

REFUNDS AND CREDITS
OF INTERNAL REVENUE TAXES
1933

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



MARCH 25, 1935.—Referred to the Committee on Ways and
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LETTER OF TRANSMITTAL

JOINT COMMITTEE ON INTERNAL REVENUE TAXATION,
Washington, March 25, 1935.

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 March 22, 1935, covering refunds and credits of internal revenue taxes for the calendar year 1933.

Very respectfully,

ROBERT L. DOUGHTON, *Chairman.*

III

REPORT OF THE JOINT COMMITTEE ON INTERNAL REVENUE TAXATION
(Pursuant to the Revenue Act of 1928)

WASHINGTON, D. C., *March 22, 1935.*

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 the 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 1933, and to submit a report thereon to the committee. This is the sixth 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. The fourth report was made on January 28, 1933, and covered the calendar year 1931. The fifth report was made March 9, 1934, and covered the calendar year 1932.

A complete copy of the report for the calendar year 1933 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 also to 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,

ROBERT L. DOUGHTON,
Chairman.

LETTER OF SUBMITTAL

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON INTERNAL REVENUE TAXATION,
Washington, January 1, 1935.

HON. ROBERT L. DOUGHTON,
*Chairman Joint Committee on Internal Revenue Taxation,
Washington, D. C.*

MY DEAR MR. 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 1933 and may be summarized as follows:

1. The total overassessments, including interest, in excess of the \$75,000 limit, for the calendar year 1933 amount to \$24,176,972.38. This is considerably less than such overassessments, including interest, for the calendar year 1932, which amounted to \$35,233,733.64.

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, 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, 1933

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, Feb. 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 (Dec. 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, 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 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.) embraced all refunds and credits in excess of \$75,000 reported to the joint committee by the Commissioner during the calendar year 1930. The fourth report on refunds and credits was made on January 30, 1933 (H. Doc. 535, 72d Cong., 2d sess.), and covered all refunds and credits in excess of \$75,000 reported to the joint committee by the Commissioner during the calendar year 1931. The fifth report on refunds and credits was made on March 9, 1934 (H. Doc. 279, 73d Cong., 2d sess.), and included all refunds and credits in excess of \$75,000 reported to the joint committee by the Commissioner during the calendar year 1932. The report now submitted constitutes the sixth report and embraces the refunds and credits in excess of \$75,000 reported by the Commissioner to the committee during the calendar year 1933.

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 1933, 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 résumé 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 1933 in cases involving refunds and credits over \$75,000 amounted to \$24,176,972.38. This total comprises not only refunds and credits but also the abatements included with these adjustments. The rate of overassessment was, therefore, \$2,014,748 per month. From February 1927 to December 1932, the average monthly rate of overassessment with interest was \$6,830,722. The rate in 1933, therefore, represents a decrease of 70 percent over the average rate for the preceding 5 years and 9 months. While the decline in tax adjustments is significant as to the allowances made, it is not truly indicative of the decrease in Treasury outgo due to the inclusion of abatements.

2. A more conservative picture of the situation in 1933 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 years 1929, 1930, 1931, and 1932, the average monthly rate was \$4,514,387; \$4,571,011; \$2,144,652, and \$1,909,431, respectively. For the calendar year 1933, this rate was \$1,334,307. Thus the rate for the calendar year 1929 decreased 35 percent over the preceding period while the rate for 1930 increased about 1 percent over that for 1929. The monthly rate for 1931 was 53 percent less than for 1930 and the monthly rate for 1932 was 11 percent less than for 1931. The monthly rate for 1933 shows a further decrease of 30 percent in comparison with the 1932 refundment rate. It is believed the decline in refunds and credits will continue for the next few years. However, the era of high tax rates now being entered into will no doubt ultimately contribute to increase the refunds and back tax collections in the future.

3. Cash refunds allowed in excess of \$75,000 amounted to only \$5,452,616 in 1933, in comparison with cash refunds of \$12,157,574 in 1932. This shows a decrease of about 56 percent.

4. The principal causes of the overassessments reported to the committee during 1933 are as follows:

	<i>Percent</i>		<i>Percent</i>
Affiliation.....	18. 5	Order of Board of Tax Appeals.....	10. 7
Estate tax.....	14. 5	Reallocation of income.....	7. 2
Depreciation.....	12. 9	Amortization.....	4. 3

From the above table, it is apparent that the chief cause of the overassessments reported for the period covered by this report is due to the application of the consolidated-returns provision. Many difficult questions have arisen in respect to the application of this provision, especially under the Revenue Acts of 1918 and 1921. The 1924 act was changed so as to remove some of the difficulties and changes in the Revenue Act of 1928 improved the situation to a still greater extent. Attention is drawn to the fact that the Revenue Act of 1934 abolishes the consolidated return except as to railroads.

The second principal cause of the overassessments may be ascribed to adjustments in estate taxes. The principal cause of the 1930 and 1931 overassessments, as well as a major contributing cause since 1927, was due to this classification. A considerable portion of refunds under this section is due to the increase in credit for inheritance taxes paid to the States, to the revaluation of real or personal property, and to additional administrative expenses not shown on the original return.

The third major contributing cause of this year's overassessments is attributable to allowances of additional deductions for depreciation. The Treasury Department promulgated during 1934 additional regulations which are expected to result in more uniform treatment of depreciation cases. It is hoped that these regulations will prevent excessive allowances in the future.

The next cause of the 1933 overassessments, shown above, pertains to overassessments of taxes made pursuant to the final order of the United States Board of Tax Appeals. These cases are of diversified character and are usually settled by stipulation between the taxpayer and the Bureau.

5. Of the overassessments reported for the calendar year 1933, \$6,499,580, or approximately 51 percent, represents the refundment of taxes for the excess-profits tax years 1917 to 1921, inclusive. The interest on these overassessments totals \$3,914,750. The overassessments attributable to the excess-profits tax years reported during 1932 totaled \$14,438,590 and comprised 54 percent of the allowances for that year. It may thus be seen that although these cases are still representative of over one-half of the allowances made, they are steadily declining. The extent to which they are being settled is shown by the following comparative table:

Ratio of overassessments for the excess-profits tax years to total overassessments

	<i>Percent</i>
14-month period: Feb. 28, 1927, to Apr. 24, 1928.....	88
7-month period: May 29 to Dec. 31, 1928.....	77
12-month period:	
Jan. 1 to Dec. 31, 1929.....	71
Jan. 1 to Dec. 31, 1930.....	59
Jan. 1 to Dec. 31, 1931.....	53
Jan. 1 to Dec. 31, 1932.....	54
Jan. 1 to Dec. 31, 1933.....	51

6. 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 the closing of some of these claims.

During the calendar year 1933, 54 cases were reported to the committee. Serious differences of opinion arose between the Treasury and the staff of the committee in 10 cases. In regard to the 10 seemingly doubtful cases, after special investigation the following classification can be made:

Six cases were eventually allowed by the Bureau after further investigation and review.

Three cases still appeared doubtful either as to the law or the facts and are being withheld pending further investigation.

One case was changed to conform to the views of the joint committee and its staff, resulting in a net saving to the Government of \$61,120.66.

PART I

LIST OF CREDITS AND REFUNDS
OF OVER \$75,000 EACH
FOR THE
CALENDAR YEAR 1933

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

PART I

Refunds and credits reported to the Joint Committee on Internal Revenue Taxation by the Commissioner of Internal Revenue, under the provisions of sec. 710 of the Revenue Act of 1928

JANUARY 1933

Name and address of taxpayer	Years involved	Abate-ments	Credits	Refunds	Original and additional assessments	Net over-assess-ments allowed	Previously allowed	Final tax collected	Interest	Percent tax re-duc-tion
Chile Copper Co., New York ¹	1918									
United Fruit Co., Boston, Mass. ²	1924									

FEBRUARY 1933

Brooks, Dwight F., estate of, St. Paul, Minn.	1930	\$259,350.29	\$121,152.15	\$152,525.78	\$559,350.29	\$411,876.07		\$147,474.22	\$13,215.42	73.63
Commonwealth Power Railway & Light Co., Portland, Maine ³	1920				121,152.15	121,152.15			81,828.32	100.00
The Hooking Valley Ry. Co., Columbus, Ohio. ⁴	1918, 1919, 1922 to 1924, inclusive.		112,639.80		934,720.56	112,639.80	\$166,801.00	528,657.58		29.90
Pan American Petroleum & Transport Co., and subsidiaries, New York. ⁵	1918, 1919		785,161.14	23.37	1,287,897.52	785,184.51		488,634.96	522,247.24	60.97
Sperry Flour Co., San Francisco, Calif.	1927			103,522.80	203,000.47	103,522.80		99,477.67	29,776.28	50.74
Total.....		259,350.29	1,018,953.09	286,071.95	3,106,120.99	1,584,375.33	166,801.00	1,264,244.43	647,067.26	

MARCH 1933

Ironquils Iron Co. and subsidiaries, Youngs-town, Ohio. ²	1918, 1919									
Irvine, Thomas, estate of, St. Paul, Minn.	1930			\$146,282.28	\$234,352.85	\$146,282.28		\$88,070.57	\$10,085.46	62.42

¹ Withheld for adjustment in connection with a deficiency against the Anaconda Copper Mining Co.

² Unadjusted; pending investigation.

³ The amount of \$54,352.20 in interest credited to taxable year 1922.

⁴ Assumed by Director General of Railroads; \$10,283.69 withheld in connection with proposed deficiencies for 1927 and 1928, \$86,333.49.

⁵ The amount of \$14,073.05 and interest of \$7,897.00 held for direct settlement by Comptroller General in connection with an indebtedness to the United States; also interest in the amount of \$113,002.69 credited to taxable year 1921.

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

APRIL 1933

Name and address of taxpayer	Years involved	A bate-ments	Credits	Refunds	Original and additional assessments	Net over-assess-ments allowed	Previously allowed	Final tax collected	Interest	Percent tax re-duc-tion
Beggs, John I., estate of, St. Louis, Mo.	1925			\$606,801.59	\$2,979,416.21	\$696,801.59		\$2,372,614.62	\$103,102.62	20.37
Furkin, A. E., New York 6	1928		\$162,631.43	23,126.00	379,827.05	162,631.43		217,196.52	19,851.40	42.82
Newport News Shipbuilding & Dry Dock Co., Newport News, Va. ⁷	1925, 1926			23,126.00	171,258.02	23,126.00			8,991.77	13.50
Penfield, Anne W. (Mrs.), Philadelphia, Pa.	1918, 1923, 1924			240,779.90	559,908.26	240,779.90	\$176,157.90	142,970.46	178,680.42	74.47
Pennsylvania R. R. Co. and subsidiaries, Philadelphia, Pa. ⁸	1916 to 1921, inclusive		2,572,314.44		18,256,860.19	2,572,314.44		12,933,222.40	1,932,159.49	14.09
Pure Oil Co. and subsidiaries (formerly Ohio Cities Gas Co.), Chicago, Ill. ⁹	1917 to 1919, inclusive	\$2,678.80			15,318.60	2,678.80		12,639.80		17.40
Total		2,678.80	2,734,975.87	870,707.58	22,362,589.23	3,698,362.22	176,157.90	15,678,648.89	2,302,788.70	

MAY 1933

American Window Glass Co. and subsidiary, Pittsburgh, Pa. ¹⁰	1920 to 1926, inclusive		\$355,155.92	\$224,230.93	\$2,880,662.90	\$759,386.85	\$17,583.62	\$2,054,139.21	\$489,953.66	26.97
American Window Glass Machine Co., Pittsburgh, Pa. ¹¹	1925 to 1927, inclusive		105,936.11		516,734.48	105,936.11		409,310.23	40,626.23	20.50
Coward, J. Mortimer, estate of, Hoboken, N. J.	1928			164,627.31	361,845.68	164,627.31	90,179.28	107,680.09	35,039.81	70.42
Erie Railroad Co., Cleveland, Ohio ¹²	1926		54,329.01		730,653.14	54,329.01		614,746.79	16,566.63	7.44
Erlanger, Abraham, estate of, Elberon, N. J.	1929			488,769.11	912,219.34	488,769.11	305,498.04	117,952.19	19,859.54	87.06
Flemery Bolt Co., Pittsburgh, Pa.	1917, 1918			110,296.32	226,169.85	110,296.32	8,976.59	106,896.97	60,163.75	52.74
Illinois Glass Co., Alton, Ill. ¹³	1917, 1918									
Minnesota & Ontario Paper Co., Minneapolis, Minn. ¹⁴	1922 to 1928, inclusive	\$119,154.85	110,450.69		545,465.38	229,605.54		298,389.84	47,200.54	42.09
Norfolk & Western Ry. Co., Roanoke, Va. ¹⁵	1922, 1923, 1925, 1926		225,614.76	503,537.64	14,313,217.59	729,182.40		13,584,035.19	335,032.77	50.94
Packard Motor Car Co., Detroit, Mich.	1930		137,883.30	1,361,811.77	137,883.30			1,223,928.47	12,377.39	10.12
Total		119,154.85	1,031,516.49	1,629,344.61	21,848,810.16	2,780,015.95	422,237.53	18,516,437.98	1,057,420.32	

JUNE 1933

American Felt Co., Boston, Mass.	1918	\$90,889.49	\$90,889.49	\$90,889.49	100.00
Frost Lumber Industries, Inc., of Missouri, Shreveport, La.	1920, 1924, 1927, 1928	\$115,664.31	1,405,946.09	115,664.31	\$33,183.54
Kreese, Sebastian S., Miami Beach, Fla. ¹⁰	1929, 1930	135,600.20	750,826.99	135,600.20	12,337.60
(29) Miami Realty Trust, Chicago, Ill. ¹¹	1923 to 1926; 1929				
Total		226,489.69	115,664.31	342,154.00	45,521.14

