co., Cleveland, Ohio	1917, 1918, 1920	239,555.15	4,135,957.12	239,555.15	3,758,527.42	9.13
5. United Fruit Co., Boston, Mass. <sup>25</sup>	1923, 1925-1928	2,261,428.40	9,867,090.83	2,261,428.40	7,389,862.71	22.92
6. Wilmington Leather Co., Wilmington, Del.	1918, 1919	335,954.75	278,244.84	614,199.59	196,969.88	100.00
Total		1,124,620.80	3,228,993.851	6,872,419.77	172,831.40	1,226,080.14

<sup>21</sup> Withheld in connection with proposed deficiencies for 1927 and 1928, \$21,186.75.

<sup>22</sup> Withheld by Comptroller General by reason of an indebtedness to the United States, \$40.88.

<sup>23</sup> Includes notice of refund of \$207.29 to correct excess interest collection.

<sup>24</sup> Includes notice of refund of \$97,760.17 to correct excess interest collection.

<sup>25</sup> Entire overassessment of \$379,171.10 withheld in connection with transferee proceedings of subsidiary corporations.

<sup>26</sup> Includes notice of refund of \$66.84 to correct excess interest collection; barred by statute of limitations, \$1,621.26.

<sup>27</sup> Withheld in connection with 1928 proposed deficiency, \$182,002.70.

<sup>28</sup> Withheld in connection with 1922, 1924, and 1926 proposed deficiencies, \$22,318.89.

<sup>29</sup> Interest credited to 1921.

<sup>30</sup> Withheld for adjustment in connection with deficiency for year 1924, \$53,323.33; barred by statute of limitations, \$162,456.39.

*Refunds and credits reported to the Joint Committee on Internal Revenue Taxation by the Commissioner of Internal Revenue under the provisions of section 710 of the Revenue Act of 1928—Continued*

Name of taxpayer and address	Years involved	Abatements	Credits	Refunds	Original and additional assessments	Net over-assessments allowed	Previously allowed	Final tax collected	Interest	Per cent tax reduction
<i>September, 1931</i>										
1. Allied Chemical & Dye Works, New York	1927, 1928			\$113,027.95	\$5,928,074.23	\$113,027.95		\$5,815,648.28	\$17,594.32	1.91
2. Brown, Jacob F., Boston, Mass.	1918			95,987.57	572,190.03	95,987.57		476,202.46	4,218.19	16.78
3. Guggenheim, S. R., New York	1924									
4. Shults Bread Co., (now Continental Baking Co.), New York	1912, 1913, 1917, 1922		\$76,903.33		316,659.86	76,903.33		239,756.53		24.29
Total			76,903.33	209,015.52	6,817,524.12	285,918.85		6,531,605.27	21,812.51	
<i>October, 1931</i>										
1. Botany Worsted Mills, Passaic, N. J.	1917			872,336.82	3,885,697.28	872,336.82	\$84,669.53	2,928,690.93	533,690.75	24.63
2. Clark, W. A. Jr., Butte, Mont. <sup>31</sup>	1920, 1921			125,733.87	2,581,639.55	125,733.87	526,587.24	1,929,338.44	92,388.28	25.26
3. Gans Steamship Line, New York	1918			381,615.02	2,627,928.94	381,615.02		2,246,313.92	102,277.47	14.52
4. Ohio Oil Co., Findlay, Ohio	1925, 1926			108,106.50	562,748.21	108,106.50		454,641.71	66,928.77	19.21
5. J. R. Simon & Co. (Inc.), New York	1920									
6. Sinclair Gulf Corporation and subsidiaries, New York	1917, 1918		104,626.88	55,167.20	1,349,348.11	159,794.08	41,927.14	1,147,626.89	46,880.90	14.95
7. Sinclair Oil & Refining Corporation and subsidiaries, New York <sup>32</sup>	1917, 1918		6,559.83	231,935.67	3,534,003.46	238,495.50	253,186.55	2,832,386.82	68,174.39	13.91
8. Winchester Repeating Arms Co., New Haven, Conn. <sup>33</sup>	1918			199,782.00	2,792,364.33	199,782.00	4,769.97	2,581,905.46	53,974.55	7.33
Total			111,186.71	1,974,877.08	17,333,749.88	2,085,863.79	911,090.43	14,120,904.17	1,024,316.11	
<i>November, 1931</i>										
1. American Woollen Co., Boston, Mass.	1923		224,801.60		1,465,483.39	224,801.60		1,240,681.79	96,612.34	15.34
2. Castle Kid Co. (Inc.), Camden, N. J.	1919			92,161.31	374,661.95	92,161.31	56,494.36	226,006.28	61,517.69	39.67
3. Chicago & Northwestern Railway Co., Chicago, Ill. <sup>36</sup>	1919, 1921, 1924, 1926									
4. Connecticut Electric Service Co., Hartford, Conn.	1926, 1927			300,401.07	792,194.73	300,401.07		491,793.66	64,143.97	37.92
5. Connecticut Light & Power Co., Hartford, Conn.	1924, 1925			153,319.20	350,042.80	153,319.20		196,723.60	49,333.77	43.80
6. International Harvester Co., Chicago, Ill.	1926		124,033.23		5,385,523.75	124,033.23		5,261,496.52	28,993.07	2.30
7. Northern Pacific Railway Co., St. Paul, Minn. <sup>37</sup>	1919			96,817.81	2,028,073.20	96,817.81		1,549,038.77	55,633.53	4.77



8. L. F. Robertson & Sons (Inc.), New York	1919		75,748.10	97,377.08	75,748.10	21,628.98		48,538.83	100.00
9. Superintendent Ossage Indian Agency, for May Elkins, roll 156, Pawhuska, Okla.	1920-1929		83,143.31	83,143.31	83,143.31			28,041.85	100.00
Total		348,894.83	801,590.80	10,576,506.21	1,150,425.63	78,123.34	8,965,740.62	432,815.05	
1. Continental Motors Corporation, Detroit, Mich.	1926, 1927								
2. Eastern Oil Co., Buffalo, N. Y.	1925	27,654.45	72,291.95	513,959.27	99,946.40	3,819.52	410,193.35	23,058.76	20.19
3. Norton Co., Worcester, Mass. <sup>32</sup>	1918		92,651.05	92,651.05	92,651.05			15,281.08	100.00
4. Oklahoma Producing & Refining Corporation of America, Chicago, Ill.			280,305.49	3,501,280.27	280,305.49	748,328.63	2,436,852.99	204,615.40	29.38
5. H. S. & M. W. Snyder (Inc.), Boston, Mass. <sup>33</sup>	1918	252,658.52	20,639.76	442,996.48	273,298.28		169,698.20	36,149.13	61.69
6. Uniform Chemical Products (Inc.), New York	1919		124,292.40	381,512.71	156,394.89		220,024.58	80,110.32	40.99
	1927, 1928	\$32,102.49	42,772.00	163,864.94	92,061.44		71,803.50	14,786.13	56.18
Total		32,102.49	632,952.65	5,096,264.72	994,057.55	752,948.15	3,308,572.62	374,000.82	

<sup>32</sup> Entire overassessment of \$87,730.14 withheld pending investigation.

<sup>33</sup> Entire overassessment of \$169,309.62 withheld in connection with proposed deficiencies for 1926, 1928, and 1929.

<sup>34</sup> Withheld for adjustment in connection with proposed deficiencies for 1922 to 1928, inclusive, \$209,984.59.

<sup>35</sup> Withheld, \$5,906.90 by the Comptroller General, for direct settlement.

<sup>36</sup> Entire overassessment of \$739,584.15 withheld in connection with proposed deficiency for 1920.

<sup>37</sup> Paid by Director General of Railroads, \$382,216.62.

<sup>38</sup> Withheld in connection with deficiency for 1919, \$35,593.16.

<sup>39</sup> Withheld in connection with proposed deficiency for 1925, \$5,093.24.



## Overassessments previously withheld, allowed during the year 1931

Date reported	Name of taxpayer and address	Years involved	Abate-ments	Credits	Refunds	Original and additional assessments	Net over-assessment allowed	Previ-ously allowed	Final tax collected	Interest	Cause of delay of settlement
1929 August	Symington Corporation, Baltimore, Md.	1919			\$104,253.54		\$104,253.54			\$90,722.10	Withheld for adjustment in connection with proposed deficiencies for 1918 and 1921.
November	Libby, McNeil & Libby (of Maine), Chicago, Ill.	1917		\$53,191.52			53,191.52			16,393.91	Withheld for adjustment in connection with proposed deficiencies for 1919 and 1925.
1920 April	Gilligan-Chapley Co. (Inc.), New Orleans, La.	1920		19,717.34	101,711.40		121,428.74			71,399.97	Withheld for adjustment in connection with proposed deficiency for fiscal year ended Jan. 31, 1920.
Do	Dartmouth Manufacturing Co., New Bedford, Mass.	1921			5,000.00		5,000.00			2,373.01	Unadjusted pending decision as to correctness of loss on discarded machinery.
August	United Drug Co., Boston, Mass.	1922		168,437.81		\$385,071.15	168,437.81		\$216,633.34		Stipulation case; unadjusted.
September	C. Pardee Works, Philadelphia, Pa.	1917-1920	\$110,298.57	6,792.74	47,743.68	1,090,363.22	164,824.60		865,565.23	31,850.60	Unadjusted; pending investigation.
October	Aluminum Co. of America, Pittsburgh, Pa.	1918		246,917.85			246,917.85			21,580.78	Withheld for adjustment in connection with proposed deficiencies for 1919 and 1920.
Do	Oliver Iron & Steel Co. and subsidiaries, Pittsburgh, Pa.	1918		20,869.63			20,869.63			13,782.02	Withheld for adjustment in connection with proposed deficiency for 1923.
November	The Broadway Department Store, Los Angeles, Calif.	1920		55,484.82	180,008.74	504,746.69	235,493.56		269,253.13	110,116.15	Stipulation case; unadjusted.
Do	The Clark Thread Co., Newark, N. J.	1919, 1920			194,211.68	2,539,551.16	194,211.68	\$433.03	2,266,972.58	102,675.81	Do.
Do	Illinois Central Railroad Co., Chicago, Ill.	1918, 1920, 1921, 1922			74,145.43	145.43	74,145.43			22,591.83	Withheld for adjustment in connection with proposed deficiency for 1928.
Do	St. Louis-San Francisco Ry. Co., St. Louis, Mo.	1921, 1922		317,869.20			317,869.20			19,255.56	Withheld for adjustment in connection with proposed deficiencies for 1923 to 1927.
December	Chile Copper Co. and subsidiaries, New York.	1923-1925			218,832.58	839,979.13	218,832.58		621,146.55	64,956.23	Unadjusted pending investigation.
	Total		110,288.57	889,310.91	925,907.05	5,324,886.78	1,925,506.53	433.03	4,269,573.83	537,698.00	

1 Being withheld against proposed deficiencies for 1923, 1927, and 1928, \$77,933.87.

NOTE.—Information previously reported on the above cases not repeated herein.

*Distribution of credits, and refunds in cases where apportionment has been made to members of an affiliated group*

Month reported	Parent company and subsidiaries and address	Years involved	Credits	Refunds
1931				
April	Singer Manufacturing Co., Elizabeth, N. J. ....	1921, 1922, 1924	\$110,498.84	-----
	Bourne & Co. (Ltd.), Elizabeth, N. J. ....	1921, 1922	638.63	-----
	Diehl Manufacturing Co., Elizabeth, N. J. ....	1921, 1922, 1924	1,773.78	-----
	International Fidelity Insurance Co., Elizabeth, N. J. ....	1921, 1922, 1924	1,052.78	-----
	International Securities Co., Elizabeth, N. J. ....	1922	808.29	-----
	Poinsett Lumber & Manufacturing Co., Elizabeth, N. J. ....	1924	105.66	-----
October	Sinclair Gulf Corporation, New York	1917, 1918	104,626.88	-----
	Freeport & Mexican Fuel Oil Corporation, Houston, Tex.	1917	-----	\$53,981.92
	Sinclair Cuba Oil Co., New York	1917	-----	116.03
	Sinclair Navigation Co., New York	1917	-----	1,069.25
Do	Sinclair Oil & Refining Corporation, New York	1918	6,559.83	-----
	Sinclair Cudahy Pipe Line Co., Tulsa, Okla.	1917, 1918	-----	20,579.01
	Sinclair Oil & Gas Co., Tulsa, Okla.	1918	-----	150,578.33
	Sinclair Refining Co., New York	1917, 1918	-----	60,778.33



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PART II

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ANALYSIS OF OVERASSESSMENTS  
TOTALS AND PRINCIPAL CAUSES  
FOLLOWED BY A  
BRIEF RÉSUMÉ OF EACH CASE

Alphabetically Arranged

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## PART II

### STATISTICAL SUMMARY, CLASSIFICATION AND ANALYSIS OF OVERASSESSMENTS FOLLOWED BY A BRIEF RÉSUMÉ OF EACH CASE, ALPHABETICALLY ARRANGED

*Overassessment cases for the period January 1, 1931, to December 31, 1931, inclusive  
(total cases reported, 115)*

Original and additional assessments.....		\$200, 328, 342. 05
Total tax collected.....	\$161, 824, 032. 50	
Previously allowed.....	7, 832, 352. 08	
Charged to Director General of Railroads..	382, 216. 62	
		<u>170, 038, 601. 20</u>
Overassessments.....		30, 289, 740. 85
Barred by statute.....	1, 004, 008. 09	
Withheld in connection with proposed defi- ciencies.....	1, 109, 938. 35	
		<u>2, 113, 946. 44</u>
Net overassessments for cases reported during calendar year 1931.....		<u>28, 175, 794. 41</u>
Composed of:		
Refunds.....		14, 847, 333. 10
Credits.....		9, 073, 269. 12
Abatements.....		4, 255, 192. 19
Total.....		<u>28, 175, 794. 41</u>
Interest paid on overassessments reported during calendar year 1931.....		8, 070, 829. 54
Total of overassessments and interest.....		<u>36, 246, 623. 95</u>
Add:		
Overassessments previously reported and withheld, allowed during 1931.....		1, 925, 506. 53
Interest on overassessments previously reported and with- held, allowed during 1931.....		537, 698. 00
Grand total of overassessments and interest.....		<u>38, 709, 828. 48</u>
Reduction in assessed tax by overassessments reported (per cent).....		14. 06
Average percentage of interest paid on overassessments.....		28. 64

NOTE.—Above summary represents 109 cases; 5 cases withheld for adjustment in connection with proposed deficiencies; 1 case withheld pending investigation.

### *Classification of overassessments*

Principal cause	Amount	Per cent of total
Estate tax.....	\$4, 459, 549. 79	15. 26
Foreign taxes.....	3, 089, 725. 02	10. 67
Special assessment.....	2, 825, 582. 80	9. 67
Invested capital.....	2, 772, 406. 99	9. 49
Depreciation.....	2, 516, 870. 91	8. 61
Inventory adjustment.....	2, 375, 289. 09	8. 13
Order of Board of Tax Appeals.....	1, 623, 802. 15	5. 66
Amortization.....	1, 156, 337. 37	3. 96
Overstatement of gain on sale of stock.....	785, 973. 54	2. 69
Loss on sale of capital assets.....	596, 756. 35	2. 04
Depletion.....	586, 288. 94	2. 01
Reallocation of income.....	578, 918. 38	1. 98
Remission of interest on deficiencies.....	533, 046. 73	1. 82
Change in method of reporting income.....	291, 009. 15	1. 00
Affiliation.....	279, 430. 98	. 96
Expiration of statute.....	98, 009. 48	. 34
Loss of useful value.....	18, 563. 89	. 06
Miscellaneous.....	4, 631, 065. 08	15. 85
Total overassessments.....	29, 218, 626. 64	100. 00
Withheld to meet possible deficiencies.....	\$1, 040, 722. 16	
Barred by statute.....	2, 110. 07	
	<u>1, 042, 832. 23</u>	
Net overassessments allowed for cases reported during the year 1931.....	<u>28, 175, 794. 41</u>	



## ANALYSIS

The foregoing data are representative of 109 cases, aggregating original and additional assessments of \$200,328,342.05. The total tax collected from these assessments amounted to \$161,824,032.50, leaving overassessments of \$38,504,309.55. Of this amount, however, \$7,832,352.08 was previously allowed, \$382,216.62 was charged to the Director General of Railroads, \$1,004,008.09 was barred from payment under the statute of limitations, and \$1,109,938.35 is withheld for adjustment in connection with proposed deficiencies for other years, resulting in net overassessments for cases reported during the calendar year 1931 of \$28,175,794.41.