JULY 1933

The Atlantic Refining Co., Philadelphia, Pa. ¹⁸	1920	\$142,755.90	\$2,414,611.47	\$142,755.90	\$21,333.21
Bankers Trust Co., New York ¹⁹	1922, 1923; 1926 to 1928, inclusive				
The Equitable Trust Co. of New York, New York ²⁰	1923 to 1927, inclusive	128,326.61	2,359,444.65	386,815.04	93,288.45
Central Alloy Steel Corporation and subsidiaries (Republic Steel Corporation, successor), Youngstown, Ohio	1927 to 1929, inclusive	252,303.24	32,417.63	1,804,650.20	56,350.02
Ehret, George, estate of, New York	1917, 1919, 1923, 1924	282,670.35	191,824.98	1,856,704.37	146,845.67
Pan-American Life Insurance Co., New Orleans, La.	1923 to 1926, inclusive		76,118.84	138,413.60	32,850.06
Pan-American Petroleum Co., Los Angeles, Calif. ²¹	1920, 1925, 1926		109,177.96	542,677.99	54,236.02
Phillips Petroleum Co., Bartlesville, Okla.	1929		322,445.14	945,403.78	53,161.81
Total		276,995.05	970,472.98	10,061,906.06	8,089.57

⁶ Interest credited to taxable year 1927.
⁷ Barred by statute of limitations, \$37,354.03; withheld in connection with proposed deficiencies for the years 1927 to 1931, inclusive, \$80,777.93.
⁸ Barred by statute of limitations, \$122,333.96; withheld in connection with proposed deficiencies for the years 1924 to 1929, inclusive, \$1,155,443.19; paid by Director General of Railroads, \$1,472,511.20.
⁹ The above overassessment is in favor of the Federal Gas & Fuel Co., a subsidiary. Upon agreed stipulation, the U. S. Board of Tax Appeals ordered there was no deficiency and no overpayment in tax for the Pure Oil Co. for the years 1916 to 1920, inclusive.
¹⁰ Barred by statute of limitations, \$49,553.22.
¹¹ Interest credited to taxable year 1921; barred by statute of limitations, \$1,488.14.
¹² Interest credited to taxable year 1923; withheld for adjustment in connection with a deficiency for 1929, \$61,377.34.
¹³ Withheld in connection with a deficiency for 1929.
¹⁴ Barred by statute of limitations, \$17,500; interest credited to taxable years 1921 and 1922.
¹⁵ Interest in the amount of \$111,591.53 credited to taxable years 1924, 1927, and 1928.
¹⁶ Interest credited to taxable year 1922.
¹⁷ Entire overassessment withheld in connection with a proposed deficiency for 1926.
¹⁸ Interest credited.
¹⁹ Entire overassessment withheld in connection with a proposed deficiency for 1931.
²⁰ Withheld for adjustment in connection with proposed deficiencies for the year 1929 and the period Jan. 1 to May 31, 1930, \$86,854.85.
²¹ Submitted to Comptroller General for direct settlement.

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

AUGUST 1933

Name and address of taxpayer	Years involved	Abate-ments	Credits	Refunds	Original and additional assessments	Net over- assess- ments allowed	Previously allowed	Final tax collected	Interest	Percent tax re- duc- tion
Associated Oil Co., San Francisco, Calif. ²²	1919, 1921									
Berrisford, Enoch F., estate of, St. Paul, Minn.	1930	\$312,206.39		\$83,050.80	\$515,337.66	\$395,257.19		\$120,080.47	\$3,693.35	76.70
Delaware, Lackawanna & Western R. R. Co., New York.	1927, 1928			200,551.06	3,838,664.50	200,551.06		3,638,113.44	57,825.56	5.22
Total		312,206.39		283,601.86	4,354,002.16	595,808.25		3,758,193.91	61,518.94	

SEPTEMBER 1933

The Delaware & Hudson Co., New York ²³	1920		\$122,713.37		\$1,738,534.52	\$122,713.37	\$215.04	\$1,610,109.84	\$35,376.75	7.07
Goodyear Tire & Rubber Co., Akron, Ohio ²⁴	1917 to 1919, inclusive									
Gulf States Steel Co., Birmingham, Ala.	1926 to 1928, inclusive		61,117.27	\$23,488.15	357,002.39	84,605.42		272,486.97	24,916.01	23.69
The Ohio Power Co., Newark, Ohio ²⁵	1923, 1925		48,110.52	1,453,805.19	48,110.52	48,110.52		1,361,398.36	5,431.82	3.33
Playars, Inc., Jersey City, N. J. ²⁶	1926, 1927, 1929	\$1,056.31	88,924.78	192.13	95,398.42	90,173.22		2,156.29	26,455.01	94.53
Total		1,056.31	320,865.94	23,680.28	3,634,830.52	345,602.53	215.04	3,249,152.06	92,179.59	

OCTOBER 1933

Merrell-Soule Co. (now Syracuse Food Products Corporation), New York.	1917, 1918, 1919, 1922			\$254,561.54	\$1,040,007.35	\$254,561.54	\$55,887.96	\$729,857.85	\$206,616.07	29.82
Rending Co., Philadelphia, Pa.	1923, 1930			148,309.19	2,013,032.62	148,309.19		1,864,723.43	25,064.28	7.37
Wright-Martin Aircraft Corporation, Patson, N. J.	1918			500,000.00	717,039.50	500,000.00		217,039.50	190,801.37	69.73
Total				902,870.73	3,770,079.47	902,870.73	55,887.96	2,811,620.78	432,381.72	

NOVEMBER 1933

Parent company and subsidiaries	Address	Years involved	Abatements	Credits	Refunds
Alien Property Custodian for trusts nos. 49748, 8360, and 6315, Danzig Managing & Participating Co., Washington, D. C. ²¹					
M. A. Hanna Co., Cleveland, Ohio ²²					
Total					
DECEMBER 1933					
Amerasia Corporation, New York ²³					
Glen Alden Coal Co., Scranton, Pa. ²⁴					
McCrepor, Eliza H., estate of, San Francisco, Calif. ²⁵					
Title Guarantee & Trust Co., Los Angeles, Calif.					
Total					

²¹ Entire overassessment withheld in connection with proposed deficiencies for 1923-24 and 1928-30.

²² Interest credited to 1923; paid by Director General of Railroads, \$5,496.27.

²³ Entire overassessment withheld in connection with proposed deficiencies for 1924-26 and 1929-30.

²⁴ Withheld in connection with proposed deficiencies for 1928-30, \$31,295.71.

²⁵ Withheld in connection with proposed deficiency for 1930, \$2,049.81; barred by statute of limitations, \$1,019.10.

²⁶ Barred by statute of limitations, \$4,256.01.

²⁷ Interest credited to taxable year 1923.

²⁸ Withheld in connection with proposed deficiencies for 1927-29, \$65,738.02.

²⁹ Unadjusted; pending investigation.

³⁰ Withheld in connection with proposed deficiencies for 1928 and 1929, \$47,709.90; interest credited to taxable year 1930.

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

Month reported	Parent company and subsidiaries	Address	Years involved	Abatements	Credits	Refunds
1933						
February	Pan-American Petroleum & Transport Co. Buena Fe Petroleum Co.	New York, do	1918, 1918		\$785,161.14	\$23.37
May	American Window Glass Co. Western Pennsylvania Natural Gas Co.	Pittsburgh, Pa. do	1920; 1922 to 1926, inclusive, 1920 to 1926, inclusive.		535,155.92	188,022.30
						36,208.63

Date reported	st	Cause of delay of settlement
1928		
February-----	Lou Ky 08	Additional interest allowed as a result of taxpayer's protest regarding dates of payment.
October-----	Cra 07	Interest subsequently allowed on adjustment of amount withheld by Comptroller General for direct settlement.
1929		
February-----	Sta 53	Allowance of additional interest on account of repeal of sec. 319, Legislative Appropriation Act.
May-----	Fry 33	Withheld in connection with proposed deficiency for 1924 of estate of George Timkin Fry.
Do-----	Glo 38	Withheld in connection with proposed deficiencies for 1921 to 1923, inclusive.
Do-----	Bar 42	Withheld in connection with proposed deficiencies for 1916 to 1917, inclusive.
Do-----	West 98	Additional interest allowance on account of repeal of sec. 319, Legislative Appropriation Act.
July-----	Unit 32	Withheld, pending investigation.
1930	Mut 94	Withheld in connection with proposed deficiency for 1920.
September-----	Del Yc 64	Withheld in connection with proposed deficiencies for 1920 and 1923.
1930		
November-----	Clar 77	Withheld against proposed deficiencies for the years 1923, 1927, and 1928.
Do-----	Woo 48	Additional interest allowance on account of repeal of sec. 319, Legislative Appropriation Act.
1931		
January-----	Ame 35	Withheld in connection with proposed deficiency for the year 1921.
Do-----	Fisk 13	Withheld in connection with proposed deficiency for the year 1923.
February-----	Vac 75	Additional interest allowance on account of repeal of sec. 319, Legislative Appropriation Act.
May-----	Nest	Withheld by Comptroller General by reason of an indebtedness to the United States.
Do-----	Pitts 44	Allowance of additional interest because of erroneous due dates on which overassessments were credited.
June-----	Ame 26	Readjustment of interest.
July-----	Fam 45	Withheld in connection with 1922, 1924, and 1926 proposed deficiencies.
Do-----	Park 22	Additional interest allowed on account of repeal of sec. 319, Legislative Appropriation Act.
October-----	Clar 61	Entire overassessment withheld in connection with proposed deficiencies for 1926, 1928, and 1929.
Do-----	Sincl 01	Withheld for adjustment in connection with proposed deficiencies for 1922 to 1928, inclusive.
November-----	Chic 99	Entire overassessment withheld in connection with proposed deficiency for the year 1920.
December-----	H. S 21	Withheld in connection with proposed deficiency for the year 1925.
1932		
January-----	S. A 36	Additional interest allowance on account of repeal of sec. 319, Legislative Appropriation Act.
May-----	Atla 65	Do.
August-----	Vacr 03	Do.
Do-----	J. W 04	Withheld in connection with proposed deficiencies for the years 1927 to 1929, inclusive.
Do-----	West 03	Adjustment to correct allowance of additional interest.
October-----	West 18	Unadjusted, pending closing of stipulation.
Do-----	Kenr 34	Withheld in connection with 1929 deficiency proposed against Electric Bond & Share Co.
November-----	The 17	Additional interest allowed on account of repeal of sec. 319, of the Legislative Appropriation Act.
Total-----	06	

¹ Withheld \$29,107.78; paid by Director General of Railroads \$285,600.06.

² Withheld

NOTE.—I

Overassessments previously withheld, allowed during the year 1933

Date reported	Name and address of taxpayer	Years involved	Abate-ments	Credits	Refunds	Original and additional assessments	Net over-assess-ments allowed	Pre-viously allowed	Final tax collected	Interest	Cause of delay of settlement
1928											
February	Louisville Gas & Electric Co. of Delaware, Louisville, Ky.	1920, 1921								\$1,486.98	Additional interest allowed as a result of taxpayer's protest regarding dates of payment.
October	Chair Co., Chicago, Ill.	1918			\$42.05		\$42.05		21,633.97		Interest allowed on adjustment of amount withheld by Comptroller General for direct settlement.
1929											
February	Standard Gas & Electric Co., Chicago, Ill.	1918, 1919								10,775.53	Allowance of additional interest on account of repeal of sec. 319, Legislative Appropriation Act.
May	Fry, John H., New York	1924			28,202.78		28,202.78		10,197.33		Withheld in connection with proposed deficiency for 1924 of estate of George Thakku Fry.
Do	Globe Grain & Milling Co., Los Angeles, Calif.	1918		\$82,167.83			82,167.83		53,002.38		Withheld in connection with proposed deficiencies for 1921 to 1924, inclusive.
Do	Barber & Co., Inc., and subsidiaries, New York	1917 to 1920, inclusive		21,797.73	172.63		21,970.36		66.42		Withheld in connection with proposed deficiencies for 1916 to 1917, inclusive.
Do	West Virginia Pulp & Paper Co., New York	1919							2,345.98		Additional interest allowed on account of repeal of sec. 319, Legislative Appropriation Act.
July	United Publishers Corporation, New York	1919, 1921 to 1922		227,792.27	306.05		306.05		47.32		Withheld, pending investigation.
1930	Mutual Life Insurance Co. of New York, New York	1923 to 1925, inclusive			782,656.59		1,904,449.26		412,661.91		Withheld in connection with proposed deficiency for 1920.
September	Delaware, Lackawanna & Western R. R. Co., New York	1916 to 1919, inclusive; 1921, 1922, 1924 to 1926, inclusive.	\$236,179.22	1,205,232.59	464,765.40		1,906,177.21		\$272,001.55	509,740.64	Withheld in connection with proposed deficiencies for 1920 and 1923, 1928.
1930											
November	Clark Thread Co., Newark, N. J.	1919, 1920			77,933.87		77,933.87			59,498.77	Withheld against proposed deficiencies for the years 1923, 1927, and 1928.
Do	Woodward Iron Co. of Delaware, Woodward, Ala.	1918								19,339.48	Additional interest allowed on account of repeal of sec. 319, Legislative Appropriation Act.
1931											
January	American Arch Co., New York	1918		417.40			417.40			301.35	Withheld in connection with proposed deficiency for the year 1921.
February	W. H. H. Co., Chicago, Ill.	1919, 1921	105,946.69				105,946.69		49,325.55		Additional interest allowed on account of repeal of sec. 319, Legislative Appropriation Act.
February	Vacuum Oil Co., New York	1918							7,454.75		Additional interest allowed on account of repeal of sec. 319, Legislative Appropriation Act.
May	Nestle's Food Co., Inc. and subsidiaries, New York	1918	40.88				40.88			4,729.44	Allowance of additional interest because of erroneous file dates on which overassessments were credited.
Do	Pittsburgh Plate Glass Co., Pittsburgh, Pa.	1917, 1918								2,798.26	Readjustment of interest.
June	Amoskeag Manufacturing Co., Boston, Mass.	1919, 1921		22,318.80			22,318.80		14,957.45		Withheld in connection with 1922, 1924, and 1926 proposed deficiencies.
July	Famous Players-Lasky Corporation (Paramount Pub- lishing Co.), New York	1918, 1920								7,729.22	Additional interest allowed on account of repeal of sec. 319, Legislative Appropriation Act.
Do	Parke, Davis & Co., Detroit, Mich.	1920								8,858.61	Entire overassessment withheld in connection with proposed defi- ciency for the year 1920.
October	Clark, W. A. Jr., Butte, Mont.	1920, 1921	56,802.66		87,344.92	485,540.62	143,647.58		315,941.69		Withheld for adjustment in connection with proposed deficiencies for 1922 to 1928, inclusive.
Do	Standard Oil & Refining Corporation and subsidiaries, New York	1918	209,984.50				209,984.50			75,698.01	Entire overassessment withheld in connection with proposed defi- ciency for the year 1920.
November	Chicago & Northwestern Ry. Co., Chicago, Ill.	1919, 1921, 1924, 1926	117,931.71		202,544.66	4,817,120.05	416,476.37		3,794,933.84	259,865.99	Withheld in connection with proposed deficiency for the year 1920.
December	H. S. & M. W. Snyder, Inc., Boston, Mass.	1919	5,093.24		5,093.24		5,093.24			3,811.21	Withheld in connection with proposed deficiency for the year 1925.
1932											
January	S. A. Woods Machine Co., South Boston, Mass.	1918								47.36	Additional interest allowed on account of repeal of sec. 319, Legis- lative Appropriation Act.
May	Athletic Refining Co., Philadelphia, Pa.	1918								16,805.65	Do.
August	Vacuum Oil Co., New York	1919								5,025.03	Do.
Do	J. W. Butler Paper Co. and subsidiaries, Chicago, Ill.	1920, 1921	171.99		3,069.55		3,241.54			1,648.04	Withheld in connection with proposed deficiencies for the years 1927 to 1929, inclusive.
Do	do	1918 to 1920								1,648.03	Adjustment to correct closing of additional interest.
October	Western Power Corporation, New York	1920 to 1925, inclusive	46,300.81		126,917.92	482,050.96	167,178.73	\$29,444.24	271,054.47	66,334.18	Unadjusted, pending closing of stipulation.
Do	Kenabec Securities Co., New York	1920	254,955.38				254,955.38			36,882.34	Withheld in connection with 1925 deficiency proposed against Elec- tric Power Co. of New York.
November	The Ohio Oil Co., Findlay, Ohio	1920, 1929								11,796.17	Additional interest allowed on account of repeal of sec. 319, of the Legislative Appropriation Act.
Total			266,179.22	2,350,622.54	1,863,090.94	5,784,711.63	4,449,792.70	28,444.24	4,650,933.55	1,738,841.06	