The total refunds, shown in detail in Part I, amount to \$14,847,333.10; the total credits amount to \$9,073,269.12; and the total abatements in connection with the same cases amount to \$4,225,192.19. The total of these three items represents the net overassessments allowed on all cases in excess of \$75,000 reported to the joint committee during the calendar year 1931. On these overassessments, the sum of \$8,070,829.54 was allowed in interest, making net overassessments and interest of \$36,246,623.95.

In order to obtain the grant total of all overassessments and interest allowed during 1931 it is necessary to add to the total reported overassessments of \$1,925,506.53 and interest of \$537,698 on cases previously reported in other years and withheld which were allowed during the year 1931. The grand total of overassessments and interest, as indicated in the preceding statistical summary, amounts to \$38,709,828.48.

## RÉSUMÉ OF CASES

(Alphabetically arranged)

*Allied Chemical & Dye Corporation, New York City*

Overassessment, 1927, 1928----- \$113,027.95

Of the overassessment, \$98,919.46 and \$4,379.71 are caused respectively by the allowance of additional deductions for depreciation and depletion. (Sees. 234 (a) (7) and (8), revenue act of 1926, and 23 (k), revenue act of 1928.)

Other causes of overassessment and amounts attributable to each are additional deductions for taxes, \$4,468.55; miscellaneous business expenses, \$4,031.22; additional deduction for dismantling expenses sustained in connection with abandonment of certain assets, \$1,229.01. (Sees. 234 (a) (1) and (3), revenue act of 1926, and 23 (a) and (c), revenue act of 1928.)

*Aluminum Goods Manufacturing Co., Manitowoc, Wis.*

Overassessment, 1918, 1920----- \$76,321.46

The overassessment for 1918 in the amount of \$63,525.68 results from the revision of the reported valuations of opening and closing inventories. The taxpayer had in its account used a method of computation of inventory which was not a method approved by the regulations of the bureau. The inventories have now been computed in accordance with the approved method of determining inventories under articles 1582 and 1584 of Regulations 45.

The 1920 overassessment in the amount of \$12,664.84 is caused by additions to the reported invested capital representing amounts paid in during the taxable year on capital stock subscriptions, excessive depreciation disallowed in prior years and the amount of the increase resulting from the correct adjustment of Federal taxes. (Sec. 326 (a), revenue act of 1918.)

The balance of the overassessment in the amount of \$130.94 represents an excess interest collection.

*American Agricultural Chemical Co., New York City*

Overassessment, 1919----- \$90, 995. 33

The principal cause of overassessment in the amount of \$37,553.77 in this case is due to the allowance of an additional deduction for depreciation based on the March 1, 1913, value of properties. This deduction is determined after careful consideration of all relevant factors, such as the costs or values of properties on the basic dates and the estimated recoverable reserves and useful lives of the various classes of properties, and constitutes a reasonable allowance as authorized by section 234 (a) (7), revenue act of 1918.

Other causes and amounts comprising the balance of the overassessment are amortization of the cost of war facilities, \$16,498.30 (sec. 234 (a) (8), revenue act of 1918); ordinary and necessary business expenses, losses on disposition of certain capital assets, bond discount and taxes, \$14,972.39 (sec. 234 (a) (1), (3), and (4), revenue act of 1918); inventory adjustments, \$9,122.33 (sec. 203, revenue act of 1918); exclusion from gross income of an amount which does not represent taxable income, \$6,952.04 (sec. 233 (a), revenue act of 1918); increase in amount of cost of goods sold, \$5,896.50 (sec. 234 (a) (1), revenue act of 1918).

*American Arch Co., New York City*

Overassessment, 1918, 1919, 1920----- \$121, 128. 73  
Withheld----- 417. 40

Of the overassessment, the amount of \$116,968.49 is due to the allowance of additional deductions for depreciation. (Sec. 234 (a) (7), revenue act of 1918.)

The balance of the overassessment in the amount of \$4,160.24 is caused by increases in reported invested capital for the period ended December 31, 1919, and the year 1920, due to adjustments made to reflect properly the proration of prior-year income and profits taxes. (Sec. 326 (d), revenue act of 1918; arts. 845, 845 (a) and 853, Regulations 45.)

*American Woolen Co., Boston, Mass.*

Overassessment, 1923----- \$224, 801. 60

The overassessment is made pursuant to the final order of the United States Board of Tax Appeals entered in the instant case for the above year, Docket No. 51923.

This overassessment has been developed through the allowance of increased deductions for depreciation, an inventory adjustment, and the allowance of an expenditure made in connection with street construction.

*Amoskeag Manufacturing Co., Boston, Mass.*

Overassessment, 1919, 1921, 1927----- \$406, 785. 68



The amount of \$313,584.90 of the overassessment is caused by inventory adjustments for the years 1919 and 1921. It was determined subsequent to the filing of the 1919 returns that the opening inventory valuation was understated and the closing inventory was overvalued. The reported inventories as at the beginning and end of 1921 were understated. (Sec. 203, revenue acts of 1918 and 1921.)

Of the overassessment, \$29,360.99 is due to the allowance of an additional deduction for ordinary and necessary expenses which were understated in the return filed. (Sec. 234 (a) (1), revenue act of 1921.)

Other causes of overassessment and amounts attributable to each are: Additional deduction for debts ascertained to be worthless, \$18,185.74 (sec. 234 (a) (5), revenue act of 1921); redetermination of net income derived from Government contracts erroneously overstated, \$31,515.06 (sec. 301 (c), revenue act of 1918); elimination from income of unrealized appreciation in the value of certain capital assets, \$14,138.99 (sec. 233 (a), revenue act of 1926).

*Atkinson, Thomas, estate of, Baltimore, Md.*

Overassessment, 1924----- \$122, 534. 79

The entire overassessment of estate tax is caused by the elimination of certain property erroneously included in the gross estate in the return filed, since it was determined that the transfer of such property by the decedent during the lifetime was not made in contemplation of or intended to take effect in possession or enjoyment at or after his death. (Sec. 402 (c), revenue act of 1921); article 20, Regulations 63; *Burnet v. Northern Trust Co.*, executor (51 Sup. Ct. Rep. 342.)

*Austin Nichols & Co. (Inc.), Brooklyn, N. Y.*

Overassessment, 1918, 1919----- \$89, 028. 63

Of the overassessment, \$88,200.28 is caused by the allowance of special assessment under the provisions of sections 210, revenue act of 1917, and 327 and 328, revenue act of 1918, due to abnormalities affecting statutory invested capital to the extent that if the profits tax were computed without the benefit of such sections, it would work upon the taxpayer an exceptional hardship evidenced by gross disproportion between the tax so computed and the tax computed by reference to representative corporations.

The balance of the overassessment in the amount of \$828.35 is due to an adjustment of the invested capital as previously determined on account of Federal income and profits taxes due for preceding years. (Secs. 326 (a), revenue act of 1918, and 1207, revenue act of 1926.)

*Lawrence Barker (Inc.), Los Angeles, Calif.*

Overassessment, 1924-1927, inclusive----- \$329, 179. 18  
Withheld----- 182, 002. 70

Of the overassessments, the amount of \$295,819.16 is made pursuant to the final order of the United States Board of Tax Appeals, Docket No. 43325.

The overassessment is due principally to (1) elimination from gross income of an amount representing the proceeds received from the sale of shares of first preferred stock of Barker Bros. (Inc.), a Delaware corporation, the sale having been erroneously determined to be

effective in 1924; (2) the allowance of an increase of cost with respect to shares of first and second preferred stock of Barker Bros. (Inc.) and the resulting decrease of the profit derived from the sale of such stock.

The amount of \$33,360.02 included in the overassessment represents interest assessed on deficiencies in tax, since the determination of the overassessments results in a proportionate reduction of the interest.

*Berkshire Knitting Mills, Reading, Pa.*

Overassessment, 1920, 1922----- \$103, 108. 28

Of the overassessment, the amount of \$97,077.41 results from a redetermination of profits taxes under the relief provision of sections 327 and 328 of the revenue acts of 1918 and 1921, due to the existence of abnormal conditions whereby the value of certain intangible property can not be satisfactorily determined so as to be included in the statutory invested capital for each year. Accordingly the profits-tax liabilities have been determined in amounts which bear the same ratios to the taxpayer's net incomes as the average taxes of representative corporations engaged in a like or similar trade or business bear to their average net income for the same years. *E. B. Ficklen Tobacco Co. v. Commissioner* (10 B. T. A. 51).

The balance of the overassessment, amounting to \$6,030.87, represents the remission of interest assessed in connection with a deficiency in tax for the year 1922, since the determination of the overassessment for such year causes the elimination of the interest.

*Botany Worsted Mills, Passaic, N. J.*

Overassessment, 1917----- \$872, 336. 82

The entire overassessment results from the redetermination of excess-profits tax under the provisions of section 210, revenue act of 1917. The claim for relief under special assessment is based upon the contention that there was embarked in the enterprise at the time of organization an indeterminable but substantial capital value greatly in excess of the cash paid in specifically for the capital stock of the company, and as this value can not be included in the invested capital of the company, due to lack of accounting data, although representing assets which are material income-producing factors during the taxable year under consideration, the invested capital of the company can not be satisfactory determined. *Mutual Chemical Co. of America v. Commissioner* (12 B. T. A. 578).

*Brady, James Cox, estate of, New York*

Overassessment, 1927----- \$1, 727, 611. 52

Of the overassessment, \$1,061,225.68 results from the exclusion of the value of certain property erroneously included in the value of the estate reported in the tax return, since it was determined that the decedent was not possessed of any interest therein at the date of his death. (Sec. 302 (a), revenue act of 1926; art. 10, Regulations 70; in re Brady's estate, 228 App. Div. 56.)

The balance of the overassessment, amounting to \$666,385.84, results from the allowance of a credit under the provisions of section 301 (b), revenue act of 1926, representing the amount of State inher-



itance taxes paid subsequent to the filing of the Federal estate tax return. (Art. 9 (a), Regulations 70.)

*Briggs Manufacturing Co., Detroit, Mich.*

Overassessment, 1928..... \$203, 020. 65

The entire overassessment results from the elimination from gross income reported in the return of a portion of an amount included therein as profits accrued under certain sales contracts as it was determined that the amount reported was erroneously overstated. (Sec. 22, revenue act of 1928; art. 51, Regulations 74.)

*Broadway Department Store, Los Angeles, Calif.*

Overassessment, 1920..... \$235, 493. 56

The overassessment is made pursuant to the final orders of the United States Board of Tax Appeals, Dockets Nos. 21651, 21652, and 15885.

The overassessment has been developed through holding that the petitioner is not affiliated with any other corporation within the meaning of section 240, revenue act of 1918.

*Brown, Jacob F., Boston, Mass.*

Overassessment, 1918..... \$95, 987. 57

This overassessment represents the sum of \$74,216.23 tax and interest of \$21,771.34, paid by this individual for the year 1918, which assessment of tax was satisfied by means of a credit of overpayments of \$73,589.75 tax for 1919 and \$626.48 tax for 1920, aggregating \$74,216.23. The amount of \$95,987.57 therefore represents a duplicate collection of tax, with interest paid thereon that was not payable. (*York Safe & Lock Co. v. United States*, 40 Fed. (2d) 148; *Edmund F. Leland v. United States*, 42 Fed. (2d) 346; and *Blackstone Manufacturing Co. v. United States*, 45 Fed. (2d) 291.)

*Busch, Lilly, estate of, St. Louis, Mo.*

Overassessment, 1928..... \$1, 149, 402. 88

The overassessment arises from adjustments made in a reaudit of the return filed on behalf of the estate as a result of the allowance of a credit under the provisions of section 301 (b) of the revenue act of 1926, on account of inheritance and estate taxes paid to the States of Missouri and California, and in the adjustment of interest assessed as part of the deficiency in tax.

*Camp, J. L., estate of, Norfolk, Va.*

Overassessment, 1925..... \$129, 768. 76

The overassessment arises from the adjudication of a claim filed and the settlement of a suit instituted in the United States district court by the executors for the recovery of a sum in excess of the overassessment.

The amount of \$110,080.86 of the overassessment results from the reduction of the valuation of certain shares of stock included in the gross estate as it was determined the valuation previously used was erroneously overstated. (Sec. 302 (a), revenue act of 1926; art. 13, Regulations 70.)

The balance of the overassessment amounting to \$19,687.90 represents the remission of interest assessed on a prior deficiency.

*Carbon Steel Co., Pittsburgh, Pa.*

Overassessment, 1919----- \$376, 329. 03

The amount of \$364,361.76 of the overassessment results from an increased deduction for amortization of war facilities under the provisions of sections 233 (a), revenue act of 1918, and 234 (a) (8), revenue acts of 1918 and 1921.

Of the overassessment, \$11,412.48 is due to a recomputation of the profits-tax liability under the provisions of sections 327 and 328, revenue act of 1918.

Since the tax assessed and paid was found to be not due, the interest paid thereon, or \$554.79 is not due and is also refundable.

*F. L. Carlisle & Co. (Inc.), New York*

Overassessment, 1929----- \$331, 548. 70

The amount of \$311,679.54 of the overassessment is caused by the exclusion of gains realized on sales of assets consummated during the preceding taxable year and reported in the year 1929. (Sec. 22 (a), revenue act of 1928; art. 51, Regulations 74; I. T. 1156 (C. B. I-1, p. 2.)

The balance of the overassessment amounting to \$19,869.16 results from the allowance of a deduction representing the amount of State franchise taxes accrued during the taxable year and omitted from the tax return filed. (Sec. 23 (c), revenue act of 1928; art. 151, Regulations 74; *Kossar & Co. (Inc.) v. Commissioner*, 16 B. T. A. 952.)

*Castle Kid Co. (Inc.), Camden, N. J.*

Overassessment, 1919----- \$92, 161. 31

The entire overassessment results from an understatement of the cost of goods sold due to failure of the taxpayer to include certain purchases made during the taxable year and to an overvaluation of the closing inventory. (Secs. 203 and 234 (a) (1), revenue act of 1918; arts. 101, 561, and 1582 and 1584, inclusive, as amended by T. D. 3296 (C. B. I-1, 40), Regulations 45.)

*Chicago & North Western Railway Co., Chicago, Ill.*

Overassessment, 1919, 1921, 1924, 1926----- \$739, 584. 15

The principal cause of overassessment in the amount of \$534,162.05 is due to the exclusion from reported income of amounts included therein as income arising out of final settlement for the use and operation of the taxpayer's properties during the period of Federal control, pursuant to the Federal control act of March 21, 1918, section 233 (a), revenue act of 1921; article 541, regulations 62.