¹ Withheld in connection with proposed deficiencies for the years 1930 and 1931.

² Withheld in connection with proposed deficiencies for the years 1920 and 1929—\$25,951.35.

³ Withheld in connection with proposed deficiencies for the years 1927, 1928, and 1929—\$329,407.78; paid by Director General of Railroads \$285,600.06.

⁴ Withheld in connection with proposed deficiency for the year 1930—\$14,575.52.

PART II

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

Alphabetically Arranged

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 to December 31, 1933, inclusive

[Total cases reported, 54]

Original and additional assessments.....		\$73, 015, 558. 87
Less final tax liability.....		56, 002, 297. 53
		<hr/>
Gross overassessments.....		17, 013, 261. 34
Previously allowed.....	\$829, 089. 00	
Charged to Director General of Railroads.....	1, 518, 296. 16	
Assumed by Comptroller General.....	14, 078. 05	
Barred by the statute of limitations.....	263, 504. 46	
Withheld in connection with proposed de- ficiencies.....	1, 618, 784. 74	
		<hr/>
		4, 243, 752. 41
		<hr/>
Net overassessments for cases reported during the calen- dar year 1933.....		12, 769, 508. 93
		<hr/>
Composed of—		
Refunds.....	\$5, 452, 616. 55	
Credits.....	6, 345, 450. 68	
Abatements.....	971, 441. 70	
		<hr/>
		12, 769, 508. 93
Interest paid on overassessments reported during the calendar year 1933.....		5, 218, 829. 69
		<hr/>
Total of overassessments and interest.....		17, 988, 338. 62
		<hr/>
Add—		
Overassessments previously reported and withheld, allowed during 1933.....		4, 449, 792. 70
Interest on overassessments previously reported and with- held, allowed during 1933.....		1, 738, 841. 06
		<hr/>
Grand total of overassessments and interest.....		24, 176, 972. 38
		<hr/>
Reduction in assessed tax by overassessments reported (percent).....		17. 49
Average percentage of interest paid on overassessments.....		40. 87

NOTE.—Above summary represents 45 cases, since figures are not included for 3 cases unadjusted pending investigation, and 6 cases the allowances for which are being withheld in connection with proposed deficiencies for other years.

Classification of overassessments

Principal cause	Amount	Percent of total
Affiliation.....	\$2,669,110.45	18.54
Estate tax.....	2,095,293.20	14.55
Depreciation.....	1,869,765.82	12.98
Order of board of tax appeals.....	1,554,168.64	10.79
Reallocation of income.....	1,046,268.02	7.26
Amortization.....	631,521.38	4.38
Overstatement of gain or understatement of loss on sale of capital assets.....	515,252.12	3.58
Liquidation losses.....	500,000.00	3.47
Loss of useful value.....	300,484.40	2.09
Remission of interest assessed on deficiencies.....	273,367.12	1.90
Foreign taxes.....	264,124.11	1.83
Inventory adjustments.....	113,282.52	.79
Overstatement of gain on sale of stock.....	93,652.78	.65
Special assessment.....	90,718.07	.63
Guaranty period settlements (railroads).....	57,781.05	.40
Depletion.....	15,099.10	.10
Duplicate assessment.....	10,211.39	.07
Miscellaneous.....	2,302,271.55	15.99
Total overassessments.....	14,402,371.72	100.00
Withheld to meet possible deficiencies.....	1,632,862.79	-----
Net overassessments allowed for cases reported during the calendar year 1933.....	12,769,508.93	-----

ANALYSIS

The foregoing data are representative of 45 cases, in which the original and additional assessments aggregated \$73,015,558.87. The total tax collected from these assessments amounted to \$56,002,297.53, leaving overassessments of \$17,013,261.34. Of this amount, however, \$829,089 was previously allowed; \$1,518,296.16 was charged to the Director General of Railroads; \$14,078.05 was assumed by the Comptroller General; \$263,504.46 was barred from payment under the statute of limitations; and \$1,618,784.74 is withheld for adjustment in connection with proposed deficiencies for other years, resulting in net overassessments for cases reported during the calendar year 1933 of \$12,769,508.93.

The total refunds shown in detail in part I amount to \$5,452,616.55; the total credits amount to \$6,345,450.68; and the total abatements in connection with the same cases amount to \$971,441.70. The total of these three items represents the net overassessments allowed in all cases in excess of \$75,000 which were reported to the joint committee during the calendar year 1933. On these overassessments, the sum of \$5,218,829.69 was allowed in interest, making net overassessments and interest of \$17,988,338.62.

In order to obtain the grand total of all overassessments and interest allowed during 1933 it is necessary to add to the total reported overassessments shown above, overassessments of \$4,449,792.70 and interest of \$1,738,841.06 on cases previously reported in other years and withheld which were allowed during the year 1933. The grand total of overassessments and interest allowed during 1933, therefore, amounts to \$24,176,972.38.

RÉSUMÉ OF CASES (ALPHABETICALLY ARRANGED)

Alien Property Custodian for trust no. 49748, no. 8860, and no. 6316, Danzig Managing & Participating Co., Washington, D. C.

Overassessments, 1918 to 1921, inclusive..... \$84, 975. 68

The overassessments represent taxes overpaid by the Alien Property Custodian in behalf of the above-mentioned trusts based upon a tentative computation of the tax in accordance with article III (d) of Treasury Regulations, promulgated pursuant to section 24 of the Trading with the Enemy Act, as amended. (Treasury Decision 4168, C. B. VII-2, p. 413.)

The overassessments result from the elimination of the profits tax liability as determined under the provisions of sections 327 and 328, Revenue Acts of 1918 and 1921.

Amerada Corporation, New York

Overassessments, 1925, 1926..... \$146, 219. 14

The principal cause of overassessment, in the amount of \$131,746.68, is due to the allowance of additional deductions for ordinary and necessary business expenses incurred during the taxable years. It was determined that the amount of such deductions as claimed in the returns filed were understated. (Sec. 243 (a) (1), Revenue Act of 1926; arts. 101, 223 (as amended by T. D. 4025, C. B. VI-1, 75) and 51, Regulations, 69.)

The allowance of additional deductions for depreciation and losses sustained on the sales of certain capital assets causes \$14,316.64 of the overassessments. Investigation disclosed the fact that the amount of depreciation claimed in the returns was purported to have been determined by the taxpayer by applying the straight-line method to all depreciable properties, but it was found that the taxpayer had not made proper provision for fully depreciated assets resulting from the rates used which were determined by the Bureau to be too high. It was agreed that the taxpayer should redetermine the depreciation, using the unit of production method with respect to certain specified assets, and the straight-line method, at rates proposed by Bureau engineers, as to others. The results indicated additional allowances for the above stated years. (Sec. 234 (a) (4) and (7), Revenue Act of 1926, and the regulations promulgated thereunder.)

The balance of the overassessments, amounting to \$155.82, is caused by the allowance of a deduction for Federal capital stock tax, such deduction being omitted from the returns filed. (Sec. 234 (a) (3), Revenue Act of 1926; arts. 131 and 561, Regulations, 69.)

American Felt Co., Boston, Mass.

Overassessment, 1918..... \$90, 889. 49

The principal cause of overassessment, in the amount of \$90,670.67, results from the allowance of a deduction for a loss sustained on a stock transaction, which amount was not allowed as a deduction in the determination of the tax liability for a subsequent year. (*American Felt Co. v. Burnet* (58 Fed. (2d) 530).)

The balance of the overassessment, amounting to \$218.82, is caused by the allowance of an additional deduction for depreciation due to

allowing a rate of 10 percent on furniture and fixtures instead of 5 percent which was previously allowed. (Sec. 234 (a) (7), Revenue Act of 1918, and the regulations promulgated thereunder.)

American Window Glass Co. & Subsidiary, Pittsburgh, Pa.

Overassessments, 1920 to 1926, inclusive..... \$759,386.85

Of the overassessments, the amount of \$472,850.21 is determined pursuant to the final order of the United States Board of Tax Appeals entered in the instant case for the year 1920, Docket No. 42645.

The balance of the overassessments for the year 1920, in the amount of \$5,742.39, in favor of the Western Pennsylvania Natural Gas Co., a subsidiary, results from the recomputation of the consolidated profits tax liability under the provisions of sections 327 and 328, Revenue Act of 1918, by reason of the existence of abnormal conditions affecting the income as a result of which the profits tax, if computed without the benefit of section 327, would work upon the taxpayer an exceptional hardship evidenced by a gross disproportion between the tax computed without the benefit of such section and the tax computed by reference to the representative corporations specified in section 328. (Sec. 327 (d) Revenue Act of 1918.)

Another major contributing cause of the above overassessments, in the amount of \$139,098.40, results from the allowance of additional deductions for ordinary and necessary business expenses. It was determined that such deductions were understated in the returns filed. (Secs. 234 (a) (1) Revenue Acts of 1921, 1924, and 1926; arts. 103 and 561, Regulations, 62; and arts. 104 and 561, Regulations, 65.)

Of the overassessments, the amount of \$127,743.69 results from the allowance of deductions for depreciation. These deductions consist of allowances for so-called "extraordinary" repairs representing amounts expended for repairs and charged to the "Reserve for depreciation" instead of being charged to expense and allowances for depreciation on patent rights and fixed assets based upon March 1, 1913, values (secs. 234 (a) (7) Revenue Acts of 1921, 1924, and 1926, and arts. 161, 167, and 561, Regulations, 62, 65, and 69).

The elimination of portions of the gross incomes reported in the returns filed causes \$5,711.26 of the overassessments. This income accrued during the taxable year 1921 and was included in the taxable income which formed the basis for the determination of the correct tax liability for such year (sec. 233 (a), Revenue Act of 1921, and the regulations promulgated thereunder).

The allowance of deductions for losses sustained upon the abandonment of certain capital assets causes \$5,259.85 of the overassessments. Investigation discloses that such losses were erroneously omitted from the returns filed (sec. 234 (a) (4) Revenue Act of 1921; arts. 143 and 561, Regulations, 62.)

The balance of the overassessments, amounting to \$2,981.05, represents the remission of interest on previously asserted deficiencies for the years 1925 and 1926.

As a result of the allowance of the adjustments which produce the overassessments shown above, the taxpayers have agreed to the dismissal of suit pending in the United States District Court for the Western District of Pennsylvania for the recovery of amounts of income and profits taxes paid for the years 1917 to 1923, inclusive,

in excess of the aggregate of the above-indicated overassessments for those years.

American Window Glass Machine Co., Pittsburgh, Pa.

Overassessments, 1925 to 1927, inclusive..... \$105,936.11

The entire overassessments set forth above are due to the allowance of deductions for depreciation on patent rights. On the return filed, such deductions were erroneously omitted (sec. 234 (a) (7), Revenue Act of 1926; arts. 161, 167, and 561, Regulations, 69).

As a result of the allowance of the adjustments which produce the overassessments shown above, the taxpayer has agreed to the dismissal of its suit pending in the United States District Court for the Western District of Pennsylvania for the recovery of an amount of income tax paid for the year 1925, in excess of the amount of the above-indicated overassessment for that year.

Associated Oil Co., San Francisco, Calif.

Overassessments, 1919, 1921..... \$144,119.14

The amount of \$108,249 of the overassessments results from adjustments to the income reported by the taxpayer on account of additional deductions for depletion and depreciation. The additional depletion allowed for these years is based on March 1, 1913, value, cost and discovery appreciation. The deduction allowed for each year appears to represent a reasonable allowance as contemplated by sections 234 (a) (9) Revenue Acts of 1918 and 1921. The additional depreciation allowed for 1921 represents depreciation computed on the asset values at the beginning of the year and the balance allowed for 1919 represents depreciation on depreciable assets segregated from the taxpayer's properties subject to depletion.