Of the overassessment, \$95,709.04 result from adjustments necessary to correct accounting errors, the propriety of which has been verified by investigation of the taxpayer's accounting records. Section 233 (a), revenue acts, 1918, 1921, 1926, and the regulations promulgated thereunder.

The allowance of additional deductions for losses sustained upon the final disposition of certain assets causes \$85,491.65 of the overassessment. (Sec. 234 (a) (4), revenue act of 1921.)



Other causes of overassessment and amounts attributable to each are as follows: Exclusion from net income as determined in a prior audit, amounts received for construction of spur tracks, \$8,775.08, *Great Northern Railway Co. v. Commissioner* (8 B. T. A., 225); allowance of an additional deduction for depreciation of equipment, \$5,051.21; section 234 (a) (7), revenue act of 1918; allowance of additional deductions for ordinary and necessary business expenses, \$3,851.45; amortization of bond discount and interest, \$314.14, section 234 (a) (1) and (2), revenue acts of 1918, 1921, and 1926; interest assessed on that portion of the previously assessed deficiencies in tax which is offset by the overassessment now determined, \$1,109.

The overassessment for the year 1924 in the amount of \$5,120.53 is made pursuant to the final order of the United States Board of Tax Appeals entered in the instant case for that year, Docket No. 37631.

*Chile Copper Company & Subsidiaries, New York*

Overassessment, 1923-1925, inclusive..... \$218, 832. 58

The amount of \$194,831.37 of the overassessment results from the allowance of additional deductions for depletion, since it was determined that the amounts claimed in the returns filed were less than the reasonable allowances to which the taxpayer is entitled under the provisions of sections 234 (a) (9) revenue act of 1921, and 204 (c) and 234 (a) (8), revenue acts of 1924 and 1926.

Other causes of overassessment and amounts applicable to each are: Allowance of additional deduction for depreciation, \$15,672.20, section 234 (a) (7), revenue act of 1924; inventory adjustments \$3,520.76, section 205, revenue act of 1926; allowance of additional deductions for the amortization of bond discount and ordinary and necessary business expenses, \$4,808.25, sections 234 (a) (1), revenue acts of 1921, 1924, and 1926.

*The Clark Thread Co., Newark, N. J.*

Overassessment, 1919, 1920..... \$272, 145. 55  
Withheld..... 77, 933. 87

The overassessment of income and profits taxes is made pursuant to the final order of the United States Board of Tax Appeals entered in the instant case for the above years, Docket No. 41557.

This overassessment has been developed through the allowance of paid-in surplus and additional depreciation based upon an acceptable appraisal, the inclusion in invested capital of intangible assets acquired by the issuance of capital stock under authority of the decision in the case of the St. Louis Screw Co. (2 B. T. A. 649) and numerous other minor adjustments.

*Clark, W. A., jr., Butte, Mont.*

Overassessment, 1920, 1921..... \$169, 309. 62

The entire overassessment results from the elimination from taxable income of amounts included therein as dividends received on the stock of a domestic corporation. It was determined that the dividends received by the taxpayer were paid out of capital and were, therefore, nontaxable.

*Cleveland Railway Co., Cleveland, Ohio*

Overassessment, 1910-1913, 1915-1917, 1928, 1929..... \$194, 059. 57

Of the overassessment, \$27,019.48 is due to the taxpayer's failure to take any deductions whatever for depreciation and losses due to obsolescence of physical property. (Sec. 38 (2d) (1), revenue act of 1909; Sec. II G (b) (2), revenue act of 1913; and sec. 12 (a) (2), revenue act of 1916, and the regulations promulgated thereunder.)

The amount of \$64.17 of the overassessment is caused by the allowance of additional deductions for ordinary and necessary expenses, since it was determined the deductions claimed in the returns filed were understated. (Sec. II G (b) (1), revenue act of 1913, and sec. 12 (a) (1), revenue act of 1916.)

The balance of the overassessment is due to failure to claim sufficient amounts for deductions properly allowable with respect to the additional items of discount paid on bonds and losses sustained on the sale of bonds.

*Cohan, Helen F., estate of, New York*

Overassessment, 1920-1924, 1926..... \$89, 395. 20

Of the overassessment, \$89,343.66 is caused by the elimination from taxable income of amounts erroneously reported in the returns filed, since it was determined that such amounts constituted taxable income of another taxpayer and were included in the taxable income which formed the basis for the assessment of deficiencies in tax against such other taxpayer. (Sec. 213 (a), revenue acts of 1918, 1921, 1924, and 1926; art. 31, Regulations 45, 62, 65, and 69. *George M. Cohan v. Commissioner*, 11 B. T. A. 743; *Cohan v. Commissioner* (39 Fed. (2d) 540).)

The balance of the overassessment amounting to \$51.54 is due to the remission of interest assessed on a deficiency for the year 1922.

*Columbian Carbon Co., Wilmington, Del.*

Overassessment, 1923-1926..... \$82, 420. 90

The principal cause of overassessment in the amount of \$63,870.12 results from the allowance of additional deductions for depletion. The increase of depletion as allowed is due to the fact that on the return filed depletion was not claimed on the full amount of costs of the taxpayer's oil and gas properties and on the full amount of discovery values allowable. (Secs. 234 (a) (9), revenue act of 1921, and 234 (a) (8), revenue acts of 1924 and 1926, and the regulations promulgated thereunder.)

The allowance of an additional deduction for depreciation causes \$17,134.32 of the overassessment for the year 1926. It was determined the depreciation claimed upon the taxpayer's carbon producing properties and equipment of oil and gas properties was materially understated. (Sec. 234 (a) (7), revenue act of 1926; arts. 161 and 561, Regulations 69.)

The balance of the overassessment in the amounts of \$1,356.36 and \$60.10 results from the allowance of additional deductions for amortization of certain leaseholds and interest, respectively. These deductions were erroneously omitted from the returns filed. (Secs. 234 (a) (1) and (2), revenue act of 1921, and 234 (a) (1), revenue acts



of 1924 and 1926; arts. 109, 121, and 561, Regulations 62, and 110 and 561, Regulations 65 and 69.)

*Columbia Mills (Inc.) New York*

Overassessment, 1920, 1921----- \$94,315.88

Of the overassessment, \$75,926.03 is due to the revision of the reported valuations of the opening and closing inventories. For a number of years before, during, and after the years here involved, the taxpayer valued its inventories on the base-stock or constant-price method which method is contrary to the law as interpreted by the regulations promulgated thereunder. Accordingly, revisions for all years on the basis of "cost or market, whichever is lower" have been made. (Secs. 203, revenue acts of 1918 and 1921.)

Allowance of additional deductions for depreciation due to a change from a composite rate to a straight-line basis of computing depreciation causes \$17,940.55 of the above overassessment.

The balance of the overassessment amounting to \$449.30 is due to the allowance of additional deductions for ordinary and necessary business expenses which were understated in the return filed. (Sec. 234 (a) (1), revenue act of 1921; arts. 101 and 561, Regulations 62.)

*The Connecticut Electric Service Co., Hartford, Conn.*

Overassessment, 1926, 1927----- \$300,401.07

The amount of \$280,540.13 of the overassessment results from the allowance of additional deductions for depreciation. It was determined the amount deducted was computed on an arbitrary basis and was less than the reasonable allowances to which the taxpayer is entitled under the provisions of section 234 (a) (7), revenue act of 1926, and articles 161 and 561, Regulations 69.

The exclusion of income of a subsidiary corporation for the period prior to the date of affiliation causes \$16,610.11 of the overassessment. (Sec. 240 (c), revenue act of 1926, and the regulations promulgated thereunder.)

Other minor causes of overassessment and amounts attributable to each are allowance of additional deductions for ordinary and necessary business expenses, rentals, and bad debts, \$3,226.83 (sec. 234 (a) (1) and (5), revenue act of 1926); deduction of an amount received as a dividend on stock of a domestic corporation erroneously omitted from the return filed, \$24 (sec. 234 (a) (6), revenue act of 1926).

*The Connecticut Light & Power Co., Hartford, Conn.*

Overassessment, 1924-25----- \$153,319.20

The amount of \$152,020.23 of the overassessment results from the allowance of additional deductions for depreciation. The taxpayer in computing depreciation used an arbitrary basis which resulted in an understatement. The additional depreciation allowance is therefore caused by a correction of depreciable assets and the application of reasonable composite rates as determined by engineers on various classified property groups. (Sec. 234 (a) (7), revenue acts of 1924 and 1926, and arts. 161, and 561, Regulations 65 and 69. Appeal of of Even Realty Co. 1 B. T. A. 355.)

The balance of the overassessment amounting to \$1,298.97 represents interest assessed on previously asserted deficiencies in tax which is offset by the overassessment now determined.

*Continental Motors Corporation, Detroit, Mich.*

Overassessment, 1926-27----- \$99, 946. 40

Of the overassessment, \$57,546.73 results from the allowance of additional deductions for depreciation, since it was determined that the deductions claimed in the returns filed were inadequate and less than the reasonable allowances authorized by section 234 (a) (7), revenue act of 1926, and articles 161 and 561, Regulations 69.

The allowance of additional deductions for incidental repairs and taxes causes \$34,811.55 of the overassessment. (Sec. 234 (a) (1) and (2), revenue act of 1926; arts. 104, 131, and 561, Regulations 69.)

The balance of the overassessment amounting to \$7,588.12 is attributable to losses sustained on the final disposition of certain assets. (Sec. 234 (a) (4), revenue act of 1926; arts. 141 and 561, Regulations 69.)

*Copley, Ira C., Aurora, Ill.*

Overassessment, 1926, 1928----- \$92, 944. 17

The principal cause of overassessment in the amount of \$72,964.98 results from the elimination from the income reported in the tax return of an amount included therein as gain realized on the sale of personal property. The sale was consummated during the preceding taxable year and was included in the taxable income for such prior year. (Sec. 22 (a), revenue act of 1918; art. 51, Regulations 74.)

Of the overassessment, \$16,592.50 is caused by a reduction in the amount of gross income as a result of an allowance for the overstatement of profit on the sale of securities. (Sec. 204 (a), revenue act of 1926; art. 1591, Regulations 69.)

The balance of the overassessment amounting to \$3,386.69 is due to the remission of interest asserted at the time a deficiency in tax was assessed, since the determination of the overassessment results in a proportionate reduction of the interest.

*Crown Willamette Paper Co. (Maine), San Francisco, Calif.*

Overassessment, 1924-25----- \$234, 855. 18

Withheld----- 31, 823. 21

Barred by statute----- 10, 995. 14

The above overassessment results from adjustments to income as a result of an inventory adjustment, understatement of obsolescence, Oregon and Washington State taxes and adjustment of intercompany profits. These decreases to income are offset by increases representing depreciation; timber depletion, amortization of water-power leases, profit from sale of bonds, profit from sale of timberlands, incorporation fees, and fire losses.

*Deering, Charles, estate of, Chicago, Ill.*

Overassessment, 1921, 1923----- \$575, 059. 90

The amount of \$446,076.54 of the overassessment is due to the allowance of deductions for losses sustained upon the sale of certain



shares of capital stock. It was determined that the basis employed in the valuing of such shares understated the cost of such shares. (Sec. 202 (a), revenue act of 1921; art. 1561, Regulations 62.)

The balance of the overassessment amounting to \$128,983.36 represents the remission of interest assessed on deficiencies.

*Delaware, Lackawanna & Western Coal Co., New York*

Overassessment, 1920..... \$95,440.99

Of the overassessment, \$86,601.36 results from the revision of the reported valuation of the opening inventory. The decrease in the reported income represents an understatement of the taxpayer's opening inventory caused by an overstatement of the amount of "degradation" or "breakage" in the coal inventory as at December 31, 1919. (Sec. 203, revenue act of 1918; art. 1581, Regulations 45.)

The balance of the overassessment amounting to \$8,839.63 is caused by an increase in the invested capital, due to the above-mentioned inventory adjustment. (Sec. 326 (a), revenue act of 1918.)

*The Denver & Rio Grande Western Railroad Co., Denver, Colo.*

Overassessment, 1924, 1925..... \$242,044.96

The overassessment for the year 1924 in the amount of \$26,897.22 results from applying against the net income so redetermined \$170,198.74 of a net loss sustained by this taxpayer for the period January 1 to December 19, 1924, under the authority contained in section 206 (b) of the revenue act of 1926.

The certificate of overassessment of \$215,147.74 for the year 1925 is produced by applying against the net income \$1,564,964.87, the balance of said net loss, and by excluding from taxable income an item of \$35,681 representing additional railway-mail pay for the year 1925.

*Diamond Match Co., New York*

Overassessment, 1918-1920..... \$311,973.35

The amounts of \$160,805.67 and \$19,453.99 included in the overassessment result from the allowance of additional deductions for depreciation and depletion, respectively, since it was determined the amounts deducted in the returns filed were less than the reasonable allowances authorized by section 234 (a) (7) and (9), revenue act of 1918.

Other causes of overassessment and amounts attributable thereto are: Amortization of the cost of war facilities, \$69,050.81 (secs. 234 (a) (8), revenue act of 1918, and 1209, revenue act of 1926); adjustments to invested capital to include therein the actual cash value of certain property at the time paid in, \$16,778.23 (sec. 326, revenue act of 1918); inventory adjustment, \$14,777.35 (sec. 203, revenue act of 1918); loss of useful value, \$10,823.77 (sec. 234 (a) (4), revenue act of 1918); exclusion of tax-exempt interest and elimination of income of certain subsidiary corporations, \$20,283.53 (secs. 213 (b) and 240, revenue act of 1918).

*Eastern Oil Co., Buffalo, N. Y.*

Overassessment, 1925..... \$92,651.05

The above overassessment results from apportioning net losses for the years 1923 and 1924 due to sale of stocks by the parent company to outside interests. (Sec. 206 (e), revenue act of 1926.) *Swift & Co. v. United States* (38 Fed. (2d) 365); *Sweets Co. of America (Inc.) v. Commissioner* (40 Fed. (2d) 436).

*Ellerman & Bucknall Steamship Co. (Ltd.), London, England*

Overassessment, 1919..... \$80,547.69

The overassessment is caused by the reallocation of net income in accordance with the provisions of T. D. 3387, C. B. I-2, 153; T. D. 4201, C. B. VII-2, 133; and the computing of the excess profits tax in accordance with sections 327 and 328 of the revenue act of 1918.

*Elton Corporation, New York*

Overassessment, 1927, 1928..... \$84,077.71

The overassessments involved are due entirely to the allowance of deductions for depreciation of film production costs. It was determined that the costs of certain assets were erroneously deducted from the reported gross income for prior years, which assets are now restored to capital accounts and depreciation allowed thereon at the rates used in the determination of the tax liability for perior years. (Sec. 234 (a) (7), revenue act of 1926, and 23 (k), revenue act of 1928; arts. 161 and 561, regulations 69, and art. 201, regulations 74.)

*Equitable Life Assurance Society of the United States, New York*

Overassessment, 1917..... \$169,447.51

The overassessment of income and profits taxes in favor of the above-named taxpayer is caused by the increase in the invested capital due to the inclusion therein of certain reserve funds erroneously disallowed in a prior audit. (*Duffy v. Mutual Benefit Life Insurance Co.*, 272 U. S. 612; *Moncure v. Atlantic Life Insurance Co.*, 44 Fed. (2d) 167.)

*Equitable Trust Co. of New York, N. Y.*

Overassessment, 1920..... \$277,052.09

The overassessment is made pursuant to the final order of the United States Board of Tax Appeals entered in the instant case, Docket No. 28891.

Of the overassessment, \$236,000 (approximately) is caused by reducing income as the result of certain losses sustained by a subsidiary.

The balance of the overassessment is caused by the allowance as a deduction from income of an amount deposited by a creditor which was erroneously reported as income, bad debts, depreciation, and loss sustained by foreign branch which was not reported to the home office.

*The Fair Stock Trust, Chicago, Ill.*

Overassessment, 1918, 1919, 1921-1923..... \$907,531.31

The overassessment for the year 1922 results from the decision of the United States Board of Tax Appeals in the instant case for that

year. (Edward J. Lehmann et al., trustees, v. Commissioner, 21 B. T. A. 664.)

The only question involved in this case is whether certain income received by the taxpayers, as trustees under the terms of an indenture trust, is taxable to them as trustees or is properly taxable to the beneficiaries of the trust. The settlement is therefore made upon the basis of subjecting the trust to tax only upon such portion of the net income as remained undistributed. The proposed overassessment results from recomputation of the correct tax liability for all years involved upon that basis.

*Famous Players-Lasky Corporation, New York, Paramount Publix Corporation (successor)*

Overassessment, 1918-1920.....	\$402, 134. 02
Withheld.....	22, 318. 89

The principal cause of overassessment in the amount of \$375,824.95 results from increases in invested capital as determined in a previous audit for the year 1918 and as reported in the returns filed for the years 1919 and 1920 for adjustments of certain amounts representing excessive deductions for certain intangible assets, disallowed as deductions in a prior year, correct adjustments of Federal taxes and adjustments necessary to correct accounting errors which resulted in understatements of the invested capital. (Sec. 326 (a), revenue act of 1918.)

Other causes and amounts comprising the balance of the overassessment are allowance of additional deductions for ordinary and necessary expenses, depreciation, inclusion of operating losses of certain subsidiary corporations, \$22,918.09 (secs. 234 (a) (1) and (7) and 240, revenue act of 1918); correction of accounting errors, \$2,533.07 (sec. 233 (a), revenue act of 1918); remission of interest assessed on a deficiency, \$857.91.

As a result of the foregoing adjustments for the years 1918 and 1919, the taxpayer has agreed to the dismissal of its suit pending in the United States Court of Claims for the recovery of an amount of income and profits taxes and interest exceeding the aggregate of the above-indicated overassessments for those years.

*J. F. Feder & Co. (Inc.), New York*

Overassessment, 1929.....	\$75, 337. 67
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Of the overassessment, \$75,272.77 is due to the reallocation of income from 1929 to 1928 as it was determined that such income did not accrue during the taxable year and pursuant to the method of accounting employed by the taxpayer is properly taxable in the prior year and was included in the taxable income which formed the basis for the determination of the correct tax liability for such year. (Sec. 42, revenue act of 1928; arts. 321, 322, and 331, Regulations 74.)

The amount of \$64.90 representing the balance of the overassessment results from the allowance of a deduction for a loss sustained upon the sale of certain shares of capital stock during the year. (Section 23, revenue act of 1928; article 171, Regulations 74.)



*Fitzgerald, Mary Ann, estate of, New York*

Overassessment, 1927----- \$613, 131. 09

An overstatement of estate tax in favor of the above-named taxpayer in the amount of \$580,017.41 results from the allowance of a credit under the provisions of section 301 (b), revenue act of 1926, representing the amount of State inheritance taxes paid subsequent to the filing of the Federal estate-tax return. (Art. 9 (a), Regulations 70.)

The amount of \$25,835.09 of the overassessment is due to the allowance of additional deductions from the gross estate representing amounts paid for executor's commissions and bequests made pursuant to the decedent's will to charitable, religious, and similar institutions and organizations. (Sec. 303 (a) (1) and (3), revenue act of 1926; arts. 33 and 44 to 47, inclusive, Regulations 70.)

The balance of the overassessment in the amount of \$7,278.59 represents the remission of interest assessed on a deficiency in tax.

*The Fleischmann Co., New York*

Overassessment, 1918-1921----- \$104, 418. 07

Of the overassessment, \$35,857.29 results from the elimination of income of a subsidiary corporation erroneously included in the consolidated return filed. It was determined that such company was not affiliated with the taxpayer corporation within the purview of section 240 of the revenue act of 1918, by reason of the fact that substantially all of the capital stock of the subsidiary corporation was not owned or controlled by the taxpayer or by the same interests which owned or controlled the capital stock of the taxpayer.

Other causes of overassessments and amounts attributable thereto are the allowance of a deduction for the amortization of war facilities, \$22,578.21 (sec. 234 (a) (8), revenue act of 1918); correction of accounting errors, \$14,785.19 (sec. 233 (a), revenue acts of 1918 and 1921); credit for foreign taxes, \$11,914.97 (sec. 238, revenue act of 1918); increase in allowance for depreciation, \$8,674.39 (sec. 234 (a) (7), revenue act of 1918); increase in invested capital, \$5,722.71 (sec. 326 (a) (2), revenue act of 1918); expenses, taxes, bond expense, elimination of profit on intercompany transactions, overstatement of taxable Liberty bond interest, \$4,885.31.

*Gans Steamship Line, New York*

Overassessment, 1918----- \$125, 733. 87

As a result of the following adjustments, the taxpayer has agreed to the dismissal of its suits pending in the District Court of the United States for the Southern District of New York for the recovery of income and profits taxes and interest in excess of the amount of the above-indicated overassessment.

The principal cause of overassessment in the amount of \$121,549.05 is due to the allowance of special assessment under the provisions of sections 327 and 328, revenue act of 1918.

The balance of the overassessment, amounting to \$4,184.82, is caused by the allowance of a deduction, previously disallowed, for amortization of the March 1, 1913, value of a contract. (Sec. 234 (a) (7), revenue act of 1918; art. 163, Regulations 45; T. D. 3760 (C. B. IV-2, 154); *Philip Henrici Co. v. Reinecke*, 3 Fed. (2d) 34.)

*Good, Daniel, estate of, New York*

Overassessment, 1926-1928----- \$89, 079. 62

In accordance with the provisions of the will of the above-named taxpayer, the income from the trust created is taxable to the sole beneficiary and not to the trust. Therefore, all income reported by the trust has been eliminated with the exception of a profit derived from the sale of stock, which is taxable income to the trust.

*Greve, Clara L., estate of, Brooklyn, N. Y.*

Overassessment, 1928----- \$100, 000. 00

The entire overassessment is caused by the exclusion from taxable income of an amount erroneously reported in the tax return, since it was determined that such amount was the income of another taxpayer and was included in the taxable income which formed the basis for the assessment of a deficiency in tax against such other taxpayer. (Sec. 22, revenue act of 1928; art. 51, regulations 74.)

*Illinois Addressograph Manufacturing Co., Chicago, Ill.*

Overassessment, 1915-1923----- \$107, 253. 36  
Withheld----- 34, 621. 77

Of the overassessment, \$37,261.35 results from the redetermination of the profits tax liabilities under the provisions of sections 327 and 328, revenue acts of 1918 and 1921, by reason of the existence of abnormal conditions affecting the capital as the result of which the profits taxes if computed without the benefit of section 327, would work upon the taxpayer exceptional hardships evidenced by gross disproportions between the taxes computed without the benefit of such section and the taxes computed by reference to the representative corporations specified in section 328.

Increase in the allowance of deductions for depreciation of the March 1, 1913, valuation of patents results in \$47,877.21 of the above overassessment. (Sec. 234 (a) (7), revenue acts of 1918 and 1921, and the regulations promulgated thereunder.)

Other causes of overassessment and amounts attributable thereto are, inventory adjustments, \$14,521.56 (sec. 203, revenue acts of 1918 and 1921); adjustment of the reported invested capital, \$4,330.20 (sec. 326 (a), revenue act of 1921); remission of interest assessed on a deficiency, \$3,166.24; adjustments made for the fiscal year 1916 for the proper accrual of taxes and the correction of an error causing the overstatement of the reported income from sales, \$96.80 (secs. 12 (a) (1), revenue act of 1916 and 12 (a) (4), revenue act of 1916, as amended).

*Illinois Traction Co., Chicago, Ill.*

Overassessment, 1918, 1919----- \$168, 190. 07  
Barred by statute----- 57, 594. 58

The overassessment is due entirely to the allowance of an additional deduction for depreciation. The revised depreciation is caused by corrections in the statement of asset values and in the classification of assets as well as application of reasonable rates. (Sec. 234 (a) (7), revenue act of 1918.)



*International Harvester Co., Chicago, Ill.*

Overassessment, 1926----- \$124,033.23

The overassessment results from the determination of the tax liability on the basis of the consolidated net income computed on a calendar-year basis, to conform to the method of accounting employed by the parent corporation in keeping its books of account. The consolidated net income reported on the return filed included the net income of a subsidiary corporation which was computed on a fiscal-year basis. Revision is made accordingly, and the net income of such subsidiary corporation is determined for the calendar year. (Sec. 240, revenue act of 1926.)

*International Telephone Sales & Engineering Corporation, Chicago, Ill.*

Overassessment, 1920----- \$103,868.09

The allowance of additional deductions for salaries and interest understated in the return filed is responsible for \$58,895.30 of the above overassessment. (Sec. 234 (a) (1) and (2), revenue act of 1918.)

Of the overassessment, the amount of \$36,506.31 results from the elimination from gross income of a certain amount included therein which did not represent income accrued within the taxable year. (Secs. 213 (a) and 233 (a), revenue act of 1918.)

The amount of \$1,298.07 of the overassessment is caused by the allowance of an additional deduction for depreciation, since it was determined the deduction allowed in a prior audit was inadequate and less than the reasonable allowance authorized by section 234 (a) (7), revenue act of 1918.

The balance of the overassessment in the amount of \$8,616.87 represents the remission of interest assessed in connection with a deficiency in tax, since the determination of the present overassessment causes a proportionate reduction of the interest.

It will be noted that the difference between the amount of the overassessment and the total amount shown in the preceding résumé of the case is \$1,448.46. This amount represents a prior allowance not considered at the time the case was reported to the Joint Committee.

*James, Ellen S., estate of, New York City*

Overassessment, 1917----- \$414, 389. 74

The overassessment is made pursuant to the final order of the United States Board of Tax Appeals entered in the instant case for the above year, Docket No. 20943.

The overassessment results from the allowance as a deduction by the estate of a portion of the inheritance tax paid to the State of New York and the determination that income from dividends was overstated.

*Jones & Laughlin Steel Co. and subsidiaries, Pittsburgh, Pa.*

Overassessment, 1919, 1920----- \$976, 812. 31

The principal cause of overassessment in the amount of \$322,281.04 is caused by increases in the reported invested capitals representing the value of certain intangible assets acquired for stock, excessive depreciation, depletion, amortization charged off in prior years,



capital items erroneously charged to expense, omission of certain reserves from invested capital, and numerous other adjustments necessary to reflect the correct invested capital. (Sec. 326, revenue act of 1918, and the regulations promulgated thereunder. Appeal of St. Louis Screw Co., 2 B. T. A. 649.)

Other causes comprising the balance of the overassessment and amounts attributable thereto are increased allowances for depletion, depreciation, and obsolescence, \$221,043.77 (secs. 234 (a) (7) and (9), revenue act of 1918); overstatement of income from operations under a certain contract, \$333,369.38; inventory adjustment, \$66,801.90 (sec. 203, revenue act of 1918); amortization of the cost of war facilities, \$13,258.23 (sec. 234 (a) (8), revenue act of 1918); ordinary and necessary business expenses, \$12,395.45; allowance of an additional deduction for taxes, \$7,662.54.

*Judson, Belle K. (Mrs.), Grosse Pointe Park, Mich.*

Overassessment, 1927, 1928----- \$192, 581. 62

The entire overassessment is due to the elimination from income for each of such years of certain amounts reported as dividends from stock and profits from the sale of stock, which have been found to be the income of the husband of the above-named taxpayer and accordingly transferred to his net income for each of such years.

*Kansas City Southern Railway Co., Kansas City, Mo.*

Overassessment, 1926, 1927----- \$118, 593. 69

Of the overassessment, the amount of \$117,154.68 is due to a decrease in the amount of interest receivable reported in the returns and the allowance of a deduction from gross income reported, representing interest payable, since it was determined that these items were overstated and understated, respectively, in the returns filed. (Secs. 233 (a) and 234 (a) (2), revenue act of 1926.)

The amount of \$1,088.77 included in the above overassessment, is due to the allowance of deductions representing the amount of certain ordinary and necessary business expenses, interest, and taxes which were erroneously capitalized by the taxpayer. (Sec. 234 (a)(1), (2) and (3), revenue act of 1926.)

The balance of the overassessment amounting to \$350.24 is due to excluding from the reported gross income certain amounts erroneously included therein by the taxpayer to correct certain deductions in prior years, which deductions have since been adjusted in arriving at the true taxable incomes for such prior years.

*Kelly Axe Manufacturing Co., Charleston, W. Va.*

Overassessment, 1917-1919, 1921----- \$379, 171. 10

The overassessments for the years 1917 and 1918 are made pursuant to the final order of the United States Board of Tax Appeals entered in the instant case, Docket No. 30292.

The amount of \$47,610.21 of the overassessment is caused by an increase in the invested capital as previously determined on account of the inclusion therein of amounts representing the actual cash value of intangible property at the time paid in. (Sec. 326 (a), revenue act of 1918.)

Of the overassessment, \$16,530.60 is caused by the revision of the reported valuations of the opening and closing inventories. It was determined that the reported inventories were undervalued and the understatement of the opening inventory was materially in excess of that of the closing inventory, resulting in a net decrease in the income. Revisions are made accordingly and the opening inventory valuation used in the present audit is the same as that used in the determination of the tax liability for the preceding year. (Sec. 203, revenue act of 1921.)

Other causes of overassessment and the amounts attributable thereto are bad debts, \$11,917.89 (sec. 234 (a) (5), revenue act of 1921); correction of accounting errors, \$1,139.13 (sec. 233 (a), revenue act of 1921); loss on sale of capital assets, \$3,141.22 (sec. 234 (a) (4), revenue act of 1918).

*Kingun & Co. (Inc.), Indianapolis, Ind.*

Overassessment, 1923----- \$104, 154. 37

The overassessment has been developed through the elimination from gross income for the year in question of an amount representing dividends allegedly accrued from a foreign subsidiary as at October 31, 1923. The facts disclose that such dividends were not actually declared until December 17, 1923. It has, therefore, been held that the amount in question should not have been accrued upon the taxpayer's books nor included in taxable income for the fiscal year ended October 31, 1923.

*Lawrence Manufacturing Co., Lowell, Mass.*

Overassessment, 1919----- \$98, 009. 48

The entire overassessment is due to the fact that a credit of this amount representing a portion of an overpayment, disclosed for the fiscal year 1919, was credited against a deficiency in tax of \$98,009.48 for the fiscal year ended April 30, 1920, after the expiration of the statutory period of limitation within which collection of the deficiency could legally be made. The credit, therefore, under the provisions of section 607 of the revenue act of 1928 represents an overpayment of tax.

*Life Insurance Co. of Virginia, Richmond, Va.*

Overassessment, 1919, 1920----- \$215, 072. 38

The above overassessment is caused by an increase in the invested capitals due to the inclusion therein of certain reserve funds which were erroneously disallowed in prior audits. (*Duffy v. Mutual Benefit Life Insurance Co.* (272 U. S. 612); *Moncure v. Atlantic Life Insurance Co.* (44 Fed. (2d) 167).)

As a result of the foregoing adjustments, the taxpayer has agreed to the dismissal of its pending suits instituted in the District Court of the United States for the Eastern District of Virginia.