Of the overassessments, the amount of \$13,811.71 results from the additional deductions for taxes. The deductions claimed for general taxes in the returns filed were taken from an account entitled, "Estimated Taxes" which does not represent taxes paid or accrued for the year. Investigation relative to adjusting taxes to the straight accrual basis discloses that the estimated amounts claimed in the returns for 1919 and 1921 were understated. A deduction for taxes paid or accrued within the taxable year is allowable under the provisions of sections 234 (a) (3) Revenue Acts of 1918 and 1921.

The balance of the overassessments, amounting to \$22,058.43, results from the allowance of additional deductions for ordinary and necessary business expenses and losses sustained upon the abandonment of certain capital assets. These deductions (which were disallowed in the audit of returns filed for other taxable years) constitute proper deductions as provided under the provisions of section 234 (a) (1), Revenue Act of 1918, and section 234 (a) (4), Revenue Act of 1921; articles 101 and 561, Regulations, 45, and articles 143 and 561, Regulations, 62.

The Atlantic Refining Co., Philadelphia, Pa.

Overassessment, 1920..... \$142,755.90

The principal cause of the overassessment in the amount of \$112,081.10 is due to the allowance of a March 1, 1913, value of patents

After investigation, it was determined that the deduction for depreciation as allowed in a prior audit was inadequate and less than a reasonable allowance authorized by section 234 (a) (7), Revenue Act of 1918, and articles 161, 167, and 561, Regulations, 45.

The allowance of a deduction for a loss sustained during the taxable year causes \$681.50 of the overassessment. This loss is allowable under the provisions of section 234 (a) (4) Revenue Act of 1918; articles 141 and 561, Regulations, 45.

The balance of the overassessment, amounting to \$29,993.30, represents a portion of the interest assessed on a previously asserted deficiency.

Bankers Trust Co., New York

Overassessments 1922, 1923, 1926 to 1928, inclusive..... \$285, 241. 58

The amount of \$129,251.31 of the overassessments results from revision of the valuation of the closing inventory of securities held for resale to customers. The overvaluation of the closing inventory resulted by the inclusion of certain securities in the investment securities account instead of segregating operations as to investment and trading. (Sec. 22 (c), Revenue Act of 1928; art. 105, Regulations, 74.)

The allowance of deductions, representing amounts contributed to a pension fund maintained for the benefit of the taxpayer's employees, amount to \$70,867.52. The issues involved concern the elimination from gross income of the earnings of the employees' pension fund included in the income reported on the return and the deductibility of the corporation's annual contribution to that fund. (Secs. 219 (a) and 234 (a) (1), Revenue Act of 1921; secs. 219 (f) and 234 (a) (1) Revenue Act of 1926; and secs. 23 (q) and 165, Revenue Act of 1928; arts. 101, 341, and 561, Regulations, 62; arts. 101, 346, and 561, Regulations, 69; and art. 271, Regulations, 74.)

Another major contributing cause of the above overassessments, in the amount of \$67,716.10, is due to the allowance of increased credits for foreign taxes as provided under the provisions of sec. 238, Revenue Act of 1926; section 131, Revenue Act of 1928; and the regulations promulgated thereunder.

The allowance of additional deductions for taxes causes \$5,618.23 of the overassessments. Investigation discloses that the deductions for taxes were understated in a prior audit for the year 1926 and in the return filed for the year 1928. (Sec. 234 (a) (3), Revenue Act of 1926; sec. 23 (c), Revenue Act of 1928; arts. 131 and 561, Regulations, 69; and art. 151, Regulations, 74.)

The elimination of certain amounts included in the gross incomes reported in the return filed causes \$1,980.25 of the overassessments. It was determined that such amount (which was claimed as a deduction on the return filed for a preceding taxable year but not allowed in the determination of the taxable income of such year) was erroneously included in the reported gross income. (Sec. 233 (a), Revenue Act of 1926; sec. 22 (a), Revenue Act of 1928; and the regulations promulgated thereunder.)

The balance of the overassessment amounting to \$9,808.17, represents a portion of the interest assessed on previously asserted deficiencies.

Beggs, John I., estate of, St. Louis, Mo.

Overassessment, 1925----- \$606, 801. 59

An overassessment of estate tax, in the amount \$536,432.12, in favor of the above-named taxpayer is determined pursuant to the final order of the United States Board of Tax Appeals entered in the instant case, Docket No. 41082. The overassessment of tax results from the allowance of additional deductions under the provisions of section 303 (a) (1) of the Revenue Act of 1924.

The balance of the overassessment, in the amount of \$70,369.47, represents a portion of the interest assessed on previously asserted deficiencies.

Berrisford, Enoch F., estate of, St. Paul, Minn.

Overassessment, 1930----- \$395, 257. 19

Of the overassessment, the amount of \$381,995 is caused by 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 \$10,211.39 of the overassessment represents a duplicate assessment of tax.

The balance of the overassessment of \$3,050.80 results from the elimination of interest previously assessed as part of the deficiency in tax.

Brooks, Dwight F., estate of, St. Paul, Minn.

Overassessment, 1930----- \$411, 876. 07

The entire overassessment arises from the adjustment made in the 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), Revenue Act of 1926, on account of inheritance and estate taxes paid to the State of Minnesota. (Art. 9 (a), Regulations, 70.)

Central Alloy Steel Corporation and subsidiaries (Republic Steel Corporation successor), Massillon, Ohio

Overassessments 1927 to 1929, inclusive----- \$284,726.87

The amount of \$155,147.57 of the overassessments results from the allowance of additional deductions for depreciation. It was determined that the deductions for depreciation as allowed in a prior audit for the years 1927 and 1928 and claimed in the return filed for the year 1929 were understated and less than the reasonable allowances authorized by section 234 (a) (7). (Revenue Act of 1926, sec. 23 (k); Revenue Act of 1928; and the regulations promulgated thereunder.)

The allowance of deductions for losses sustained upon the abandonment of certain capital assets causes \$112,410.87 of the overassessments. Investigation discloses that such losses constitute proper deductions in the above years and were omitted in a prior audit for the years 1927 and 1928 and in the return filed for the year 1929. (Secs. 202 and 234 (a) (4), Revenue Act of 1926; secs. 23 (f) and (g) and 111, Revenue Act of 1928; and the regulations promulgated thereunder.)

The allowance of additional deductions for ordinary and necessary business expenses causes \$13,803.60 of the overassessments. These deductions were understated in the previous determination of the taxable net incomes. (Sec. 234 (a) (1), Revenue Act of 1926; and

sec. 23 (a) Revenue Act of 1928; arts. 101, 106, and 561, Regulations, 69; and arts. 121 and 126, Regulations, 74.)

The balance of the overassessments, amounting to \$3,364.83, represents the remission of interest assessed on previously asserted deficiencies for the years 1927 and 1928.

Chile Copper Co., New York

Overassessment 1918..... \$248,238.39

An overassessment for the above-named taxpayer in the amount of \$281,450.61 was reported to the joint committee under date of January 4, 1933. Disposition of the case was not made at that time due to certain issues raised by the staff in connection with the allowance of an operating loss for 1919 as a deduction from 1918 income. 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 to \$248,238.39, a net savings to the Government, including interest, of \$61,120.66.

The entire overassessment results from the allowance of a deduction representing net losses sustained in the taxable year 1919. (Sec. 204 Revenue Act of 1918, and the regulations promulgated thereunder. *Swift & Co. v. United States* (38 Fed. (2d) 365; *Sweets Company of America v. Commissioner* (40 Fed. (2d) 436).)

As a result of the foregoing adjustments, the taxpayer has agreed to the dismissal of its suits pending in the United States Court of Claims and in the United States District Court for the Southern District of New York for the recovery of an amount of income taxes for the year 1918 in excess of the amount of the above-indicated overassessment.

Commonwealth Power, Railway & Light Co., Portland, Maine

Overassessment, 1920..... \$121,152.15

The entire overassessment results from the elimination from the reported consolidated net income of amounts representing the incomes of certain corporations for periods during which they were not affiliated with the taxpayer corporation within the purview of section 240, Revenue Act of 1918. It was found upon investigation that during the periods in which such incomes accrued, substantially all of the capital stock of these corporations was not owned or controlled by the taxpayer or another corporation of the affiliated group or by the same interests which owned or controlled the capital stock of the corporations comprising the affiliated group. The amounts eliminated have been made the basis for the assessment of deficiencies in tax against the appropriate corporations.

Coward, J. Mortimer, estate of, Hoboken, N. J.

Overassessment, 1928..... \$164,627.31

Of the overassessment of estate tax and interest in favor of the above-named taxpayer the amount of \$155,471.93 results from the allowance of an additional deduction representing the value of certain property included in the net estate as previously determined. After investigation, it was determined that such property had been received or had been exchanged for property received from a prior

decendent who died within 5 years previous to the death of the decedent and was included in the gross estate of the prior decedent. (Sec. 303 (a) (2), Revenue Act of 1926; art. 41, Regulations, 70, as amended by T. D. 4304 (C. B. X-1, 449).)

The balance of the overassessment amounting to \$9,155.38 represents a portion of the interest assessed on a previously asserted deficiency.

Delaware and Hudson Co., New York, N. Y.

Overassessment, 1920..... \$122, 713. 37

The principal cause of the overassessment in the amount of \$95,-093.13 results from the allowance of additional deductions for ordinary and necessary business expenses, as provided in section 234 (a) (1), Revenue Act of 1918; articles 101, 103, and 561, Regulations, 45.

The allowance of a deduction for amortization of bond discount causes \$5,242.90 of the overassessment. This deduction was omitted in a prior audit. (Sec. 234 (a) (1), Revenue Act of 1918; arts. 561 and 563, Regulations, 45.)

The elimination of a portion of the gross income as determined in a prior audit causes \$2,930.97 of the overassessment. (Sec. 233 (a), Revenue Act of 1918; art. 544, Regulations, 45.)

The balance of the overassessment amounting to \$19,446.37 represents the remission of interest assessed on a previously asserted deficiency.

As a result of the foregoing adjustments, the taxpayer has agreed to the dismissal of its suit pending in the United States District Court for the Southern District of New York for the recovery of an amount of income tax in excess of the amount of the above-indicated overassessment.

Delaware, Lackawanna & Western R. R. Co., New York, N. Y.

Overassessments, 1927, 1928..... \$200, 551. 06

The principal cause of the overassessments, in the amount of \$187,-379.51, results from the allowance of additional deductions for losses sustained upon the sale of certain assets, since such losses were understated in the return filed. (Secs. 234 (a) (4), 202, and 204, Revenue Act of 1926, and the regulations promulgated thereunder.)

The balance of the overassessments, amounting to \$13,171.55, results from the allowance of additional deductions for ordinary and necessary business expenses and taxes. (Sec. 234 (a) (1) and (3), Revenue Act of 1926; sec. 23 (a) and (c) Revenue Act of 1928; arts. 101, 110, 131, and 561, Regulations, 69; arts. 121, 130, and 151, Regulations, 74.)

Ehret, George, estate of, New York, N. Y.

Overassessments 1917, 1919, 1923, 1924..... \$751, 490. 39

The overassessments for the years 1917 and 1919 in the amount of \$689,710.45 represent the excess of the tax assessed over the correct tax liabilities for those years, as determined pursuant to the final order of the United States Board of Tax Appeals entered in the instant case, Dockets Nos. 31067 and 31068.

The amount of \$50,393.37 of the overassessments results from the allowance of additional deductions for depreciation. It was deter-

mined that the deductions for depreciation claimed in the returns filed were less than the reasonable allowances authorized by sections 214 (a) (8) Revenue Acts of 1921 and 1924, and articles 161, Regulations, 62 and 65.

Of the overassessments, \$11,104.32 is due to the revised evaluations of merchandise stocks made necessary because of the difficulty of ascertaining the market prices which prevailed on specific dates. (Sec. 203, Revenue Act of 1921; sec. 205, Revenue Act of 1924; and the regulations promulgated thereunder.)

The balance of the overassessments, amounting to \$282.25, results from the elimination of a portion of the amounts reported as being received from rents and interest. Investigation discloses that such amounts were erroneously overstated in the returns filed for the years 1923 and 1924. (Secs. 213 (a), Revenue Acts of 1921 and 1924, and the regulations promulgated thereunder.)

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

Overassessments 1923 to 1927, inclusive.....	\$366, 815. 04
Withheld.....	86, 854. 35

The principal cause of the above overassessments, in the amount of \$256,094.55, results in the allowance of increased credits for foreign taxes paid. Investigation discloses that such credits were understated in prior audits for the years 1924, 1925, 1926, and 1927. (Secs. 238, Revenue Acts of 1924 and 1926, and the regulations promulgated thereunder.)

The allowance of additional deductions for ordinary and necessary business expenses, taxes, and bad debts causes \$135,663.43 of the overassessments, since it was determined that such deductions were understated in prior audits for the years 1923, 1924, 1926, and 1927. (Sec. 234 (a) (3) and (5), Revenue Act of 1921; sec. 234 (a) (3), Revenue Act of 1924; and sec 234 (a) (1) Revenue Act of 1926; arts. 131, 151, and 561, Regulations, 62; arts. 131 and 561, Regulations, 65; and arts. 110 and 561, Regulations, 69.)

The elimination of portions of gross incomes as determined in prior audits causes \$22,188.16 of the overassessments. Further investigation discloses that such incomes were overstated. (Sec. 233 (a), Revenue Acts of 1921 and 1924, and the regulations promulgated thereunder.)

The balance of the overassessments, in the amount of \$39,723.25, represents a portion of the interest assessed on previously asserted deficiencies.