*Long-Bell Lumber Co., Kansas City, Mo.*

Overassessment, 1925, 1926----- \$179, 637. 95  
Barred by statute----- 1, 621. 26

The principal cause of overassessment is due to the allowance of additional deductions for depreciation, since it was determined that



the depreciation claimed in the returns filed was less than the reasonable deductions to which the taxpayer is entitled under the provisions of section 234 (a) (7), revenue act of 1926, and articles 161 and 561, Regulations 69. The amount of \$109,542.72 is attributable to this cause.

Other causes of overassessment and amounts attributable thereto are the allowance of additional deductions for bond discount and expenses, \$55,177.59 (sec. 234 (a) (1), revenue act of 1926); elimination of intercompany profits, \$7,607.42 (sec. 233 (a), 234 (a), and 240, revenue act of 1926); recomputation of profit realized from sale of certain assets involving deferred payments, \$5,622.12 (sec. 212 (d), revenue act of 1926); excess interest collection, \$66.84.

*Louisville Gas & Electric Co. of Delaware, Louisville, Ky.*

Overassessment, 1922-1925..... \$215, 851. 06

The principal cause of overassessment in the amount of \$181,795.75 is due to the allowance of deductions representing the amount paid annually for the rent of a manufacturing plant and mine, which amounts were erroneously treated on the tax returns as dividends paid. (Secs. 234 (a) (1), revenue acts of 1921 and 1924.)

The amounts of \$28,702.39 and \$3,931.01, included in the above overassessment, are due to the allowances of additional deductions for depreciation and depletion, respectively. (Secs. 234 (a) (7) and (9), revenue acts of 1921 and 1924.)

The balance of the overassessment is caused by the reduction of the reported net incomes for the proper accrual of city, State and county taxes, and to the allowance of amortization of the cost of improvements to leased property. (Sec. 234 (a) (3), revenue acts of 1921 and 1924.)

*Mahler, Baruch, Estate of, Cleveland Heights, Ohio*

Overassessment, 1924..... \$79, 553. 76

The entire overassessment of estate tax in favor of the above-named taxpayer is caused by the elimination of the value of certain property included in the gross estate in a prior audit. It was determined that the transfer of such property by the decedent during his lifetime was not made in contemplation of nor intended to take effect in possession or enjoyment at or after his death. (Sec. 402 (c), revenue act of 1921.)

*Manufacturers Light & Heat Co., Pittsburgh, Pa.*

Overassessment, 1920, 1921..... \$75, 619

Of the overassessment, the amounts of \$47,597.57 and \$27,101.85 are caused by the allowance of additional deductions for depreciation and depletion, respectively, since it was determined that the amounts allowed in a previous audit were inadequate and less than the reasonable allowances authorized by section 234 (a) (7) and (9), revenue acts of 1918 and 1921.

The balance of the overassessment in the amount of \$919.58 is due to the remission of interest assessed on a deficiency in tax for the year 1920.

*Marine Securities Co., Evanston, Ill.*

Overassessment, 1920..... \$153,070. 94

The above overassessment of income and profits taxes in favor of the above-named taxpayer results from the redetermination of the taxable income. It was determined that the deduction authorized by section 23 of the merchant marine act, 1920, was omitted in the return filed and in a prior audit.

As a result of the foregoing adjustment, the taxpayer has agreed to the dismissal of its suit pending in the United States District Court, First District of Illinois, for the recovery of an amount in excess of the above-indicated overassessment.

*Morris, Samuel W., Philadelphia, Pa.*

Overassessment, 1924-1928..... \$102,848. 84

The overassessment is caused by the elimination from income of items representing amounts distributed to the taxpayer from the estate of his deceased wife in lieu of his statutory interest in her estate. This action is based upon the court decisions in the following cases: *Alen v. Brandeis* (29 Fed. (2d) 363), T. D. 4256, VIII-1 C. B. 243; *Warner v. Walsh* (27 Fed. (2d) 952), T. D. 4257, VIII-1 C. B. 245; and *United States v. Bolster* (26 Fed. (2d) 760), T. D. 4258, VIII-1 C. B. 247.

*Nashville Industrial Corporation, Old Hickory, Tenn.*

Overassessment, 1925-1928..... \$100,177. 40

The principal cause of overassessment in the amount of \$91,905.16 results from increasing the cost of sales. The taxpayer erroneously understated the cost of sales as reported in the returns filed for the years 1925, 1926, 1927, and 1928, and overstated the cost of sales in the returns filed for the years 1920 to 1924, inclusive, as a result of which deficiencies in tax have been assessed in excess of the proposed overassessment. (Sec. 234 (a), revenue act of 1926, and 23 (a), revenue act of 1928.)

Other causes and amounts comprising the balance of the overassessment are the correction of accounting errors which cause an overstatement of the gross income reported, \$4,067.87 (sec. 233 (a), revenue act of 1926); increased allowance for depreciation, \$1,863.59 (secs. 234 (a) (7), revenue act of 1926, and 23 (k), revenue act of 1928); elimination of income erroneously included in the returns filed, \$1,679.64 (sec. 233 (a), revenue act of 1926); allowance of additional deductions for ordinary and necessary business expenses and a loss sustained on the final disposition of a capital asset, \$661.14 (sec. 234 (a) (1) and (4), revenue act of 1926, and 23 (a), revenue act of 1928).

*National City Bank of New York, New York City*

Overassessment, 1923..... \$138,982. 36

Of the overassessment, \$131,764.10 is caused by the allowance of an increased credit for foreign taxes. The taxpayer failed to take credit for the correct amount of taxes paid to foreign governments on income from sources without the United States in accordance with the provisions of section 238 of the revenue act of 1921.

The balance of the overassessment amounting to \$7,218.26 results from the determination of the tax liability on the basis of the correct



consolidated net income of the taxpayer and all other corporations with which it was affiliated during the taxable year, instead of on the basis on which the tax return was filed, which included the operations of only part of the affiliated group. (Sec. 240, revenue act of 1921.)

*Nestles Food Co. (Inc.) and subsidiaries, New York City*

Overassessment, 1918-19 ..... \$87, 224. 75

The overassessment for the year 1918 is made pursuant to the final audit of the United States Board of Tax Appeals entered in the case of that taxpayer, Docket No. 36032. The overassessment is caused entirely by the allowance of amortization of war facilities.

The amount of \$7,740.49 of the overassessment in the cases of Ithaca Condensed Milk & Cream Co. and Nestles Food Co. (Delaware) for the years 1918 and 1919 represents the abatement of deficiencies in tax assessed against these taxpayers and results from the allocation of the tax on the consolidated net incomes in accordance with the provisions of section 240, revenue act of 1918.

The balance of the overassessment amounting to \$1,008.80 in the cases of Ithaca Condensed Milk & Cream Co. and Nestles Food Co. (Delaware) represents interest assessed on previously asserted deficiencies in tax which is offset by the overassessments now determined.

*Newport News Shipbuilding & Dry Dock Co., Newport News, Va.*

Overassessment, 1919, 1922-1924..... \$858, 723. 89

The entire overassessment for the year 1919 in the amount of \$409,974.15 results from the redetermination of the profits tax liability under the provisions of sections 327 and 328, revenue act of 1918, due to the existence of abnormal conditions affecting statutory invested capital to the extent that if the profits tax were computed without the benefit of such sections, it would work upon the taxpayer an exceptional hardship evidenced by gross disproportion between the tax so computed and the tax computed by reference to representative corporations specified in section 328.

The amount of \$347,347.57 of the overassessment is caused by the exclusion from taxable incomes for the years 1922 to 1924, inclusive, of certain amounts reported as income from long-term contracts, since it was determined that such income accrued during the years 1920 and 1921 and was included in the taxable income which formed the bases for assessment of deficiencies in tax for those years. (Sec. 233 (a), revenue acts of 1921 and 1924.)

Other causes of overassessment and amounts attributable thereto are the elimination from gross income of an amount erroneously included therein representing a certain allowance made to the taxpayer in partial reimbursement for expenditures incurred in the erection of certain plant facilities for the production of articles contributing to the prosecution of war, \$83,853.47 (sec. 233 (a), revenue act of 1924); increased allowance for depreciation, \$13,188.66 (sec. 234 (a) (7), revenue acts of 1921 and 1924); additional deduction for overhead expenses, \$2,192.04; amortization of bond discount, \$2,168 (sec. 234 (a) (1), revenue acts of 1921 and 1924).

*North American Oil Consolidated, San Francisco, Calif.*

Overassessment, 1924, 1926, 1927..... \$77, 411. 56  
Withheld..... 50. 121. 56

The overassessment indicated above results from the allowance of additional deductions for depreciation. It was determined that the amounts claimed in the tax returns filed were inadequate and less than the reasonable allowance authorized by sections 234 (a) (7), revenue acts of 1924, and 1926.

*Northern Pacific Railway Co., St. Paul, Minn.*

Overassessment, 1919..... \$96,817.81

The overassessment is made pursuant to the final order of the United States Board of Tax Appeals entered in the instant case for the above year, Docket No. 18657.

*Norton Co., Worcester, Mass.*

Overassessment, 1918..... \$315,898.65  
Withheld..... 35,593.16

The above overassessment is due to the allowance of an additional deduction for amortization of the cost of facilities installed or acquired after April 6, 1917, for the production of articles contributing to the prosecution of the World War. (Sec. 234 (a) (8), revenue act of 1918.)

*Norwalk Tire & Rubber Co., Norwalk, Conn.*

Overassessment, 1918-1920..... \$90,948.82

The overassessment for the years 1918 and 1919 in the amount of \$82,616.02 is made pursuant to the final order of the United States Board of Tax Appeals entered in the instant case for those years, Docket No. 31366.

The overassessment for the year 1920 results from the revision of the reported valuations of opening and closing inventories. The valuations reported were materially overstated and the overvaluation of the closing inventory was in excess of the overvaluation of the opening inventory. (Sec. 203, revenue act of 1918; articles 1582 to 1584, inclusive, as amended by T. D. 3296.)

*Ohio Oil Co., Findlay, Ohio*

Overassessment, 1925, 1926..... \$381,615.02

The principal cause of overassessment in the amount of \$183,654.83 is due to an increased allowance for depletion, since the deduction claimed in the return filed was inadequate and less than the reasonable allowance authorized by section 234 (a) (8), revenue act of 1926.

Of the overassessment, \$176,759.94 is caused by inventory adjustments under the provisions of section 205 of the revenue act of 1926.

The amount of \$11,415.12 of the overassessment results from the elimination of the income of a certain subsidiary included in the consolidated return filed, since it was determined that such company was not affiliated with the taxpayer corporation during the year involved within the purview of section 240, revenue act of 1926, by reason of the fact that substantially all of the capital stock of the subsidiary corporation was not owned or controlled by the taxpayer or by the same interests which owned or controlled the capital stock of the taxpayer.

The balance of the overassessment, amounting to \$9,785.13, results from the correction of accounting errors which caused overstatements of the gross incomes reports in the returns filed. (Sec. 233 (a), revenue act of 1926.)

*Oklahoma Producing & Refining Corporation of America, Chicago, Ill.*

Overassessment, 1918..... \$273, 298. 28

Of the overassessment, \$32,225.55 is due to the allowance of amortization of tank cars as a war facility. (Sec. 234 (a) (8), revenue act of 1918.)

The amount of \$142,374.34 of the overassessment is caused by the allowance of an additional deduction for depletion, since it was determined that the depletion deduction in the return filed was less than the reasonable allowance authorized by section 234 (a) (9), revenue act of 1918, and articles 201 and 561, regulations 45.

Other causes of overassessment and amounts attributable thereto are the deduction of an amount received as dividends on stock of a certain corporation, \$46,470.79 (art. 561, regulations 45); the allowance of deductions for unamortized costs of leaseholds, \$42,-345.65 (sec. 234 (a) (1), revenue act of 1918); miscellaneous adjustments to reported income, including the elimination of an overstatement of income, the correction of accounting errors, and the allowance of additional deductions for ordinary and necessary business expenses, \$9,881.95.

*Orlando Petroleum Co., Topeka, Kans.*

Overassessment, 1920..... \$89, 420. 54

The above overpayment represents an amount previously paid to the collector in excess of an assessed deficiency in tax and interest thereon for the above year.

*Oxford Paper Co., New York City*

Overassessment, 1920..... \$247, 700. 42

Of the overassessment, \$151,334.97 is caused by a revision of the closing inventory. It was determined that the reported closing inventory was overvalued and the present inventory valuation is based upon a study of the decline of market prices of allied products by bureau engineers. (Sec. 203, revenue act of 1918.)

The amount of \$81,565.11 of the overassessment results from increases in invested capital as previously determined on account of the restoration thereto of certain amounts representing the actual cash value of tangible property at the time paid in and an overstatement of the deduction for the proration of Federal taxes for the prior years. (Sec. 326, revenue act of 1918.)

The allowance of additional deductions for depreciation and depletion are responsible for \$3,105.18 and \$3,972.65, respectively, of the overassessment. It was found that the amount allowed as a deduction for depreciation in a prior audit of the case and the amount of depletion deducted in the return filed was less than the reasonable allowances authorized by section 234 (a) (7) and (9), revenue act of 1918.

The balance of the overassessment amounting to \$7,722.51 results from the allowance of additional deductions for miscellaneous expenses. (Sec. 234 (a) (1), revenue act of 1918.)



*G. Pardee Works, Philadelphia, Pa.*

Overassessment, 1917-1920..... \$164,824.99

An overassessment for the above-named company in the amount of \$341,052.72 was reported to this committee under date of September 22, 1930. Disposition of the case was not made at that time due to certain issues raised by the staff in connection with the right to affiliation. As a result of certain criticisms emanating from the staff of the committee, a review of the case was made and the overassessment was reduced \$176,227.73. The bases of settlement are as follows:

The principal cause of overassessment in the amount of \$104,771.84 is due to increases in invested capitals, resulting from the restoration to capital account of expenditures erroneously charged to expense, since it was determined that the foregoing items were not correctly shown in the invested capital disclosed in a prior audit for 1917 and in the reported invested capital for 1920. (Sec. 207 (a), revenue act of 1917, and 326 (a), revenue act of 1918; art. 64, Regulations 41, and 840, Regulations 45.)

Of the overassessment, \$35,241.32 results from the determination of the tax liabilities on the bases of the consolidated net income and invested capitals of the taxpayer and other corporations which filed separate returns but are now affiliated in accordance with the provisions of sections 240, revenue act of 1918, and 1331, revenue act of 1921.

The amount of \$18,065.88 of the overassessment is caused by the allowance of additional deductions for depreciation, since a field investigation by the Bureau disclosed that the amount allowed in a prior audit for the year 1917 and the amount deducted in the return filed for the year 1920 was inadequate and less than the reasonable allowances authorized by sections 12 (a) (2), revenue act of 1916, and 234 (a) (7), revenue act of 1918.

The balance of the overassessment amounting to \$6,745.95 is due to the allowance of an additional deduction for ordinary and necessary business expenses which were understated in the return filed for the year 1917 and to the reduction of the amount reported as a gain on the sale of certain assets which was erroneously overstated in the tax return filed for the year 1920. (Secs. 12 (a) (1), revenue act of 1916, and 202, revenue act of 1918.)

*Parke, Davis & Co., Detroit, Mich.*

Overassessment, 1920..... \$97,774.33  
Withheld..... 35,556.55

The amount of \$67,523.26 of the overassessment results from adjustments necessary to correct accounting errors which caused overstatements of the gross income. (Sec. 233 (a), revenue act of 1918.)

The allowance of an increased credit for foreign taxes paid causes \$24,082.72 of the overassessment. (Sec. 238, revenue act of 1918.)

The balance of the overassessment amounting to \$6,168.35 is caused by the allowance of an additional deduction for taxes which were understated in a prior audit. (Sec. 234 (a) (3), revenue act of 1918.)



*Parker, Mary E., Portland, Oreg.*

Overassessment, 1928----- \$132, 582

The entire overassessment of income tax in favor of the above-named taxpayer is due to an overstatement of profit on the sale of certain capital assets. (Secs. 113 (a) and 113 (a) (5), revenue act of 1928; articles 591 and 596, Regulations 74.)

*Pfister & Vogel Leather Co., Milwaukee, Wis.*

Overassessment, 1918, 1919----- \$316, 804. 90

The principal cause of overassessment in the amount of \$230,755.10, is due to an understatement of the cost of goods sold by reason of failure to include therein certain purchases made during the taxable year, and to the overvaluation of the closing inventory. (Secs. 203 and 234 (a) (1), revenue act of 1918.)

The amount of \$57,321.76 of the overassessment results from a reduction of the amount of sales during the taxable year, since it was determined that the amount of sales reported in the tax return and used as a basis for the determination of taxable net income in a prior audit was overstated. (Sec. 233, revenue act of 1918.)

The allowance of a deduction from income as previously determined for the year 1919 for the amortization of the cost of war facilities under the provisions of sections 234 (a) (8), revenue act of 1918, and 1209, revenue act of 1926, causes \$16,672.03 of the overassessment for that year.

The balance of the overassessment for the year 1919 amounting to \$5,063.27, is due to the allowance for taxes which was omitted from the tax return filed. (Sec. 234 (a) (3), revenue act of 1918.)

The overassessment for the year 1918 in the amount of \$6,992.74, is caused by an increased allowance for depreciation as provided under the provisions of section 234 (a) (7), revenue act of 1918.

*Albert Pick & Co., New York City*

Overassessment, 1927, 1928----- \$173, 676. 48

Of the overassessment, \$164,086.53 is caused by permitting the taxpayer to return the income derived from sales of personal property on the installment basis in accordance with the method adopted and approved for prior years. (Secs. 212 (d), 232, and 1208, revenue act of 1926, 44 (a) and 705 (a) (1), revenue act of 1928.)

The amount of \$5,452.99 of the overassessment is due to the determination of the tax liability on the basis of the correct consolidated net income of the taxpayer and all other corporations with which it was affiliated during the taxable year instead of on the basis on which the tax returns were filed, which included the operations of only part of the affiliated group. (Sec. 233 (a), revenue act of 1926.)

The allowance of an additional deduction for depreciation represents \$3,929.67 of the above overassessment. (Sec. 234 (a) (7), revenue act of 1926.)

The balance of the overassessment in the amount of \$207.29 represents an excess interest collection.

*Pictorial Review Co., New York City*

Overassessment, 1923, 1925..... \$75, 504. 20

The amount of \$55,560.92 of the overassessment results from the determination of the tax liability on the basis of the correct consolidated net incomes of the taxpayer and all other corporations with which the taxpayer was affiliated during the taxable years instead of on the basis on which the tax returns were filed, which included the operations of only part of the affiliated group. (Secs. 240, revenue acts of 1921 and 1924.)

The remainder of the overassessment amounting to \$19,943.28 is caused by the allowance of additional deductions for ordinary and necessary business expenses and taxes, since it was determined that such deductions were understated in the return filed. (Sec. 234 (a) (1) and (3), revenue act of 1926.)

*Pittsburgh Plate Glass Co., Pittsburgh, Pa.*

Overassessment, 1917, 1918, 1920-1925..... \$693, 134. 09

Of the overassessment, \$205,537.15 is caused by increased allowances for depreciation as provided under the provisions of sections 12 (a) (2), revenue act of 1916, and 234 (a) (7), revenue acts of 1918, 1921, and 1924.

The amount of \$156,613.33 of the overassessment results from the allowance of deductions for losses sustained on the final disposition of certain capital assets. (Secs. 12 (a) (2), revenue act of 1916, and 234 (a) (4), revenue acts of 1918, 1921, 1924, and 1926; articles 143 and 561, Regulations 45, 62, 65, and 69.)

The third major cause of overassessment in the amount of \$147,-316.29 results from the exclusion of the reported net incomes of certain subsidiary corporations, erroneously included in the consolidated tax returns filed by the taxpayer, and the assessment of taxes against them separately, since it was determined that such companies are not affiliated with the taxpayer under the provisions of sections 240, revenue acts of 1918 and 1924, and 1331, revenue act of 1921.

Other causes of overassessment and amounts attributable to each are as follows: Reallocation of income, \$85,180.70; amortization of the cost of war facilities, \$56,337.59 (secs. 234 (a) (8), revenue act of 1918, and 1209, revenue act of 1926); increases to invested capital, \$20,399.78 (secs. 207, revenue act of 1917, and 326, revenue act of 1918); inventory adjustment, \$13,411.60 (sec. 203, revenue acts of 1918 and 1921); miscellaneous ordinary and necessary business expenses, \$4,959.12 (sec. 234 (a) (1), revenue act of 1921); exclusion of tax-exempt income \$1,987.78 (secs. 1200, revenue act of 1917, and 233, revenue act of 1918); exclusion of amounts not representing taxable income, \$1,390.75 (secs. 10, revenue act of 1916, and 233, revenue act of 1918).

*Prairie Pipe Line Co., Independence, Kans.*

Overassessment, 1915-1927..... \$2, 935, 734. 63  
Barred by statute..... 644, 244. 97

The principal cause of overassessment in the amount of \$1,317,-256.96 is caused by an increase in the invested capital by the inclusion



therein of the value of certain tangible and intangible property acquired in excess of the par value of the stock issued therefor. (Secs. 326, revenue acts of 1918 and 1921; articles 835 and 836, as amended by T. D. 3752 (C. B. IV-2, 232) regulations 45 and 62; appeal of St. Louis Screw Co., 2 B. T. A. 649.)

Of the overassessment, \$627,856.86 is caused by the allowance of special assessment. The ground upon which this allowance is based is that the bureau was unable to determine satisfactorily the correct war profits credit, under section 311 of the revenue act of 1918, due to lack of accurate segregation of pipe line accounts as to capital and earnings of the predecessor corporation. Investigation indicated the taxpayer was entitled to a higher credit than 10 per cent of its statutory capital for 1918. In applying section 328, comparison has been made with representative concerns in the pipe line industry.

Another major contributing cause of overassessment is due to the allowance of additional deductions for depreciation. It was determined that the deductions claimed in the returns are inadequate and less than the reasonable allowances authorized by sections 12 (a) (2), revenue act of 1916, 234 (a) (7), revenue acts of 1918, 1921, 1924, and 1926. The amount of \$259,150.79 of the overassessment is attributed to this cause.

The determination of war profits credit on the basis of the pre-war net income and invested capital as provided by sections 203 (d), 204, and 205, revenue act of 1917, is responsible for \$77,067.97 of the above overassessment. The war profits credit claimed in the tax return was less than that to which the taxpayer was entitled under the foregoing provisions of the act.

The balance of the overassessment amounting to \$10,157.08 results from the correction of certain accounting errors which cause an overstatement of the taxable net income reported in the returns filed, and to the allowance of an additional deduction for taxes. (Sec. 234 (a) (3), revenue act of 1918.)

*Puget Sound Tug Boat Co., Seattle, Wash.*

Overassessment, 1917----- \$162, 192. 36

The principal contributing cause of overassessment in the amount of of \$103,502.94 results from the elimination of a portion of the gross income reported in the return filed, since it was determined that such income did not accrue during the taxable year and pursuant to the method of accounting employed by the taxpayer is properly taxable in the subsequent year and was included in the taxable income which formed the basis of the assessment of a deficiency in tax for such year. (Sec. 2 (a), revenue act of 1916, as amended.)

Of the overassessment, \$43,109.44 represents the abatement of a portion of the deficiency in tax summarily assessed under the provisions of section 250 (d), revenue act of 1921. It was found that the arbitrary method employed by the bureau to state the net income in a prior audit greatly overstated the true net income.

The adjustment of the invested capital as determined in a prior audit for amounts of excessive depreciation causes \$10,360.42 of the overassessment. (Sec. 207, revenue act of 1917.)

The balance of the overassessment amounting to \$5,219.56 is caused by the allowance of additional deductions for ordinary and necessary expenses. (Sec. 12 (a) (1), revenue act of 1917.)

*Robertson, Andrew D., estate of, Shamokin, Pa.*

Overassessment, 1928..... \$297,484.03

Of the overassessment, \$296,460.84 results from the allowance of a credit under the provisions of section 301 (b) of the revenue act of 1926 on account of State inheritance taxes paid to the States of Virginia, West Virginia, New Jersey, and Pennsylvania.

The balance of the overassessment in the amount of \$1,023.19 is due to the remission of interest assessed on a deficiency in tax, since the estate paid within one year after the death of the decedent an amount in excess of the Federal estate tax liability finally determined due from this estate.

*L. F. Robertson & Sons (Inc.), New York City*

Overassessment, 1919..... \$75,748.10

The overassessment of income and profits taxes in the amount of \$70,722.65 is due entirely to the understatement of the cost of goods sold. The understatement results from failure of the taxpayer to include in the cost of goods certain purchases made during the taxable year and to the overvaluation of the closing inventory. (Secs. 203 and 234 (a) (1), revenue act of 1918.)

The allowance of \$5,025.45 represents interest collected on the above indicated overassessment.

*Sanford-Day Iron Works (Inc.), Knoxville, Tenn.*

Overassessment, 1917-1921..... \$175,645.07

Of the overassessment, \$121,429.95 is caused by the allowance of additional deductions for depreciation. The allowance of depreciation for exhaustion of the established March 1, 1913, value for patents is based upon the decision in the case of the Union Metal Manufacturing Co., 1 B. T. A. 395 (acquiesced).

Another major contributing cause of overassessment in the amount of \$43,576.64 results from the allowance of special assessment. In applying the special assessment provisions to 1917 and 1920 profits tax computations, representative concerns have been chosen for proper comparatives. (Secs. 210, revenue act of 1917, and 327 and 328, revenue act of 1918.)

The balance of the overassessment in the amount of \$10,638.48 results from the adjustments to the reported invested capitals for the years 1918, 1919, and 1921, representing depreciation disallowed in prior years and other miscellaneous items. (Sec. 326, revenue acts of 1918 and 1921.)

*Sayles, Frank A., estate of, Providence, R. I.*

Overassessment, 1923..... \$161,573.61

The allowance of a loss sustained from the sale of certain capital stock during the taxable year is responsible for \$129,330.46 of the above overassessment. (Secs. 202 and 214 (a) (4), revenue act of 1921; articles 141 and 1561, Regulations 62.)

The balance of the overassessment amounting to \$32,243.15 represents the remission of interest asserted on the above deficiency, since the determination of the present overassessment causes the elimination of the interest.



*Shevlin, James, estate of, Brooklyn, N. Y.*

Overassessment, 1924----- \$81,623. 38

The overassessment is due to the determination of the tax liability in accordance with the provisions of section 322, revenue act of 1926, amending section 301, revenue act of 1924, under which the tax liability was computed in the estate tax return filed.

*Shulls Bread Co. (now Continental Baking Co.), New York City*

Overassessment, 1912, 1913, 1917, 1922----- \$76,903. 33

The amount of \$45,565 of the overassessment is caused by an increase in the excess profits tax deduction. Investigation disclosed that upon determination of the invested capital, pursuant to the provisions of section 207, revenue act of 1917, the pre-war income and invested capital as determined in a prior audit were understated. (Sec. 203 (a), revenue act of 1917.)

The balance of the overassessment amounting to \$31,338.33 results from the allowance of additional deductions for depreciation as provided under the provisions of sections 38 (2d) (1), revenue act of 1909; II G (b) (2d), revenue act of 1913; 12 (a) (2d), revenue act of September 8, 1916; 234 (a) (7), revenue act of 1921.

*J. R. Simon & Co., Inc., New York City*

Overassessment, 1920----- \$108,106. 50

The overassessment is made pursuant to the final order of the United States Board of Tax Appeals entered in the instant case for the above year, Docket No. 16273.

The overassessment has been developed through the elimination from the net income reported of an amount representing income of the taxpayers' predecessor partnership for the period July 1, 1919, to September 17, 1919. The taxpayer filed a return for the 12-month period ended June 30, 1920, whereas the facts disclose that it was not incorporated until September 17, 1919. It has, therefore, been held that the amount in question should not have been included in the taxable income as reported by this corporation.

*Sinclair Gulf Corporation and subsidiaries, New York City*

Overassessment, 1917-1918----- \$159,794. 08

Of the overassessment, \$102,329.17 is due to an adjustment in the returns and in the previous audit whereby all rental payments made on nonproductive properties were treated as capital expenditures to be included in the depreciable cost when such properties became productive. Such rentals are now being allowed as deductions from income in accordance with the ruling of the Board of Tax Appeals in *Charles H. Merillat v. Commissioner* (9 B. T. A. 813).

Depreciation allowed in a previous audit has been increased to correct various errors of computation. The amount of \$35,515.24 of the overassessment is attributable to this cause. (Sec. 12 (a) (2), revenue act of 1916, and sec. 234 (a) (7), revenue act of 1918.)

The adjustments on account of Federal capital stock taxes and State franchise taxes are responsible for \$12,055.42 of the overassessment and are made in accordance with the decision of the Board of

Tax Appeals in the case of Jamestown Worsted Mills (1 B. T. A. 659).

The amount of \$2,752.31 of the overassessment is caused by the allowance of additional deductions for ordinary and necessary expenses and for losses sustained on the cancellation of certain leases. (Sec. 234 (a) (1) and (4), revenue act of 1918; arts. 101, 141, 143, and 561, Regulations 45.)

The balance of the overassessment, amounting to \$7,141.94, represents interest assessed on that portion of the previously assessed deficiencies in tax which is offset by the overassessment now determined.

*Sinclair Oil & Refining Corporation and subsidiaries, New York City*

Overassessment, 1917-1918.....	\$448,480.09
Withheld.....	209,984.59

Restorations to the amounts of the previously determined invested capitals, representing the value of certain intangible assets acquired for stock, which amounts were omitted in a prior audit of the case, cause \$133,829.27 of the overassessment. (Sec. 326 (a) (4), revenue act of 1918; arts. 53, 57, and 58, regulations 41, and arts. 831, 851, and 865, Regulations 45; A. R. M. 34 (C. B. 2, 31).)

The allowance of deductions from gross incomes determined in a prior audit, representing payments made as rentals under leases covering certain nonproductive oil and gas properties, results in \$109,309.18 of the above overassessment. It was determined that such payments were rentals required to be paid as a condition to the continued use or possession of the property and constitute proper deductions in determining taxable net income. (Sec. 12 (a) (1), revenue act of 1916, and sec. 234 (a) (1) revenue act of 1918.)

Of the overassessment, the amount of \$97,730.26 is caused by the allowance of additional deductions from the gross income previously determined, for depreciation, depletion, and obsolescence. The deductions previously allowed for depreciation, depletion, and obsolescence were inadequate and less than the reasonable allowances to which the taxpayer is entitled. (Sec. 12 (a) (2), revenue act of 1916, and sec. 234 (a) (7) and (9), revenue act of 1918.)

The adjustments on account of capital stock taxes and State franchise taxes are responsible for \$48,727.60 of the overassessment. (Sec. 234 (a) (3), revenue act of 1918.)