Erie Railroad Co., Cleveland Ohio

Overassessment 1926.....	\$54, 329. 01
Withheld.....	61, 577. 34

The principal cause of the above overassessment, in the amount of \$110,329.83, is due to the allowance of additional deductions for depreciation. It was determined that the deductions for depreciation claimed in the return filed were inadequate and less than the reasonable allowances authorized by section 234 (a) (7), Revenue Act of 1926, and the regulations promulgated thereunder.

The balance of the overassessment, amounting to \$5,576.52, results from the allowance of additional deductions for ordinary and necessary business expenses, interest, taxes, and losses sustained upon the

final disposition of certain capital assets. (Sec. 234 (a) (1) (2) (3) and (4), Revenue Act of 1926; arts. 101, 121, 131, 141, 561, and 563, Regulations 69.)

Erlanger, Abraham, estate of, Elberon, N. J.

Overassessment 1929----- \$488, 769. 11

Of the overassessment, the amount of \$463,235.80 is caused by 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 balance of the overassessment, amounting to \$25,533.31, represents the remission of interest assessed on previously asserted deficiencies.

Fitkin, A. E., New York, N. Y.

Overassessment 1928----- \$162, 631. 43

The overassessment in this case, in the amount of \$146,042.93, results from allocating income reported by the taxpayer in his return for this year to other years, to the Fitkin Utilities, Inc., and the Fitkin Realty & Improvement Co., affiliated corporations, whose stocks were owned by this taxpayer. As a result of these and other adjustments of minor importance there have been determined deficiencies against the taxpayer for the year 1927 and against Fitkin Utilities, Inc., for the years 1927 and 1928. (Sec. 22 (a), Revenue Act of 1928 and the regulations promulgated thereunder.)

The balance of the overassessment, amounting to \$16,588.50, is caused by the elimination of a portion of the gross income reported in the return filed. Investigation discloses that such income accrued during other taxable years and was included in the taxable incomes which formed the basis for the assessment of deficiencies in tax for such other years. (Secs. 22 (a) and 44 (a) and (b), Revenue Act of 1928, and the regulations promulgated thereunder.)

Flannery Bolt Co., Pittsburgh, Pa.

Overassessments 1917, 1918----- \$110, 296. 32

Of the overassessments, the amount of \$68,571.31 results from the allowance of additional deductions for depreciation. It was determined that such deductions as allowed in prior audits were inadequate and less than the reasonable allowances authorized by section 12 (a) (2), Revenue Act of 1916, section 234 (a) (7), Revenue Act of 1918, and the regulations promulgated thereunder.

The balance of the overassessments, amounting to \$41,725.01, is caused by the allowance of a deduction representing a net loss sustained in the year 1919. This deduction was omitted in the prior audit. (Sec. 204 (b), Revenue Act of 1918; art. 1603, Regulations, 45.)

Frost Lumber Industriss, Inc., of Missouri, Shreveport, La.

Overassessments 1920, 1924, 1927, 1928----- \$115, 664. 31

The principal cause of the overassessments, in the amount of \$84,103.15, is due to the elimination of an amount included in the gross income of a prior audit as profit realized from the sale of certain

capital assets. The transaction involved was not consummated until the year 1921 and resulted in no recognizable gain for that year under the provisions of section 202 (c) (3), Revenue Act of 1921, and the regulations promulgated thereunder.

Other contributing causes of the overassessments and the amounts attributable thereto may be summarized as follows: Elimination of a portion of an amount included in the gross income on account of the destruction of certain capital assets by fire, \$7,230.58; increased allowance for depletion, \$924.84; inventory adjustments, \$8,616.53; remission of interest assessed on previously asserted deficiencies, \$14,789.21.

As a result of the foregoing adjustments and the dismissal of a suit against the taxpayer which is pending in the United States District Court for the Western District of Louisiana for the recovery of an erroneous refund, the taxpayer has agreed to the dismissal of its suits pending in the United States District Court for the Eastern District of Missouri for the recovery of amounts of income and profits taxes and interest in excess of the aggregate of the above-indicated overassessments.

Glen Alden Coal Co., Scranton, Pa.

Overassessments, 1923 to 1926, inclusive..... \$431, 802. 69

The overassessments of income tax in favor of the above-named taxpayer, in the amount of \$422,517.17, result from the allowance of additional deductions for depreciation and depletion.

The balance of the overassessments, amounting to \$9,285.52, is caused by the allowance of deductions in the year 1923 for losses sustained upon the abandonment of certain capital assets (sec. 234 (a) (4), Revenue Act of 1921, and the regulations promulgated thereunder).

The staff of the committee questioned the reasonableness of the deductions for depreciation. This matter, therefore, is being given further consideration by the Bureau, and the payment of the refund is being withheld pending such consideration.

Goodyear Tire & Rubber Co., Arkon, Ohio

Overassessments 1917 to 1919, inclusive..... \$120, 000

The principal cause of the overassessments, in the amount of \$67,574.75, results from the allowance of additional deductions for depreciation. It was determined that the deductions allowed in a prior audit are inadequate and less than a reasonable allowance authorized by sections 12 (a) second Revenue Act of 1916, and 234 (a) (7) Revenue Act of 1918, and the regulations promulgated thereunder.

Another major contributing cause of the above overassessments, in the amount of \$51,837.17, is due to the allowance of additional deductions for amortization of the costs of facilities installed or acquired after April 6, 1917. (Sec. 234 (a) (8), Revenue Act of 1918.)

The balance of the overassessments represents the remission of interest assessed on a previously asserted deficiency.

As a result of the foregoing adjustments, the taxpayer has agreed to the dismissal of suits pending in the United States District Courts for the District of Connecticut and the Northern District of Ohio for the recovery of amounts of income and profits taxes and interest in excess of the aggregate of the above-indicated overassessments.

Gulf State Steel Co., Birmingham, Ala.

Overassessments, 1926 to 1928, inclusive..... \$84,605.42

The principal cause of the overassessments, in the amount of \$81,664.87, results from the allowance of additional deductions for depreciation and depletion. It was determined that such deductions as claimed in the returns filed were inadequate and less than the reasonable allowances authorized by section 234 (a) (7) and (8), Revenue Act of 1926, section 23 (k) and (l), Revenue Act of 1928, and the regulations promulgated thereunder.

The allowance of additional deductions for ordinary and necessary business expenses and amortization of bond discount and expense causes \$2,848.09 of the overassessments. These deductions were understated in the return filed. (Sec. 23 (a), Revenue Act of 1928; arts. 121 and 176, Regulations, 74.)

The balance of the overassessments, amounting to \$92.46, represents the remission of interest previously asserted on a deficiency for the year 1926.

M. A. Hanna Co., Cleveland, Ohio

Overassessment, 1929..... \$126,062.34

The overassessment represents the entire tax assessed and paid on the basis of the final consolidated income-tax return filed for the calendar year 1929. The amount of \$125,346.49 of the overassessment results from the allowance as deductions of the net operating losses for 1928 and 1929 of a certain subsidiary corporation which was omitted from the affiliated group in the computation of the consolidated net incomes as reported in the returns filed (secs. 141 and 142, Revenue Act of 1928; art. 731, Regulations, 74, and arts. 1, 18, and 41 (b), Regulations, 75).

The amount of \$568.51 of the overassessment results from a decrease in the reported gross income, and the balance of the overassessment amounting to \$147.34 results from the allowance of an additional deduction for losses sustained on the sale of certain capital assets. After investigation, it is determined that the gross income was overstated and the deduction claimed for losses was understated in the return filed (secs. 22 (a) and 23 (f) and (g), Revenue Act of 1928, and the regulations promulgated thereunder).

Hocking Valley Railway Co., Columbus, Ohio

Overassessments, 1918, 1919, 1922-24, inclusive..... \$112,639.80
Withheld..... 86,333.49

The principal cause of the above overassessments, in the amount of \$75,231.13, results from the elimination of certain amounts reported in the returns filed as gross income. Investigation discloses that a portion of such amounts represent nontaxable income and that the balance represents income taxable in prior years when properly accrued (secs. 233 (a), Revenue Acts of 1921 and 1924, and the regulations promulgated thereunder).

Another major contributing cause of the overassessments, in the amount of \$55,557.86, results from the transfer from the taxable year 1924 to the year 1920 of an amount claimed by the taxpayer under the guaranty provisions of section 209, Transportation Act of 1920. In accordance with the provisions of S. M. 2970 (C. B.

IV-1, 127) such an amount is taxable in the year 1920 and was included in the gross income for that year.

The entire overassessments for the years 1918 and 1919, in the amount of \$2,223.19, result from the reduction of tax liability by the 2-percent tax paid for the taxpayer by the Director General of Railroads under the authority of the Federal Control Act, enacted March 2, 1918 (40 Stat. L. 451).

Of the overassessments, the amount of \$5,625.33 is caused by the allowance of a deduction representing a net loss sustained in a prior taxable year. After investigation, it was determined that such deduction was omitted in the return filed. (Sec. 204, Revenue Act of 1921, and the regulations promulgated thereunder.)

The balance of the overassessments, amounting to \$60,335.78, results from the allowance of additional deductions for ordinary and necessary business expenses and interest. (Secs. 234 (a) (1) and (2), Revenue Acts of 1921 and 1924; arts. 101, 121, and 561, Regulations, 62 and 65; arts. 103 and 563, Regulations, 62.)

Illinois Glass Co., Alton, Ill.

Overassessments, 1917, 1918..... \$223, 393. 22

The amount of \$102,877.23 of the overassessments results from the allowance of additional deductions for depreciation. The additional deductions for depreciation result from computing the amount of depreciation sustained upon the value as of March 1, 1913, of certain assets acquired prior to that date. (Sec. 12 (a) second, Revenue Act of 1916, and sec. 234 (a) (7), Revenue Act of 1918; art. 159, Regulations, 33 (revised), and arts. 161, 163, and 561, Regulations, 45.)

The recomputation of the profits-tax liability under the provisions of section 210, Revenue Act of 1917, causes \$75,471.35 of the overassessment for the year 1917. Investigation discloses that the tax, as computed in the prior audit by reference to representative corporations specified in section 210, was overstated.

Of the overassessments, \$19,713.41 is due to the allowance of additional deductions for ordinary and necessary business expenses. (Sec. 12 (a) first Revenue Act of 1916, and sec. 234 (a) (1), Revenue Act of 1918; art. 131, Regulations, 33 (revised), and arts. 103 and 561, Regulations, 45.)

Other causes contributing to the above overassessments are due to the allowance of deductions for losses sustained upon the abandonment of certain capital assets and to the allowance of a deduction for amortization of the costs of facilities installed or acquired after April 6, 1917. (Sec. 12 (a) second Revenue Act of 1916; sec. 234 (a) (4), Revenue Act of 1918; sec. 234 (a) (8), Revenue Act of 1918; and the regulations promulgated thereunder.)

Iroquois Iron Co. and subsidiaries, Youngstown, Ohio

Overassessments, 1918, 1919..... \$2, 768, 892. 21

The proposed overassessments result from two major causes; (1) Change in ruling as to affiliation, (2) increased allowance of amortization. Inasmuch as this case has been withheld pending further investigation, it is not deemed proper to discuss the issues involved at this time.

Irvine, Thomas, estate of, St. Paul, Minn.

Overassessment, 1930..... \$146, 282. 28

The entire overassessment is caused by 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).

Kresge, Sebastian S., Miami Beach, Fla.

Overassessments, 1929, 1930..... \$135, 600. 20

The principal basis of claims resulting in overassessments of \$134,367.91 is attributable to the improper inclusion in taxable income of dividends received from the S. S. Kresge Co. for the years 1929 and 1930. The dividends excluded in the 1929 return have been included in the 1928 taxable income and those eliminated from the 1930 return are properly subject to tax in the year 1931. This case is governed by the Revenue Act of 1928, sections 22 and 42, which are substantially the same as section 213 of the Revenue Acts of 1924 and 1926.

The balance of the overassessments amounting to \$1,232.29 is caused by the allowance of deductions for depreciation and amortization of certain leaseholds. Investigation discloses that such deductions were erroneously omitted from the return filed (sec. 23 (a) and 23 (k), Revenue Act of 1928; arts. 130 and 201, Regulations, 74).

McGregor, Eliza H., estate of, San Francisco, Calif.

Overassessments, 1928 to 1930, inclusive..... \$75, 495. 81

The overassessments result from the elimination from taxable income of amounts reported in the separate income-tax returns of this taxpayer filed for the above year as her assumed share of the community income which was determined to represent taxable income of her husband (sec. 22 (a), Revenue Act of 1928; art. 51, Regulations, 74).

The net reductions in net income are based upon the decision in *Hirsch v. United States*, 62 Fed. (2d) 128, certiorari denied April 10, 1933. The decision held that dividends received in 1928 on stock that was community property under California law but which had been purchased by funds of the marital community acquired prior to the amendment of the California Civil Code of July 29, 1927, were wholly taxable to the husband. Applying this principle to the instant case, the amounts referred to above have been allocated and taxed to the taxpayer's husband, producing a deficiency in tax in his case for the years here involved materially in excess of the aggregate overassessments herein.

Merrell-Soule Co., Syracuse, N. Y. (now Syracuse Food Products Corporation)

Overassessments, 1917, 1918, 1919, and 1922..... \$254, 561. 54

The amount of \$241,378.62 of the overassessments results from the allowance of additional deductions for depreciation of patents. It was determined that the deductions for depreciation as allowed in prior audits were inadequate and less than the reasonable allowances authorized by section 12 (a) second, Revenue Act of 1926, sections 234 (a) (7), Revenue Acts of 1918 and 1921, and the regulations pro-

mulgated thereunder (*Syracuse Food Products Corporation, formerly Merrell-Soule Company v. Commissioner*, 21 B. T. A. 865).

A small portion of the overassessments, \$8,029.56, for the years 1918 and 1919 results from the allowance of credits for foreign taxes paid, since an investigation discloses that such credits and part of the foreign income for 1918 were omitted in a prior audit. (Sec. 238, Revenue Act of 1918, and the regulations promulgated thereunder. *Mead Cycle Company v. Commissioner*, 10 B. T. A. 887.)

The balance of the overassessments in the amount of \$5,153.36 is due to an excess interest collection.

As a result of the foregoing adjustments, the taxpayer has agreed to the dismissal of its suit pending in the United States Court of Claims for the recovery of income and profits taxes in excess of the aggregate of the above-indicated overassessments.

Miami Realty Trust, Chicago, Ill.

Overassessments, 1923 to 1926, inclusive..... \$226, 589. 90

The amount of \$205,320.45 of the overassessments results from the redetermination of the tax liability of the above-named taxpayer as a corporation. After investigation it was determined that the taxpayer is a corporation within the meaning of section 2, Revenue Acts of 1921, 1924, and 1926, and section 701, Revenue Act of 1928, and the determination of its tax liability as a trust materially overstated such liability. The determination for the above years is consistent with the final order of determination entered by the United States Board of Tax Appeals in the instant case for the fiscal year 1926, Docket No. 46077.

The balance of the overassessments amounting to \$21,269.45 represents interest assessed on previously asserted deficiencies for the taxable years 1923 and 1924.

Minnesota & Ontario Paper Co., Minneapolis, Minn.

Overassessments, 1922 to 1928, inclusive..... \$229, 605. 54
Barred..... 17, 500. 00

The overassessment for the year 1922 in the amount of \$49,318.77 is caused by the allowance of an additional deduction representing an adjusted net loss sustained. The adjustments in inventory and other income for the years 1917 to 1920, inclusive, eliminated all profit for the year 1922 and, in fact, resulted in the determination of net losses for the years 1921 and 1922 (sec. 204 (b), Revenue Act of 1921, and the regulations promulgated thereunder).

The overassessment for the year 1923 in the amount of \$29,427.69 results from the computation and determination of the tax liability by the United States Board of Tax Appeals in the case of a subsidiary corporation for that year, Docket No. 41834.

The amount of \$65,755.78 of the overassessment for the year 1924 and \$11,144.96 of the overassessment for the year 1925 represents the excess of the taxes assessed over the correct tax liabilities determined pursuant to the final orders of the United States Board of Tax Appeals entered in the instant case for those years, Docket Nos. 51134 and 52110.

Of the overassessments the amount of \$34,886.43 results from the allowance of additional deductions for ordinary and necessary business

expenses, interest, and taxes. After investigation, it was determined that such deductions were understated in the prior audit (sec. 234 (a) (1), (2), and (3), Revenue Act of 1926; sec. 23 (a), (b), and (c), Revenue Act of 1928; and the regulations promulgated thereunder).

The allowance of additional deductions for depreciation causes \$13,551.70 of the above overassessments. It was determined that the deductions allowed in prior audits were inadequate and less than the reasonable allowances authorized by section 234 (a) (7), Revenue Act of 1926, and section 23 (k), Revenue Act of 1928; article 161, Regulations 69, and article 201, Regulations 74.

The balance of the overassessments amounting to \$25,520.21 represents the remission of interest assessed on previously asserted deficiencies.

As a result of the foregoing adjustments, the taxpayer has agreed to the dismissal of its suits pending in the Court of Claims and the United States District Court for the District of Minnesota for the recovery of an amount of taxes in excess of the aggregate of the above-indicated overassessments.

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

Overassessments, 1925, 1926.....	\$23, 126. 06
Withheld.....	80, 777. 93
Barred.....	67, 354. 03

The principal cause of the above overassessments in the amount of \$47,658.79 is due to the allowance of deductions representing net losses sustained in prior taxable years. It was determined that such deductions were omitted from the returns filed (sec. 206, Revenue Act of 1924, and the regulations promulgated thereunder).

Of the overassessments, \$35,043.01 is due to transferring to prior years the profit realized on the construction of hulls and reported as income in the year 1925. The taxpayer in filing its original returns for the years 1920 to 1925, inclusive, failed to include the profit on hulls in the years in which the vessels were being constructed. In some instances, all of the profit was not reported until several years after the hulls were completed. It was therefore necessary to restate the profit on hulls and include it in income in the years in which it was actually realized. The profit on the hulls was included in income for the years 1920 to 1924, and the returns for those years closed (sec. 233 (a) Revenue Act of 1924, and the regulations promulgated thereunder).

The amount of \$2,415.58 of the overassessments represents corrections in bond discount and depreciation. The allowance for depreciation has been increased slightly, due principally to corrections made in the depreciable base on account of the adjustment of amortization. The taxpayer did not include all of the assets on which amortization was claimed in the depreciable assets shown in the return for the year 1925. As the residual value of the assets exceeded the cost included in the depreciable base, the depreciable base was increased for the purpose of determining the allowance for depreciation (sec. 234 (a) (1) (7), Revenue Act of 1924; arts. 101, 161, 561 and 563, Regulations 65).

The balance of the overassessments amounting to \$18,786.61 is caused by the elimination of an amount included in the gross income as plant rental. This was subsequently held to represent contractual

amortization and was therefore applied against the original cost of the assets on which amortization was claimed (sec. 233 (a), Revenue Act of 1924, and the regulations promulgated thereunder).

Norfolk & Western Railway Co. and subsidiaries, Roanoke, Va.

Overassessments, 1922, 1923, 1925, 1926..... \$729, 182. 40

Of the overassessments, \$212,242.23 is caused by the allowance of additional deductions for depreciation. The taxpayer was one of a very small minority of the railroads of the country which pursuant to an election permitted by the Interstate Commerce Commission, chose to set up in its accounting system a reserve for, and to deduct from annual profits depreciation on ways and structures as distinguished from equipment. Since 1907 the taxpayer has consistently deducted from annual profits an allowance for exhaustion, wear and tear of its roadway property, setting up a depreciation reserve to provide a fund for future renewals and replacements. Additions made subsequent to 1914, with few exceptions, were not added to the depreciation base although the additions were capitalized. It was determined that the deductions for depreciation claimed in the returns filed were inadequate and less than the reasonable allowances authorized by sections 234 (a) (7) Revenue Acts of 1921 and 1926, and the regulations promulgated thereunder.

The transfer to other taxable years of an amount representing compensation for the use of the taxpayer's railroad properties causes \$287,023.08 of the overassessment for 1923. Such amount accrued during other taxable years has been considered in the determination of the tax liabilities for such years (sec. 233 (a), Revenue Act of 1921, and the regulations promulgated thereunder).

The allowance of deductions representing amounts contributed to a pension fund maintained for the benefit of the taxpayer's employees causes \$116,616.53 of the overassessments for the years 1925 and 1926. (Sec. 234 (a) (1), Revenue Act of 1926; arts. 101 and 561, Regulations, 69; *Hibbard, Spencer, Bartlett & Co. v. Commissioner* 5 B. T. A. 464; *Elgin National Watch Co. v. Commissioner* 17 B. T. A. 339.)

Other causes of overassessments and amounts attributable thereto are the allowance of additional deductions for ordinary and necessary business expenses, amortization of bond discount and expenses, interest, taxes and losses, \$52,913.69, (secs. 234 (a) (1) (2) (3) and (4), Revenue Acts of 1921 and 1926; arts. 101, 121, 131, 141, 561, and 563, Regulations 62 and 69); the elimination of amounts from gross income which did not constitute taxable income, \$27,771.76 (sec. 233 (a), Revenue Acts of 1921 and 1926); reallocation of income, \$19,190.12 (sec. 233 (a), Revenue Acts of 1921 and 1926); affiliation, \$13,416.82 (sec. 240, Revenue Act of 1921); remission of interest assessed on deficiency, \$8.17.

The Ohio Power Co., Newark, Ohio

Overassessments, 1923, 1925..... \$48, 110. 52
Withheld..... 31, 295. 71

The amount of \$59,974.76 of the overassessments is determined pursuant to final orders of the United States Board of Tax Appeals entered in the instant case for the above years, Docket Nos. 41001 and 61534. The only question presented involved the determination

of the proper depreciable base for the properties and the determination, as well, of appropriate depreciation rates to be used in computing allowances for exhaustion, wear and tear on such assets that are subject to depreciation for the years above mentioned.

The balance of the overassessments, amounting to \$19,431.47, represents a portion of the interest assessed on previously asserted deficiencies.

Packard Motor Car Co., Detroit, Mich.

Overassessment, 1930..... \$137, 883. 30

The principal cause of the overassessment in the amount of \$71,693.09 is due to an inventory adjustment. A physical inventory taken in 1930 was found to be more than the book inventory as at that date. The book inventory was corrected to reflect the true physical inventory and this correction, increase of book inventory, was reflected in the closing inventory, and accordingly in the cost of goods sold and net income as reported by the original return for 1930. The tax assessed for 1930 was accordingly larger by the tax computed on the increase of closing inventory than if this increase had not been made (sec. 22 (c), Revenue Act of 1928, and the regulations promulgated thereunder).

Another major contributing cause of the above overassessment in the amount of \$62,012.66 is due to the allowance of deductions for tool costs. Investigation disclosed that the allocation as made by the taxpayer was improper. The charge-off of the tools was therefore reallocated on the basis of production as provided by section 23 (k), Revenue Act of 1928, and the regulations promulgated thereunder.

The redetermination of the losses and gains realized from the sale of certain securities caused \$2,982.11 of the overassessment. It was determined that a certain loss was omitted and that certain gains were overstated in the return filed (secs. 22 (a), 23 (f), and 113, Revenue Act of 1928, and the regulations promulgated thereunder).

The elimination of a portion of the gross income reported in the return filed causes \$914.12 of the overassessment. This income accrued during a prior taxable year and was included in the taxable income which formed the basis for the assessment of a deficiency in tax for such year (sec. 22 (a), Revenue Act of 1928, and the regulations promulgated thereunder).

The balance of the overassessment, amounting to \$281.32, results from the allowance of additional deductions for ordinary and necessary business expenses and taxes (sec. 23 (a) and (c), Revenue Act of 1928; arts. 121 and 151, Regulations, 74).

Pan-American Life Insurance Co., New Orleans, La.

Overassessments, 1923 to 1926, inclusive..... \$76, 118. 84

The overassessments are determined pursuant to final orders of the United States Board of Tax Appeals entered in the instant case for the above years, Docket Nos. 38145 and 38266.

The overassessments are due to the deduction for the excess of 4 percent of the mean of reserve funds over exempt interest allowable in accordance with section 245 (a) (2) of the Revenue Act of 1921.

Pan-American Petroleum Co., Los Angeles, Calif.

Overassessments, 1920, 1925, 1926..... \$109, 177. 96*

The overassessment for the year 1920, in the amount of \$38,234.49, results from the computation and determination of the tax liability for that year by the United States Board of Tax Appeals in the case of the parent corporation of the affiliated group of which the above-named taxpayer was a member, Docket No. 50400.

Of the overassessments, \$49,074.89 results from the allowance of additional deductions for ordinary and necessary business expenses, such deductions being understated in the returns filed. (Sec. 234 (a) (1), Revenue Act of 1926; arts. 101, 223, and 561, Regulations, 69; T. D. 4025 (C. B. VI-1, 75).)

The balance of the overassessments amounting to \$21,868.58 results from the revision of the reported valuations of the opening inventory. It was determined that the opening inventories reported were undervalued. Revisions are made accordingly and the opening inventories used are the same as those used in the determination of the tax liability for a preceding year. (Sec. 205, Revenue Act of 1926, and the regulations promulgated thereunder.)

Pan American Petroleum & Transport Co. and subsidiaries, New York

Overassessments 1918, 1919..... \$785, 184. 51
Withheld for direct settlement by Comptroller General..... 14, 078. 05*

The principal cause of the overassessments in the amount of \$626,278.48 results from the allowance of deductions for the amortization of the cost of vessels acquired after April 6, 1917, for the transportation of articles or men contributing to the prosecution of the World War. These deductions were erroneously omitted from the returns filed (secs. 234 (a) (8), Revenue Act of 1918, and 1209 Revenue Act of 1926, and the regulations promulgated thereunder; *American-Hawaiian Steamship Company v. Commissioner*, 7 B. T. A. 13).

Of the overassessments, the amount of \$128,732.67 is due to the allowance of additional deductions for losses sustained during the taxable years upon the abandonment of certain assets (sec. 234 (a) (4), Revenue Act of 1928; arts. 143 (as amended by T. D. 3206, C. B. 5, 142) 144 and 561, Regulations, 45).

Other causes of overassessments and amounts attributable thereto are caused by an understatement of the deductions for bond expense and the amortization of bond discount, \$25,858.48, section 234 (a) (1), Revenue Act of 1918; articles 101, 544, and 561, Regulations 45; increased deductions for depletion and depreciation, \$14,109.32, section 234 (a) (7) and (9), Revenue Act of 1918, and articles 161, 201, and 561, Regulations, 45; additional deductions for ordinary and necessary business expenses, \$4,283.61, sections 233 (a) and 234 (a) (1), Revenue Act of 1918; articles 77 to 80, inclusive, 101, 541 (as amended by T. D. 3612, C. B. III-2, 244) and 561, Regulations, 45..

Penfield, Anne W. (Mrs.) Philadelphia, Pa.

Overassessments, 1918, 1923, 1924..... \$240, 779. 90*

The overassessments are caused by the allowance of additional net losses resulting from the operation of the business regularly carried.

on by the taxpayer and sustained during the years 1919, 1921, and 1922. After applying the 1921 and 1922 net losses against the corrected net income for 1923 the balance of the net loss sustained for 1922 is carried over to the year 1924.

In considering certain refunds approved during 1929 for the above-mentioned years the Bureau refused to allow any refund caused by depreciation sustained during the years 1918 to 1922, inclusive, as no deductions for depreciation were claimed in the returns filed and the claims for refund seasonably filed did not mention depreciation. During the review of prior refunds, it was noted that in determining the gain or loss from the sale of properties, the cost or other bases had not been reduced by the accumulated depreciation in accordance with the decision of the Supreme Court of the United States in the case of *United States v. Ludey*, 274 U. S. 295, therefore a special field investigation concerning valuations, the rates, and the amount of depreciation sustained for the years 1913 to 1923, inclusive, was made and a report submitted. Since the taxpayer was considered to be engaged in business with respect to real estate operations the amount of depreciation disclosed by the report for each year on properties still held, appeared to represent a reasonable allowance under the law and regulations applicable to said years but due to the defect in the above-mentioned claims and the fact that the taxpayer's briefs contending for such deductions were filed subsequent to the running of the statute of limitations, no deduction from gross income for depreciation was allowed for the years 1918 to 1922, inclusive.