Other causes of overassessment and amounts attributable thereto are the allowance of a deduction for a loss sustained on the cancellation of a certain lease, \$5,740.93 (sec. 234 (a) (4), revenue act of 1918; additional deduction for intangible drilling costs, \$698.63 (sec. 234 (a) (1), revenue act of 1918); exclusion of certain amounts representing profit on the redemption of corporate bonds and bond discount, \$23,131.36 (sec. 233 (a), revenue act of 1918); inventory adjustment, \$7,679.76 (sec. 203, revenue act of 1918); remission of interest assessed on deficiencies, \$21,633.10.

*Singer Manufacturing Co. and subsidiaries, Elizabeth, N. J.*

Overassessment (2 cases):

1921, 1922, 1924.....	\$608,574.38
Withheld.....	389,688.56
Barred by statute.....	104,008.44
1923.....	138,700.50



Of the above overassessments, \$612,486.74 results from the allowance of increased credits for foreign taxes paid, since it was determined that the credits claimed in the returns filed and allowed in a prior audit were understated. (Sec. 238, revenue acts of 1921 and 1924.)

The amount of \$39,488.18 of the overassessment results from the elimination of certain amounts from the income determined in a prior audit since such amounts represent income not subject to tax. (Sec. 233 (a), revenue act of 1921; art. 77 to 81, inclusive, and 541, Regulations 62.)

The allowance of additional deductions for taxes causes \$16,173.04 of the overassessment for the years 1921 and 1922. The real-estate taxes were erroneously capitalized on the books and omitted as deductions on the original return and are now allowable as taxes incurred for the taxable year. (Sec. 234 (a) (3), revenue act of 1921; art. 131 and 561, Regulations 62.)

The balance of the overassessment, amounting to \$79,126.92, is due to the remission of interest asserted at the time deficiencies in tax were assessed, since the determination of the overassessments for those years results in proportionate reductions in the interest assessed.

*H. S. & M. W. Snyder (Inc.), Boston, Mass.*

Overassessment, 1919.....	\$97, 154. 68
Withheld.....	5, 093. 24

The overassessment is made pursuant to the final order of the United States Board of Tax Appeals entered in the instant case for the above year, Docket No. 26137.

The entire overassessment results from the understatement in the cost of goods sold, amounting to \$521,144.23, and a net increase of \$19,154.75 in the invested capital reported for 1919.

*Soden, Peter, estate of, Kansas City, Mo.*

Overassessment, 1921.....	\$178, 964. 34
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The above overassessment results from the elimination from the gross estate reported in the return of the value of certain real property, since it was determined that such property is not subject to Federal estate tax. (Sec. 402 (a), revenue act of 1918; art. 13, Regulations 37.)

*Spiegel, May, Stern Co. (Inc.), Chicago, Ill.*

Overassessment, 1928.....	\$76, 991. 10
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The overassessment in this case results wholly from dividing the year 1928 into two parts, the period from January 1 to May 16, 1928, being applicable to Spiegel, May, Stern Co., an Illinois corporation which, on May 17, 1928, transferred all its operating assets to the taxpayer for capital stock of the latter company. The return filed included the net income of a predecessor corporation, the tax liability of which has been determined on a separate basis. (Sec. 52 (a), revenue act of 1928; art. 391, regulations 74.)

*Standard Tool Co., Cleveland, Ohio*

Overassessment, 1917, 1918, 1920.....	\$239, 555. 15
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The entire overassessment results from the determination of the profits tax liabilities under the provisions of sections 210, revenue act



of 1917, and 327 and 328, revenue act of 1918, due to inability to determine the taxpayer's statutory invested capitals under the provisions of sections 201, revenue act of 1917, and 326, revenue act of 1918.

*Superintendent Osage Indian Agency, for Mary Elkins, Roll No. 156, Pawhuska, Okla.*

Overassessment, 1920-1929----- \$83, 143. 31

The above overassessment represents the refund of all taxes paid for the years shown and is allowed by authority of the decision in the case of *Blackbird v. Commissioner* (38 Fed. (2d) 976). In that case it was held by the Circuit Court of Appeals, Tenth Circuit, that the taxpayer, a restricted full-blood member of the Osage Tribe, who had received income from bonuses and royalties on tribal mineral leases, surface rentals from homestead allotment, interest on funds held in trust by the United States, and a small amount from miscellaneous sources, was not subject to the income-tax statutes by reason of restricted status. The taxpayer in this case was likewise a restricted full-blood Osage who reported on her returns income of the same nature as that mentioned. The facts in this case are, therefore, identical with those in the case cited, and the overassessment, therefore, appears to be properly allowable under the decision in that case.

*Uniform Chemical Products (Inc.), New York City*

Overassessment, 1927, 1928----- \$92, 061. 44

The overassessment results from decreases in the reported gross incomes. The gross incomes reported in the returns filed were erroneously overstated due to the failure to take cognizance of rebates on sales made to its subsidiaries. (Sec. 233 (a), revenue act of 1926, and sec. 22 (a), revenue act of 1928.)

*Union Bag & Paper Corporation, New York City*

Overassessment, 1917-1919----- \$85, 407. 99

The overassessments are made pursuant to the final order of the United States Board of Tax Appeals entered in the instant case for the above years, Docket No. 22250.

*United Drug Co. and subsidiaries, Boston, Mass.*

Overassessment, 1922----- \$168, 437. 81

The overassessment is made pursuant to the final order of the United States Board of Tax Appeals entered in the instant case for the above year, Docket No. 27745.

*United Fruit Co., Boston, Mass.*

Overassessment, 1923, 1925-1928----- \$2, 477, 208. 12  
Withheld----- 53, 323. 33  
Barred by statute----- 162, 456. 39

Of the overassessment, \$2,198,031.92 is due to increases in the foreign tax credits allowed by section 238 of the revenue acts of 1921, 1924, and 1926. These credits fall into two general classes: (1) Those paid by the domestic company to foreign countries, which come under section 238 (a), and (2) those paid by foreign subsidiaries to foreign countries, which come under section 238 (e).

Other contributing causes and amounts comprising the balance of the overassessment are increased allowances for depreciation, \$68,-642.75 (sec. 234 (a) (7), revenue act of 1926); allowance of additional deductions for losses sustained, \$39,128.92 (secs. 234 (a) (4), revenue act of 1926, and 23 (f), revenue act of 1928); additional deduction for taxes paid, \$8,948.14 (sec. 234 (a) (2), revenue act of 1926).

*United Fuel Gas Co., Charleston, W. Va.*

Overassessment, 1917----- \$150,669.92

The entire overassessment results from the redetermination of the profits-tax liability under the provisions of section 210, revenue act of 1917. The taxpayer based its plea for assessment under section 210, upon the ground of inability to determine the true invested capital, and of abnormally large use of borrowed capital during 1917. The excess-profits tax has been determined by a comparison with the profits-tax liabilities of a group of representative corporations which in the aggregate may be said to be engaged in a like or similar trade or business to that of the taxpayer. (Art. 52, Regulations 41.)

*Vacuum Oil Co., New York City*

Overassessment, 1918----- \$130,560.00

The overassessment of income and profits taxes in the amount of \$130,560 in favor of the above-named taxpayer results from the allowance of an additional deduction for the amortization of the cost of vessels and facilities acquired, constructed, or installed after April 6, 1917, for the transportation of articles or men, and for the production of articles contributing to the prosecution of the World War. (Sec. 234 (a) (8), revenue act of 1918.)

*Warren Brothers Co., Cambridge, Mass.*

Overassessment, 1927----- \$110,778.95

Of the overassessment, \$109,188.57 results from the allowance of an additional credit for foreign taxes paid, since it was determined that the credit allowed in a prior audit, which resulted in the assessment of a deficiency in tax, was understated. (Sec. 238, revenue act of 1926.)

The balance of the overassessment amounting to \$1,590.38 represents the remission of interest assessed in connection with the prior deficiency in tax since the present overassessment causes a reduction in the interest.

*Westclox Co., La Salle, Ill.*

Overassessment, 1919-1921----- \$102,067.15

The overassessments are made pursuant to the final order of the United States Board of Tax Appeals entered in the instant case for the above years, Docket Nos. 29453 and 33736.

The issues upon which this settlement was based are (1) whether the taxpayer's income and/or capital for the year 1921 are affected by abnormal conditions within the meaning of section 327 of the revenue act of 1921, such as to work upon the taxpayer an exceptional hardship evidenced by a gross disproportion between the tax computed without the benefit of section 327 and the tax computed by reference to the representative corporations specified in section 327



of said act; (2) determination of the March 1, 1913 value, of certain patents for the purpose of allowing as a deduction from income exhaustion over the life thereof.

*Weyerhaeuser Timber Co., Tacoma, Wash.*

Overassessment, 1925, 1926..... \$123, 172. 66

The exclusion from incomes reported in the tax returns filed of certain amounts included therein as gains realized during the taxable year from the sales of real property involving deferred payments are responsible for \$122,925.14 of the overassessment. The sales were consummated during the preceding taxable years but erroneously reported in the years 1925 and 1926. (Sec. 212 (d), revenue act of 1926.)

The balance of the overassessment amounting to \$247.52 is caused by the allowance of additional deductions for ordinary and necessary business expenses. (Sec. 234 (a) (1), revenue act of 1926; arts. 101 and 561, regulations 69.)

*Wheeling Steel & Iron Co., Wheeling, W. Va.*

Overassessment, 1918, 1919..... \$181, 556. 47

The principal cause of overassessment in the amount of \$76,890.94 is due to the allowance of deductions for the amortization of the cost of facilities constructed, erected, installed, or acquired on or after April 6, 1917, for the production of articles contributing to the prosecution of the World War, since it was determined that these deductions were erroneously omitted from the tax returns. (Sec. 234 (a) (8), revenue act of 1918.)

Other causes of overassessment and amounts attributable thereto are the allowance of additional deductions for certain ordinary and necessary business expenses, \$29,397.90, section 234 (a) (1), revenue act of 1918; inventory adjustment, \$13,279.92, section 203, revenue act of 1918; additions to invested capital, \$27,878.23, section 326, revenue act of 1918; increased allowances for depreciation, \$19,688.01 section 234 (a) (7), revenue act of 1918; allowance of additional deductions for taxes and losses, \$14,421.47, section 23 (a) (3), and (4), revenue act of 1918.

*Whitaker-Glessner Co., Wheeling, W. Va.*

Overassessment, 1919..... \$212, 951. 83

Of the overassessment, \$152,540.07 is caused by adjustments to inventory. It was determined that the valuations reported were materially understated and that the understatement of the opening inventory valuation was in excess of the understatement of the closing inventory valuation and results in a net reduction in the taxable income. (Sec. 203, revenue act of 1918.)

Another major contributing cause is due to restorations to invested capital reported in the tax return on account of the understatement of the opening inventory valuation, excessive depreciation charged off in a prior year and disallowed, and numerous minor adjustments necessary to reflect a correct computation of the invested capital under the provisions of section 326, revenue act of 1918. The amount of \$34,528.66 of the overassessment is attributable to this cause.



The allowance of an additional deduction for depreciation of properties used in the business causes \$13,283.22 of the overassessment. (Sec. 234 (a) (7), revenue act of 1918.)

The amount of \$11,556.77 of the overassessment is caused by the allowance of additional deductions representing losses sustained on the final disposition of certain assets and on securities which became worthless during the taxable year. (Sec. 234 (a) (4), revenue act of 1918.)

The balance of the overassessment in the amount of \$1,043.11 is caused by the allowance of a deduction representing the proper portion of the discount on serial bonds applicable to this year. (Sec. 234 (a) (2), revenue act of 1918.)

*Wilmington Leather Co., Wilmington, Del.*

Overassessment, 1918, 1919.....	\$614, 199. 59
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The overassessment for 1918 is made pursuant to the final order of the United States Board of Tax Appeals entered in the instant case, Docket No. 23533.

The overassessment for 1918 results from the application of the net loss sustained for 1919 against the net income for the year 1918, under the provisions of section 204, revenue act of 1918. The entire overassessment for 1919 results from an understatement of the cost of goods sold during 1919 caused by the failure to include certain purchases in 1919 and the overstatement of the closing inventory as at December 31, 1919, which resulted in the determination of a net loss for 1919.

*Winchester Repeating Arms Co., New Haven, Conn.*

Overassessment, 1918.....	\$205, 688. 90
Withheld.....	5, 906. 90

The overassessment has been developed through reduction of closing inventory for the year 1918, by the amount of \$240,352.27, representing the elimination of labor content in the cost of certain manufactured products, including small tools, in excess of the wage rates prevailing at the end of 1918.

*Wolverine Petroleum Corporation, St. Louis, Mo.*

Overassessment, 1924-1926.....	\$109, 755. 08
Withheld.....	32, 258. 86

The overassessment indicated above results from the allowance of additional deductions for depreciation and depletion. It was determined that the amounts deducted in the tax returns filed were less than the reasonable allowances to which the taxpayer was entitled under the provisions of sections 234 (a) (7) and (8), revenue acts of 1924 and 1926, and the regulations promulgated thereunder.

## SUPPLEMENT TO PART II

TREASURY DEPARTMENT,  
Washington, January 28, 1933.

HON. J. W. COLLIER,  
*Chairman Joint Committee on Internal Revenue Taxation,  
House of Representatives.*

MY DEAR MR. CHAIRMAN. In accordance with the practice followed in prior years, there is transmitted herewith an analysis prepared by the Treasury Department of the overassessments reported to the joint committee for the calendar year 1931, and of other overassessments that were reviewed in the office of the general counsel of the Bureau of Internal Revenue during that year.

It is believed that this analysis will be of interest to your committee and will prove useful as a supplement to the three prior analyses prepared by the Treasury Department which were printed in connection with the three reports of the joint committee on refunds and credits of internal-revenue taxes for the period from June 1, 1928, through December 31, 1928, for the calendar year 1929, and for the calendar year 1930, respectively.

The determination of overassessments in tax, like the determination of tax deficiencies, is obviously a necessary incident to the administration of our tax laws. It is hoped that this continuation of the analysis of the specific reasons for overassessments may be of assistance in the framing and enactment of future revenue laws.

Very truly yours,

B. H. BARTHOLOW,  
*Special Assistant to the Secretary of the Treasury.*

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ANALYSIS OF OVERASSESSMENTS, PREPARED BY THE TREASURY  
DEPARTMENT

In connection with the report of the Joint Committee on Internal Revenue Taxation, under section 710 of the revenue act of 1928, dated June 19, 1929, House Document No. 43, Seventy-first Congress, first session, there was included an analysis of overassessments prepared by the Treasury Department. This analysis covered overassessments reported to the joint committee during the period from February 28, 1927, through January 18, 1929. A second analysis of overassessments, prepared by the Treasury Department, was printed in connection with the report of the joint committee under section 710, dated June 20, 1930, House Document No. 478, Seventy-first Congress, second session. This analysis covered overassessments reported to the joint committee during the period from January 19, 1929, through January 31, 1930, and other overassessments in excess of \$20,000 reviewed in the office of the general counsel of the Bureau of Internal Revenue during the period from March 14, 1929, through January 31, 1930. Both of the analyses referred to contained a general discussion of abatements, credits, and refunds, which discussion is also applicable to the present analysis. A third analysis of overassessments, prepared by the Treasury Department, was printed in connection with the report of the joint committee under section 710, dated January 12, 1932, House Document No. 223,



Seventy-second Congress, first session. This analysis covered overassessments reported to the joint committee during the period from February 1, 1930, through December 31, 1930, and other overassessments in excess of \$20,000 reviewed in the office of the general counsel of the Bureau of Internal Revenue during the same period and overassessments in excess of \$10,000 reviewed in that office during the period from July 15, 1930, through December 31, 1930.