In April 1929, the taxpayer filed claims for refund for the years 1918, 1923, and 1924, relative to all issues set forth in previous claims, in accordance with the provisions of Treasury Decisions 4265 and 4266, C. B. VIII-1, pages 110 and 111, respectively.

Due to the Bureau holding that the claims timely filed were not deemed sufficiently broad in scope to cover the depreciation element in computing the net losses for 1919, 1921, and 1922, the taxpayer in agreeing to close the years 1918 and 1923, under section 606, Revenue Act of 1928, reserved the right to bring suit for the recovery of all or any part of the taxes paid for those years on account of the Bureau's refusal to increase the 1919 statutory net loss by the depreciation sustained for that year before applying said net loss against the 1918 net income under the provisions of section 204, Revenue Act of 1918, and the refusal of the Bureau to allow deductions for depreciation for the years 1921 and 1922 in computing the alleged statutory net losses for those years, which, under the provisions of section 204, Revenue Act of 1921, may be allowed as deductions in computing the taxable net income for 1923 and any excess relative to the net loss for 1922 may be carried over to 1924.

During July 1930 a suit, which is now pending, was filed in the District Court of the United States for the Eastern District of Pennsylvania for the recovery of \$240,779.90 paid as income taxes for the years 1918, 1923, and 1924, and is predicated on alleged net losses for 1919, 1921, and 1922 under section 204, Revenue Acts of 1918 and 1921. Due to recent decisions of the Supreme Court of the United States in the cases of *Memphis Oil Company v. U. S.* (53 S. Ct. 278), and *Factors and Finance Company v. U. S.* (53 S. Ct. 287), that part of the taxpayer's claims relative to net losses has been allowed as said claim had been amended numerous times before rejection.

The suit filed in the district court of the United States will be dismissed upon the basis of the allowance of the above-indicated overassessments.

Pennsylvania Railroad Co. and subsidiaries, Philadelphia, Pa.

Overassessments 1916 to 1921, inclusive.....	\$2, 572, 344. 44
Withheld.....	1, 156, 448. 19
Barred.....	122, 333. 96

The principal cause of the overassessments, in the amount of \$2,409,194.99, is due to the elimination of the incomes of subsidiary corporations included in the consolidated returns filed for the respective years. The elimination is effected for the reason that it was determined that they were not affiliated with the taxpayer corporation during any part of the years involved by reason of the fact that substantially all of their capital stock was not owned or controlled by the taxpayer or another corporation of the affiliated group or by the same interests which owned or controlled the capital stock of the corporations comprising the affiliated group (sec. 240, Revenue Acts of 1918 and 1921).

Of the overassessments, \$498,014.39 results from the elimination of portions of the gross incomes as reported in the returns filed. It was determined that such amounts (which were included in the determination of the taxable incomes of other years) were erroneously included in the gross incomes of the taxable years (sec. 233 (a), Revenue Acts of 1918 and 1921; art. 52, Regulations, 45, and art. 51, Regulations, 62).

The amount of \$101,269.33 of the overassessments is due to the overstatement of miscellaneous items of gross income and the understatement of various and sundry deductions from gross income in connection with the taxpayer's ordinary business operations (secs. 233 (a) and 234 (a), Revenue Acts of 1918 and 1921, and the regulations promulgated thereunder).

The allowance of additional deductions for ordinary and necessary business expenses, taxes, interest, losses sustained upon the disposition of capital assets, depreciation and depletion, causes \$717,471.70 of the overassessments. It appears that such deductions were understated in a prior audit and in the returns filed. (sec. 12 (a) second, Revenue Act of 1916, sec. 234 (a) (1), (3), (4), (5), (7), and (9), Revenue Acts of 1918 and 1921, and the regulations promulgated thereunder).

The balance of the overassessments amounting to \$2,842.22 is caused by the redetermination of gains realized from the sale of capital assets. Investigation discloses that certain gains reported in the return filed for the year 1921 represented intercompany income and that the basis employed in the determination of other gains materially overstated the gross incomes reported in the returns filed for the years 1917, 1918, 1919, and 1920 (sec. 240, Revenue Act of 1921; art. 635, Regulations 62; T. D. 3174 (C. B. no. 4, p. 40); sec. 202, Revenue Act of 1918, and the regulations promulgated thereunder).

There is no net refund as the result of the adjustments in the group of cases of which this case forms an integral part. The changes in affiliation and the shifts of income and deductions above mentioned have been properly reflected in the net incomes which formed the basis for the determination of deficiencies in tax against the non-affiliated taxpayers for the same years and against this taxpayer for

other years, of which deficiency amounts substantially in excess of the overassessments shown above have been assessed and paid.

Phillips Petroleum Co., Bartlesville, Okla.

Overassessment, 1929..... \$322,445.14

The major item entering into the determination of the overassessment is the depreciation, the allowance of which is responsible for \$266,114.86 of the overassessment. The allowance represents an increase in depreciation on casinghead gasoline plants and booster stations. The taxpayer owned 45 casinghead gasoline plants which were operated during the taxable year. These plants were constructed in certain oil fields after the taxpayer had entered into contracts with the operators of the field to extract natural gasoline from casinghead gas. The life of these plants depend upon the life of the oil wells covered by the contract. As soon as the flow of oil stops, there is no further use for a casinghead gasoline plant in the vicinity. The greater part of the investment in such plants and booster stations is composed of machinery and equipment. It was determined that the deductions for depreciation as claimed in the return filed were inadequate and less than reasonable allowances authorized by section 23 (k) and (l), Revenue Act of 1928, and the regulations promulgated thereunder.

The allowance of additional deductions for ordinary and necessary business expenses and losses sustained upon the abandonment of certain capital assets causes \$54,081.01 of the overassessment, since such deductions were understated in the return filed (secs. 23 (a), (f), and (g) and 111, Revenue Act of 1928, and the regulations promulgated thereunder).

The balance of the overassessment, amounting at \$2,249.27, results from the elimination of an amount included in the gross income reported in the return filed. The amount allowed was not income of the year 1929 (sec. 22 (a), Revenue Act of 1928, art. 68, Regulations 74; G. C. M. 10739, C. B. XI-2, 65).

Players, Inc., Jersey City, N. J.

Overassessments 1926, 1927, 1929..... \$90,173.22
Withheld..... 2,049.81
Barred..... 1,019.10

The above overassessments result from the elimination of certain amounts from the gross incomes reported in the returns filed. It was determined that such amounts constitute income of other taxpayers and were included in the taxable incomes which formed the basis for the assessment of deficiencies in tax against such other taxpayers (sec. 313 (a), Revenue Act of 1926; sec. 22 (a), Revenue Act of 1928, and the regulations promulgated thereunder).

As a result of the foregoing adjustments 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 tax paid for the year 1926 in excess of the amount of the overassessment for that year.

Pure Oil Co. and subsidiaries, Chicago, Ill. (formerly Ohio Cities Gas Co.)

Overassessments, 1917 to 1919, inclusive..... \$2, 678. 80

This case was reported to the joint committee on April 8, 1933. The case when reported was pending before the United States Board of Tax Appeals, and upon an agreed stipulation the Board ordered that there was no deficiency and no overpayment in tax for the Pure Oil Co. As a result of this order, no certificates of overassessment were necessary and no assessments of deficiencies were required. The overassessment of \$2,678.80 in favor of the Federal Gas & Fuel Co. has been fully adjusted by abatement.

Reading Co., Philadelphia, Pa.

Overassessments, 1929, 1930..... \$148, 309. 19

The principal cause of the overassessments in the amount of \$145,-068.77 is due to the allowance of an additional deduction for depreciation as provided under the provisions of section 23 (k), Revenue Act of 1928; article 201, regulations 74. The taxpayer did not claim any deduction for the amount contributing to the overassessments for the reason that it had been previously advised by a revenue agent that under the income-tax regulations such deductions were not allowable.

The allowance of additional deductions for ordinary and necessary business expenses, losses and bad debts, causes \$2,557.62 of the overassessments. It was determined that such deductions were omitted or understated in the returns filed (secs. 23 (a), 23 (f), 23 (j), Revenue Act of 1928; arts. 130, 171, and 191, Regulations, 74).

The elimination of a portion of the gross income reported in the return filed causes \$403 of the overassessments. The income accrued during the taxable year 1928 and was included in the taxable income which formed the basis for the determination of the correct tax liability for such year (sec. 22 (a), Revenue Act of 1928, and the regulations promulgated thereunder).

The allowance as a deduction of the net operating loss of a certain subsidiary corporation which was omitted from the affiliated group in the computation of the consolidated net income as determined in the return filed, causes \$279.80 of the overassessments (sec. 141, Revenue Act of 1928, and the regulations promulgated thereunder).

Sperry Flour Co., San Francisco, Calif.

Overassessment, 1927..... \$103, 522. 80

In the above-entitled case, the overpayment was stipulated before the United States Board of Tax Appeals, using as a basis therefor the recommendation of the special advisory committee, approved by the Commissioner. The principal issues involved relate to the proper basis for depreciation of certain depreciable property, in fixing the value of stock exchange for assets acquired from a subsidiary, the determination of profits and understatement of losses resulting from the sale or abandonment of capital assets and the allowance of deductions from income of certain ordinary and necessary business expenses.

The staff of the committee after a careful review of the case was in doubt as to the facts necessary for the determination of the refund. Subsequently a conference with Bureau officials was held and as the facts were still doubtful, the matter was referred to the field. At the conclusion of the field examination, the Bureau reviewed the additional information and was still of the opinion that the refund was proper. In view of the conclusions reached after the field investigation, the staff raised no further questions in the case and suggested that the settlement be proceeded with in order to save interest charges.

Title Guarantee & Trust Co., Los Angeles, Calif.

Overassessments, 1923, 1925 to 1927, inclusive..... \$141, 202. 45

On the net income reported by the taxpayer in its return for 1923, the Bureau proposed a deficiency, to which the taxpayer agreed, based on the inclusion in gross income of accrued income, offset by increase in deductions. The present audit resulting in an overassessment of \$30,250.99, the net taxable income previously determined has been decreased, by noninsurance income offset, by the disallowance of noninsurance expense.

For the years 1925 and 1926, the taxpayer reported net incomes on which deficiencies were assessed based on setting up accrued income not reported and the disallowance as a deduction representing furniture and fixtures charged to expense, offset by an additional deduction for depreciation. In the present audit, resulting in the finding of overassessments of \$23,828.20 and \$38,163.51, respectively, the above adjustments have been undisturbed but there has been excluded from gross incomes noninsurance income offset by disallowance of expenses incident to noninsurance business, thus reducing the taxable net income previously determined.

For the net income reported in the taxable year 1927, there was also issued a notice of deficiency resulting in reducing the net income by disallowance of furniture and fixture charges and allowance of additional deductions for depreciation. The deficiency was due to the imposition of a rate of tax higher than that used in the return.

The adjustments described above with respect to the elimination from gross income and deductions of items pertaining to noninsurance business are rendered necessary by the decision of the United States District Court for the Southern District of California in the case of the instant taxpayer, *Title Guarantee and Trust Company v. United States*, March 14, 1933, reversing 49 Fed. (2d) 641. No appeal has been taken, the Department of Justice having accepted the decision as sound in principle. That decision, based on *Home Title Insurance Company v. United States*, 285 U. S. 195, holds that the taxpayer herein is taxable as an insurance company under the provisions of section 246, Revenue Act of 1921, which is identical, so far as here material, with section 246, Revenue Act of 1924, and the Revenue Act of 1926. That section defines what shall constitute the gross income of insurance companies. It is limited and defined to be that income which is derived from investment income and underwriting income. Gross income not falling within either one of these categories is eliminated. *Massachusetts Protective Association, Inc. v. Commissioner*, 18 B. T. A. 810, acquiesced C. B. IX-2, 38. The expenses appropriate to noninsurance business have also been eliminated from allowable deductions.

Suits covering the years 1923 and 1926 are now pending in the United States District Court for the Southern District of California. Upon the scheduling of the overassessments herein proposed for those years, motions to dismiss with prejudice will be filed in the cases, as stated in letter dated May 23, 1933, signed by counsel for taxpayer. Steps have been taken to insure the filing of such motions.

The years 1925, 1926, and 1927 are now pending before the Board of Tax Appeals, Docket Nos. 43658 and 49606, and it is proposed to settle such appeals by stipulation upon the basis here indicated.

United Fruit Co., Boston, Mass.

Overassessment, 1924..... \$302, 127. 16

In the above-entitled case, an appeal is pending before the United States Board of Tax Appeals involving a deficiency in tax for the year 1924. The principal issue involved relates to the allowance of a credit for foreign income taxes.

The staff of the joint committee was unable to agree with the interpretation placed upon section 238 of the Revenue Act of 1924 upon which the allowances are predicated by the Bureau, and the case has, therefore, been withheld pending further investigation.

Wright-Martin Aircraft Corporation, Paterson, N. J.

Overassessment, 1918..... \$500, 000

The entire overassessment represents a portion of a deficiency in tax and interest assessed against this taxpayer and results from the allowance of a deduction for a loss sustained upon the liquidation of a subsidiary corporation (secs. 202 and 234 (a) (4), Revenue Act of 1918; arts. 141, 561, 1548, and 1561, Regulations, 45; *Burnet v. Aluminum Goods Manufacturing Co.* (287 U. S. 544); G. C. M. 11676, I. R. B. XII-17, 2).

As a result of the foregoing adjustment, the taxpayer has agreed to the dismissal of its suits pending in the United States District Court for the District of New Jersey and the United States District Court 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.

SUPPLEMENT TO PART II

TREASURY DEPARTMENT,
BUREAU OF INTERNAL REVENUE,
Washington, January 18, 1935.