The first report of the joint committee covered overassessments reported to it under the first deficiency act of February 28, 1927, during the period from the date of that act through April 24, 1928, and those reported under section 710 of the 1928 act during the period from May 29, 1928, through December 31, 1928, while the second and third reports of the joint committee covered the overassessments reported to it during the calendar years 1929 and 1930, respectively.

The Treasury Department has now prepared an analysis of overassessments reviewed by the office of the general counsel during the calendar year 1931. This analysis includes the cases reported to the joint committee during that period, and in addition it includes other overassessments in excess of \$20,000 reviewed in the office of the General Counsel of the Bureau of Internal Revenue during the same period and overassessments in excess of \$10,000 reviewed in that office during the period from January 1, 1931, through October 7, 1931. (On March 14, 1929, an Executive order and T. D. 4264 were issued providing for a public decision in every case of an overassessment (including abatements and credits, as well as refunds) of income, estate, or gift taxes in excess of \$20,000, and pursuant to orders of the Commissioner of Internal Revenue dated July 1, 1930, and October 6, 1931, all overassessments in excess of \$10,000 of income and profits taxes not due to court decisions were made subject to review between the dates July 15, 1930, and October 7, 1931, in the office of the general counsel prior to their allowance.)

In general, the present method of analysis of overassessments follows that used in the prior analyses, and it is therefore not deemed necessary to repeat here the explanations already submitted. Owing to the dissimilarity of causes operating to produce the overassessments in income-tax cases and in estate-tax cases, the separation observed in the prior analyses has been retained in the present analysis.

#### PART I. INCOME-TAX CASES

The number of income and profits tax cases involving overassessments and made the subject of the present analysis is 954. From an examination of these cases it is found that the total original taxes assessed amounted to \$326,406,774.23, the total additional taxes assessed amounted to \$67,479,904.35, the total overassessments previously allowed amounted to \$13,829,514.87, and the total overassessments herein analyzed amounted to \$79,488,519.93. The overassessments made the subject of this analysis involving the profits-tax years 1917-1921, inclusive, aggregate \$32,513,878.20, of which \$8,692,558.50 represent refunds, \$5,693,191.76 represent credits to other years, and \$18,128,127.94 represent unpaid taxes abated. The sum of \$32,513,878.20 is 40.90 per cent of the total overassessments covered by this analysis. It is of interest to note that the amount of



overassessments covered by this analysis involving the profits-tax years is substantially less than that made the subject of any prior report. The decrease in the amount of overassessments for the profits-tax years is due principally to the decline in the percentage of the total of the overassessments attributable to special assessment, invested capital, and amortization. It will be noted that the amount of overassessments coming out of the original assessments was \$25, 838,130.45, or about 7.92 per cent of the total original taxes assessed. It should be borne in mind that these overassessment cases primarily involve errors the correction of which works to the benefit of taxpayers and do not include that large number of cases, involving no substantial overassessments, where additional taxes are collected.

The following is a summary of the result obtained by this analysis with respect to the income, war-profits, and excess-profits taxes:

*Analysis of overassessments of income-tax cases*

Classification	Refund	Credit	Abatement	Total	Per cent
Court decisions.....	\$5,061,028.78	\$1,241,318.40	\$2,276,645.52	\$8,578,992.70	10.79
Board decisions.....	1,131,504.39	978,830.13	4,436,840.12	6,547,174.64	8.24
Specific legislation.....	328,148.88	138,700.50	828,001.25	1,294,850.63	1.63
Special assessment.....	1,893,783.07	1,063,142.69	923,340.50	3,880,266.26	4.88
Erroneous assessments.....	84,093.54	143,858.32	13,395,592.48	13,623,544.34	17.14
Depreciation.....	2,155,462.98	1,863,166.76	1,066,520.70	5,085,150.44	6.40
Depletion.....	521,695.43	636,057.90	2,524,587.09	3,682,340.42	4.63
Obsolescence.....	247,335.36	65,562.42	20,126.74	333,024.52	.42
Inventory changes.....	1,050,063.78	1,333,062.34	690,889.10	3,074,015.22	3.87
Affiliation changes.....	374,270.43	289,231.43	518,530.08	1,182,031.94	1.49
Losses.....	1,036,991.72	321,369.18	664,406.33	2,022,767.23	2.54
Invested capital changes.....	795,690.77	2,213,316.95	1,178,442.23	4,187,449.95	5.27
Amortization.....	299,963.09	257,015.24	783,666.35	1,340,644.68	1.69
Shift of income.....	1,976,347.84	2,744,892.47	954,342.06	5,675,582.37	7.14
Miscellaneous.....	8,932,162.09	3,917,404.46	6,131,118.04	18,980,684.59	23.87
Total.....	25,888,542.15	36,393,048.59	17,206,929.19	79,488,519.93	100.00

*Analysis of classification, "Miscellaneous"*

Classification	Refund	Credit	Abatement	Total	Per cent of "Miscellaneous"	Per cent of total refund
Adjustment of gross income including profit or loss on sale of capital assets.....	\$2,209,265.62	\$527,786.75	\$1,910,372.94	\$4,647,425.31	24.49	5.84
Credit for foreign taxes.....	2,710,308.02	784,155.48	30,723.61	3,525,187.11	18.57	4.43
Nontaxable dividends and interest.....	718,636.09	213,651.23	264,687.52	1,196,974.84	6.31	1.51
Taxes.....	352,433.90	153,185.74	1,402,278.34	1,907,897.98	10.05	2.40
Proceeds from sale of stock.....	371,983.29	201,354.29	267,126.83	840,464.41	4.43	1.06
Joint venture or partnership income, interest, and income from dividends.....	391,299.92	140,856.44	218,605.87	750,762.23	3.95	.94
Installment sales.....	187,618.62	298,240.27	2,500.50	488,359.39	2.57	.61
Net losses.....	245,285.89	108,309.03	117,041.03	470,635.95	2.48	.59
Other adjustments for repairs, compensation of officers and employees, interest, donations, legal expenses, advertising expense, mathematical errors, ordinary and necessary business expenses, rents, exempt organizations, changes in accounting periods, taxes withheld, etc.....	1,745,330.74	1,489,865.23	1,917,781.40	5,152,977.37	27.15	6.49
Total.....	8,932,162.09	3,917,404.46	6,131,118.04	18,980,684.59	100.00	23.87

## PART II. ESTATE-TAX CASES

The following analysis covers cases involving overassessments of estate taxes in excess of \$20,000 which have been reviewed during the calendar year 1931 in the office of the general counsel of the Bureau of Internal Revenue. The number of estate-tax cases covered by this analysis is 764. The total original taxes assessed in these cases amounted to \$117,778,965.19, the total additional taxes assessed amounted to \$24,078,370.66, and the total overassessments amount to \$91,485,825.69, of which \$4,059,683.63 was refunded and \$87,426,142.06 was disposed of through abatements. About 88.92 per cent of the abatements was due to credits allowed for payment of State inheritance taxes after the Federal estate-tax returns were filed and the indicated Federal tax liabilities were assessed, the overassessments having been allowed in accordance with section 301 (b) of the revenue acts of 1924 and 1926. The large amount of estate taxes abated was the result of the bureau policy of assessing Federal estate taxes before evidence of the payment of State inheritance taxes could be submitted. This policy was changed during 1931, so that for later years the amount of estate taxes abated due to credits for State inheritance taxes will be progressively reduced.

A summary showing the causes of the overassessments and the resulting refunds and abatements is as follows:

*Analysis of estate-tax overassessments*

Classification	Refund	Abatement	Total	Per cent
Court decisions.....	\$1,406,760.68	\$52,101.01	\$1,458,861.69	1.59
Board decisions.....	49,448.71	341,548.43	390,997.14	.43
Credit for State inheritance taxes.....	1,672,321.11	79,677,745.37	81,350,066.48	88.92
Duplicate assessments.....	103,037.94	3,994,148.28	4,097,186.22	4.48
Executors' fees, miscellaneous administration expenses, and claims against the estate.....	403,605.44	1,671,685.68	2,075,291.12	2.27
Miscellaneous.....	424,509.75	1,688,913.29	2,113,423.04	2.31
Total.....	4,059,683.63	87,426,142.06	91,485,825.69	100.00

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PART III

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GENERAL SURVEY OF OVERASSESSMENTS

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## PART III

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### GENERAL SURVEY OF OVERASSESSMENTS

The first question which arises in considering the overassessment situation for 1931 in connection with refunds and credits in excess of \$75,000 and the abatements involved in such cases is, What is the total amount of the overassessments and how does this amount compare with the allowances made in previous years?

There were 115 cases reported to the committee during the period January 1 to December 31, 1931, inclusive. These cases, including cases previously reported but not allowed until 1931, reflected overassessments with interest in the total amount of \$38,709,828.48. The corresponding allowance for the calendar year 1930 was \$97,503,653.36. The monthly rate of overassessment for 1931 is, accordingly, 60 per cent less than that for the year 1930. The rate of overassessments during 1931 was 66 per cent less than the average rate for the preceding four years. This indicates a very satisfactory decline in Treasury outgo on account of tax adjustments.

The above figures include any abatements which occur in cases where the refund or credit is in excess of \$75,000. As abatements constitute merely the elimination of erroneous bookkeeping entries, and do not directly affect the revenue, the best indication of the overassessment situation during 1931 is to be found in a comparison of the refund and credit allowances with those of prior years. For the 21-month period ended December 31, 1928, the total amount of refunds and credits was \$145,860,031. This indicated a monthly rate of refundment of \$6,945,717. For the calendar year 1929, the total of refunds and credits allowed was \$54,172,647, resulting in a monthly refundment rate of \$4,514,387. For 1930, the total amount of refunds and credits was \$54,852,131, and the monthly rate of refundment was \$4,571,011. For 1931 the total amount of refunds and credits was \$25,735,820, and the monthly rate of refundment was \$2,144,652. Cash refunds allowed in excess of \$75,000 amounted to only \$15,773,240 in 1931 in comparison with cash refunds of \$27,174,872 in 1930, a decrease of approximately 42 per cent. These facts appear to justify the prediction made in our 1929 report that the peak of the high refund years has passed.

It is interesting to note that the overassessments reported to the committee during 1931 resulted in reducing the original and additional taxes assessed by 14.06 per cent. A considerable number of the refunds and credits have reduced the original tax voluntarily paid by the taxpayer. Until the passage of the revenue act of 1924 original taxes not paid under protest could not be recovered by suit. This is still the law in State taxation. Congress first permitted the recovery of such taxes by suit in section 1014 of the revenue act of 1924, and made this section retroactive. The reason for allowing the recovery

of these original taxes is stated as follows in the Gregg report, 1924 act, and the finance report, 1924 act:

The provisions of section 1318 of the existing law have been amended to provide that after the enactment of the bill it shall not be a condition precedent to the maintenance of a suit to recover taxes, sums, or penalties paid, that such amounts shall have been paid under protest or duress. The fact protest was made has little bearing on the question whether the tax was properly or erroneously assessed. The making of such protest becomes a formality so far as well advised taxpayers are concerned, and the requirement of it may operate to deny the just claim of a taxpayer who was not well informed.

It is certain that many equitable arguments can be advanced in favor of the above provision, but as a practical matter, it should be pointed out that the retroactive character of this provision applying to the high tax years has had an important effect in increasing the refunds.

The second question in connection with the 1931 overassessment situation is: What are the principal causes of these allowances?

The analysis of overassessments in Part II of this report sets forth the principal causes of 1931 overassessments as follows:

	Per cent		Per cent
Estate tax-----	15. 26	Order of Board of Tax Appeals..	5. 56
Foreign taxes-----	10. 57	Amortization-----	3. 96
Special assessment-----	9. 67	Stock gains-----	2. 69
Invested capital-----	9. 49	Capital assets-----	2. 04
Depreciation-----	8. 61	Depletion-----	2. 01
Inventory adjustment-----	8. 13	Allocation of income-----	1. 98

From the above table, it is apparent that estate tax adjustments are the principal single cause of overassessments. However, these adjustments include an abnormally large amount of abatements due to the bureau policy of assessing the entire estate tax before the evidence of payment of State death taxes can be submitted. In 1931, not less than 68 per cent of the estate tax overassessments were abatements. It is understood that this policy which results in a distorted tax picture has recently been changed. It is, therefore, believed that the overassessments attributable to this cause will show a decided decrease in future years.

The second principal cause of overassessments is found in the credit or deduction of foreign taxes paid. Practical difficulties have been encountered by the taxpayers on the accrual basis in determining their foreign tax liability at the time of filing their Federal income tax returns. Also, there has been confusion in interpreting the past revenue acts providing for these allowances. It is believed that in the future these adjustments will gradually decrease because the provisions are now better understood, and also because substantial limitations were placed on these allowances by the revenue act of 1932.

The special assessment and invested capital adjustments relate only to the excess-profits tax years 1917 to 1921, inclusive. The provisions on these subjects were undoubtedly the most troublesome ever introduced into the revenue acts. Therefore, with the closing of the excess-profits tax years, refunds from these causes will disappear. A recent decision of the Supreme Court of the United States may also have the effect of substantially reducing special assessment allowances in the future. (*U. S. v. Henry Prentiss & Co. (Inc)*, No. 234 October term, 1932.)

The chief problems in the future will undoubtedly arise in the case of depreciation and other adjustments which depend primarily on



judgment, unless some means are found of standardizing these adjustments.

The most important factor in connection with overassessments are the old excess-profits tax cases. When these cases are finally settled, overassessments should be substantially less. The following table shows to what large extent these excess-profits tax cases have affected the overassessment total.

*Per cent of total overassessments for the excess-profits tax years*

	Per cent
14 months' period, Feb. 28, 1927, to Apr. 24, 1928-----	88
7 months' period, May 29, 1928, to Dec. 31, 1928-----	77
12 months' period, Jan. 1, 1929 to Dec. 31, 1929-----	71
12 months' period, Jan. 1, 1930 to Dec. 31, 1930-----	59
12 months' period, Jan. 1, 1931 to Dec. 31, 1931-----	53

Over one-half of the total overassessment still result from adjustments for the years 1917 to 1921, inclusive. These tax cases are over 12 years old. Moreover, the interest attributable to the excess-profits tax years represents 73 per cent of the total interest paid on all overassessments reported to the committee during the calendar year 1931. It is true that the table shows considerable progress in settling these old cases, but it is evident that the work is far from concluded.

#### CONCLUSION

Taken as a whole, the refunds and credits have been open to little criticism. It is true that the year 1931 has developed a few troublesome cases where difference of opinion has existed. During the calendar year 1931, 115 cases were reported to the committee. Serious controversy arose in only 11 of these cases, 5 of which involved the same issue. The disposition of these 11 cases was as follows:

One case was changed to conform in part to the views of the staff of the committee. One case was withheld pending further review. The remaining cases were not changed, but some of the issues raised had the effect of more clearly defining the policy of the bureau with respect to other cases.

In addition to the foregoing, one case, which had been withheld in 1930 because of issues raised by the staff of the committee, was closed in conformity with the staff's views with a substantial reduction in the allowance.

The net result of the changes is a saving of approximately \$318,000 in favor of the Government. This saving is less than 1 per cent of the total overassessments allowed, but is sufficient to justify the expense of the committee examination, which amounts to only 6 per cent of the saving effected.

The examination of the refunds and credits in behalf of the committee has been under the immediate supervision of Mr. G. D. Chesteen, assistant chief of staff, assisted by Mr. A. T. Akin. Parts I and II of this report containing the list of refunds and the analysis of same have been prepared by Mr. W. L. Tucker, auditor for the committee.

Respectfully submitted.

L. H. PARKER,  
*Chief of Staff.*

DECEMBER 5, 1932.