MR. L. H. PARKER,
*Chief of Staff, Joint Committee on Internal Revenue Taxation,
1336 New House Office Building, Washington, D. C.*

DEAR MR. PARKER: I am submitting herewith an analysis of the overassessments in excess of \$20,000, together with a letter of transmittal thereof to the joint committee. This analysis is submitted to you in accordance with the procedure outlined in my letter dated July 27, 1934.

In some preceding years when the analysis was prepared some comments were included in the letter of transmittal to the joint committee concerning particular features disclosed by the analysis. However, since this analysis of overassessments is similar to that submitted

for the year 1932, it is not believed that there is any occasion for special comment thereon.

Very truly yours,

ROBERT H. JACKSON,
Assistant General Counsel for the Bureau of Internal Revenue.

INCOME-TAX CASES

REPORT FOR YEAR ENDED DEC. 31, 1933

The number of income-tax cases involving overassessments and made the subject of the present analysis is 429. From an examination of these cases it is found that the total original taxes assessed amounted to \$190,493,523.87, the total additional taxes assessed amounted to \$42,472,969.87, the total overassessments previously allowed amounted to \$5,764,366.77, and the total overassessments herein analyzed amounted to \$50,303,388.71. The overassessments made the subject of this analysis involving the profits-tax years 1917 to 1921, inclusive, aggregate \$15,835,027.99, of which \$3,856,965.89 represent refunds, \$6,146,690.05 represent credits to other years, and \$5,831,372.05 represent unpaid taxes abated. The sum of \$15,835,027.99 is 31.47 percent of the overassessments covered by this analysis, which is a material decrease from that shown in the report for the year 1932, which showed 41.46 percent. It will be noted that the percentage of overassessments due to court decisions decreased from 10.84 percent, shown in the analysis of overassessments for the year 1932, to 9.59 percent, while the percentage of overassessments due to Board decisions increased from 5.65 percent for 1932 to 7.13 percent. It will also be noted that the percentages of total overassessments due to special assessment and invested capital changes have increased slightly over those shown in the analysis covering the year 1932. While it is to be expected that these percentages should decrease from year to year for the reason that these classifications involve the years 1917 to 1921 only, the increases may be explained by the fact that in the current year there were closed four large cases which accounted for the greater portion of the overassessments due to these classifications.

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	Percent
Court decisions.....	\$3,311,726.59	\$1,023,987.87	\$490,807.95	\$4,826,522.41	9.59
Board decisions.....	930,325.46	1,348,854.96	1,307,425.20	3,586,605.62	7.13
Special assessment.....	296,968.78	215,179.07	473,551.18	985,729.03	1.96
Erroneous assessment.....	130,082.96	234,632.97	13,844,539.05	14,209,254.98	28.25
Depreciation.....	1,393,743.20	1,285,298.93	412,778.08	3,091,820.21	6.15
Depletion.....	276,649.17	255,142.91	104,489.64	636,281.72	1.26
Amortization.....	31,053.77	45,026.53	284,891.19	360,971.49	.72
Obsolescence.....	138,829.39	171,691.96	118,542.16	429,063.51	.85
Inventory changes.....	200,167.33	142,303.89	900,168.71	1,242,639.93	2.47
Affiliation changes.....	141,095.76	2,756,333.36	12,977.08	2,910,406.20	5.79
Shift of income.....	579,700.70	1,210,186.57	78,278.81	1,868,166.08	3.71
Invested capital changes.....	239,658.75	485,652.96	329,591.11	1,054,902.82	2.10
Losses and bad debts.....	748,924.07	625,058.04	379,021.20	1,753,003.31	3.48
Foreign tax credits and deductions.....	395,552.28	164,353.81	11,302.29	571,208.38	1.14
Miscellaneous.....	2,242,756.54	2,483,367.30	8,050,689.18	12,776,813.02	25.40
Total.....	11,057,234.75	12,447,071.13	26,799,082.83	50,303,388.71	100.00

Analysis of classification "Miscellaneous"

Classification	Refund	Credit	Abatement	Total	Percent of miscellaneous	Percent of total over-assessment
Adjustment of gross income including profit and loss on sale of capital assets.....	\$576,853.19	\$269,739.60	\$1,828,122.67	\$2,674,715.46	20.94	5.32
Nontaxable income and interest on deficiency....	235,539.42	263,962.79	2,413,817.12	2,913,319.33	22.80	5.79
Taxes.....	23,775.40	43,054.52	10,380.72	77,210.64	.60	.15
Proceeds from sale of stock.....	40,664.31	75,636.51	472,883.39	589,184.21	4.61	1.17
Installment sales.....	45,232.68	4,310.94	170,046.01	219,589.63	1.72	.44
Net losses.....	75,551.26	60,858.13	79,473.34	215,882.73	1.69	.43
Penalty.....	18,084.68	20,023.61	555,748.43	593,856.72	4.65	1.18
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.....	1,227,055.60	1,745,781.20	2,520,217.50	5,493,054.30	42.99	10.92
Total.....	2,242,756.54	2,483,367.30	8,050,689.18	12,776,813.02	100.00	25.40

ESTATE-TAX CASES

The number of cases covered by this analysis is 265 in which the total original taxes assessed amounted to \$81,655,170.56, the total additional taxes assessed amounted to \$41,731,858.86 and the total overassessments amounted to \$60,960,181.95. Of the total overassessments, the amount of \$2,893,941.40 was refunded and the amount of \$58,066,240.55 was abated. About 44.1 percent 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 sections 301 (b) of the Revenue Acts of 1924 and 1926, as amended by section 802 of the Revenue Act of 1932. This policy was changed during the year 1931 and it will be noted that as a result of this change there is a material decrease in the percentage of overassessments due to these credits from that shown in the report for the year 1932, which was about 74.05 percent.

Analysis of estate-tax overassessments

Classification	Refund	Abatement	Total	Percent
Court decisions.....	\$34,656.60	\$229,447.64	\$264,104.24	0.44
Board decisions.....	770,319.06	11,266,896.49	12,037,215.55	19.75
Credit for State inheritance taxes.....	1,286,550.91	25,612,651.26	26,899,202.17	44.12
Duplicate assessment.....	30,740.74	18,759,061.49	18,789,802.23	30.82
Executors' commissions, miscellaneous administration expenses, and claims against the estate.....	2,764.00	77,333.74	80,097.74	.13
Transfers.....	274,190.77	1,314,331.05	1,588,521.82	2.61
Miscellaneous.....	494,719.32	806,518.88	1,301,238.20	2.13
Total.....	2,893,941.40	58,066,240.55	60,960,181.95	100.00

PART III

GENERAL SURVEY OF OVERASSESSMENTS

111-1015

PART III. GENERAL SURVEY OF OVERASSESSMENTS

During the calendar year 1933 there were 54 overassessment cases reported to the joint committee. Three of these cases are unadjusted pending further investigation and in six cases the allowances are being withheld in connection with proposed deficiencies for other years. The statistical summary in part II represents 45 cases reported to the committee during the period January 1 to December 31, 1933, inclusive. These cases, including cases previously reported but not allowed until 1933, reflected overassessments with interest in the total amount of \$24,176,972.38. The corresponding allowance for the calendar year 1932 was \$35,233,733.64. The overassessment allowances for 1933 are accordingly about 30 percent less than that for the year 1932. The rate of overassessments during 1933 was approximately 67 percent less than the average rate for the preceding 5 years and 9 months.

The above figures include 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 1933 is to be found in a comparison of the refund and credit allowances with those of prior years. This comparison is next presented.

For the 21-month period ended December 31, 1928, the total amount of refunds and credits in excess of \$75,000 each was \$145,860,031. This indicated a monthly rate of refundment of \$6,945,717. For the calendar year 1929, the total refunds and credits allowed were \$54,172,647, resulting in a monthly refundment rate of \$4,514,387. For the calendar year 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, the monthly rate being \$2,144,652. For the calendar year 1932, the refunds and credits totaled \$22,913,172, a monthly refundment rate of \$1,909,431. Taken collectively, this reflects an average monthly rate of \$4,017,040 for the entire period up to and including 1932. For 1933, the total refunds and credits allowed were \$16,011,681, and the monthly rate of refundment was \$1,334,307, which represents a decrease of 30 percent over 1932 and 67 percent over the average monthly rate for the prior 5 years and 9 months. It is also interesting to note the decrease in cash refunds allowed during the calendar year 1933. Cash refunds allowed in excess of \$75,000 amounted to \$12,412,885 in 1932, in comparison with \$15,773,240 in 1931, a decrease of approximately 21 percent. For 1933 cash refunds total \$5,452,616, a decrease of 56 percent over 1932 and 65 percent over 1931.

It will be observed in connection with the overassessment cases reported to the committee during the calendar year 1933, that over 77 percent of the tax originally and additionally assessed was ulti-

mately collected. The average percentage of interest paid on the overassessments allowed during 1933 was approximately 41 percent.

Analysis of all overassessments reported to the committee during 1933 shows that allowances of \$6,499,580.09, or 51 percent, were made on account of taxes for the excess-profits tax years up to and including 1921, and that the remaining 49 percent of the allowances were for years subsequent to 1921. Further analysis shows that the interest paid on overassessments prior to 1922 totaled \$3,914,715.65, i. e., the interest charges attributable to the excess-profits tax years represent 75 percent of the interest paid on all overassessments reported to the committee during the calendar year 1933. The following table shows to what extent these old cases have affected the overassessment allowances which have been reported to the committee:

Percent of total overassessments attributable to the excess-profit tax years

	<i>Percent</i>
14-month period, Feb. 28, 1927, to Apr. 24, 1928.....	88
7-month period, May 29 to Dec. 31, 1928.....	77
12-month period, Jan. 1 to Dec. 31, 1929.....	71
12-month period, Jan. 1 to Dec. 31, 1930.....	59
12-month period, Jan. 1 to Dec. 31, 1931.....	53
12-month period, Jan. 1 to Dec. 31, 1932.....	54
12-month period, Jan. 1 to Dec. 31, 1933.....	51

Although one-half of the total overassessment allowances still result from adjustments for the years 1917 to 1921, it may be concluded, judging from the decline in the amounts comprising these allowances, that the settlement of these old cases which involve special assessment, invested capital, and amortization, is nearly completed.

In accordance with the practice followed in prior years, a detailed analysis of the specific reasons for the overassessment allowances in 1933 is presented in the classification of overassessments appearing in part II. It is believed important to discuss these causes in some detail.

It appears from the classification that the principal cause of this year's overassessments is attributable to the application of the consolidated returns provision. The amount of \$2,669,110.45, or over 18 percent of all the overassessments, results from this cause. Examination of the cases involving the question of affiliation reported to the committee during the calendar year 1933 discloses that practically all come within the purview of section 240 of the Revenue Acts of 1918 and 1921. The consolidated provision of these acts contained language which gave rise to a very great amount of litigation before the meaning of this provision was defined. The most difficult portions of this section were either revised or eliminated in the 1924 and 1928 acts. The 1934 act restricts this provision to railroads only.

The second major single cause of the overassessments results from the adjustments in estate taxes. Approximately 15 percent of all the overassessment allowances for the calendar year 1933 is due to death taxes. The principal cause of the 1930 and 1931 overassessments, as well as a major contributing cause since 1927, may be ascribed to this classification. These adjustments are of various kinds but are primarily due to the credit for estate and inheritance taxes paid to the States after the Federal return was made, the revaluation of

the real or personal property, and to additional administrative expenses not shown on the original return. It is believed the amendment to the 1932 Revenue Act increasing the rates and decreasing the exemption on estates of decedents dying after the enactment of the 1934 act will have little effect on refund allowances, since the computation is the same as heretofore under the 1926 act at 1926 rates. The increased rates are imposed as a supertax; hence no increase in credit is allowed for payment of State inheritance taxes.

The third important cause of the overassessments reported results from the determination of depreciation allowances. The amount of \$1,869,765.82, or 13 percent of all the overassessments, is attributable thereto. The principal difficulties encountered in the determination are March 1, 1913, valuations, and rates of depreciation. Stricter administration of depreciation allowances to prevent loss of revenue through that source is evidenced in the inauguration of a new policy by the Bureau in respect to these allowances.

Fourth in importance are the overassessments made pursuant to the final order of the United States Board of Tax Appeals, which account for about 11 percent of the allowances made. The cases represented by this classification involve numerous issues and generally result from stipulations entered into between the Commissioner and the taxpayer.

Approximately 7.3 percent of all overassessments were due to the reallocation of income, i. e., the shifting of deductions for expenses and income to the year in which they were actually incurred and accrued.

Overassessments aggregating \$631,521.38 are caused by the allowance of increased deductions for amortization of war facilities under the provisions of section 234 (a) (8) of the Revenue Act of 1918. The provision is one which does not affect years subsequent to 1921.

The preceding detailed discussion of the principal cause of overassessments covers the first six classifications of causes and represents about 69 percent of the total overassessments allowed.

CONCLUSION

The majority of the overassessments reported to the joint committee during the calendar year 1933, and paid after the 30-day period prescribed by law, represent accurate and careful determinations of tax liability. Of the 54 cases reported, no adverse criticism could be made on the basis of the summary of the facts and decision of the Commissioner in 36 cases. In the other 18 cases, special investigation of the files of the Bureau was made, and after careful review of all material and relevant factors, only 10 cases remained in which serious differences arose between the Treasury and the staff of this committee. The disposition of these 10 cases was as follows:

Six cases were allowed by the Bureau after conferences with the staff of the committee. In some of these cases, additional information was furnished which had the effect of clarifying the issues involved.

Three cases were withheld pending further review. The settlement of one of these cases is dependent on the finding of the Board of Tax Appeals in a case now being tried which involves the same principle that is in controversy in the instant case.

One case was changed to conform to the views of the committee and its staff with the resultant net saving to the Government of \$61,120.66. Respectfully submitted.

WALTER L. TUCKER, *Auditor.*

Reviewed by—

ALLEN T. AKIN, *Auditor.*

Approved:

G. D. CHESTEEN,
Assistant Chief of Staff.

