

REFUNDS AND CREDITS OF INTERNAL  
REVENUE TAXES, 1934

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REPORT

OF

THE JOINT COMMITTEE ON INTERNAL  
REVENUE TAXATION

PURSUANT TO SECTION 710 OF THE  
REVENUE ACT OF 1928

AND

REPORT OF THE STAFF OF THE JOINT  
COMMITTEE TO THE COMMITTEE



APRIL 1, 1937.—Referred to the Committee on Ways and Means  
and ordered to be printed

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## JOINT COMMITTEE ON INTERNAL REVENUE TAXATION

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## LETTER OF TRANSMITTAL

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JOINT COMMITTEE ON INTERNAL REVENUE TAXATION,  
*Washington, April 1, 1937.*

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 31, 1937, covering refunds and credits of internal revenue taxes for the calendar year 1934.

Very respectfully,

ROBERT L. DOUGHTON, *Chairman.*



**REPORT OF THE JOINT COMMITTEE ON INTERNAL REVENUE TAXATION PURSUANT TO THE REVENUE ACT OF 1928**

WASHINGTON, D. C., *March 31, 1937.*

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 1934 and to submit a report thereon to the committee. This is the seventh 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 on March 9, 1934, and covered the calendar year 1932. The sixth report was made on March 22, 1935, and covered the calendar year 1933.

A complete copy of the report for the calendar year 1934 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

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JOINT COMMITTEE ON INTERNAL REVENUE TAXATION,  
*Washington, January 15, 1937.*

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 1934 and may be summarized as follows:

1. The total overassessments, including interest, in excess of the \$75,000 limit, for the calendar year 1934 amount to \$16,258,240.68. This is considerably less than such overassessments, including interest, for the calendar year 1933, which amounted to \$24,176,972.38.

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. One case was withheld from settlement and is being litigated.

Respectfully submitted.

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



# REPORT ON REFUNDS AND CREDITS OF INTERNAL REVENUE TAXES, 1934

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## FOREWORD

This report has been prepared in accordance with the requirements of section 710 of the Revenue Act of 1928, which provides as follows:

SEC. 710. Refunds and credits to be referred to joint committee: No refund or credit of any income, war-profits, excess-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.

In conformity with the above provision, on June 19, 1929, a report was submitted to the Congress entitled "Refunds and Credits of Internal Revenue Taxes" (H. Doc. 43, 71st Cong., 1st sess.). This report covered a 7-month period from May 29, 1928, the effective date of the provision, to December 31, 1928, the end of the calendar year. There was also included in this report in part IV an analysis of the refunds made and reported to the committee under the authority of the urgent deficiency bill (H. R. 16462) which covered the 14-month period February 28, 1927, to April 24, 1928. 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 (H. Doc. 223, 72d Cong., 1st sess.) was made on January 12, 1932, and covered all cases reported for the calendar year 1930. The fourth report pertaining to these allowances was made on January 30, 1933 (H. Doc. 535, 72d Cong., 2d sess.) and covered all overassessments reported 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 cases for the calendar year 1932. The sixth report comprising these allowances was made on March 25, 1935. This report (H. Doc. 145, 74th Cong., 1st sess.) included all refunds and credits in excess of \$75,000 reported to the joint committee by the Commissioner during the calendar year 1933. The report now submitted constitutes the seventh report and embraces the refunds and credits in excess of \$75,000 reported by the Commissioner to the joint committee during the calendar year 1934.

The general purposes of the Congress in enacting this legislation were analyzed in the previous reports above referred to and need not

be repeated here. It will suffice to say that there has been no change in the policy of the committee since the publication of the first report.

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 1934, 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 which will be presented may be summarized as follows:

1. The total overassessments, including interest, allowed during the calendar year 1934 in cases involving refunds and credits over \$75,000 amounted to \$16,258,240.68. Of this amount, however, \$8,089,322.36 represents allowances made on cases previously reported in other years which were withheld from allowance and allowed during the calendar year 1934. The total net overassessments allowed for cases reported during the calendar year 1934, including interest, amount to \$8,168,918.32. The allowances for 1934 are less than for any period in which overassessments in excess of \$75,000 have been reported to the joint committee.

2. A comparison of the overassessment allowances to indicate the effect on the revenue necessitates the exclusion of all adjustments represented by abatements. This comparison is made on the basis of the average monthly rate at which taxes were refunded and credited. The average monthly refundment rate for 1933 was \$1,334,307 and for the entire period up to and including 1933 the amount was \$3,569,917. For the calendar year 1934, the monthly rate at which these allowances were made was \$746,167. This would indicate the refund and credit allowances have decreased about 44 percent since 1933, and 79 percent in comparison with the average monthly rate for the preceding 6 years and 9 months. It is of interest to note in this connection that over 80 percent of the tax originally and additionally assessed was ultimately collected.

3. Cash refunds allowed on overassessment cases reported amounted to only \$3,556,657.17 in 1934 in comparison with \$5,452,616.55 in 1933. This shows a decrease of about 35 percent.

4. The principal causes of the 1934 overassessments allowed in excess of \$75,000 are as follows:

	<i>Percent</i>
Affiliation.....	18. 69
Estate tax.....	18. 65
Depreciation.....	16. 62
Recomputation of tax liability as insurance company.....	10. 33
Inventory adjustments.....	7. 45
Taxable income of husband eliminated from wife's income.....	5. 57

The reasons for the above-stated causes of overassessments are fully discussed in part III of this report, entitled "General Survey of Overassessments."

5. Overassessments attributable to the excess-profits-tax years, up to and including 1921, amounted to \$2,124,061.60 of the allowances

made for 1934. These adjustments comprised about 88 percent of all overassessments allowed in 1927 and have gradually decreased to 35 percent in 1934.

6. As to the propriety of the refunds and credits, it may be stated that the great majority of these overassessment cases are on an obviously just, legal, and proper basis. Of the 29 cases covered by this report, 24 cases have been clearly allowable on the basis of the facts shown in the report of the Commissioner to the committee. The five seemingly doubtful cases have been specially investigated through the files of the Bureau of Internal Revenue. After such special examination and conferences with Bureau officials, the staff concurred in the allowance of four of these cases. The remaining case, involving an overassessment of \$154,054.60, was withheld from settlement and the taxpayer will be required to legally establish its right to a refundment of tax.

## 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 1934

Name of taxpayer	Address	Years involved	Aba-tements	Credits	Refunds	Original and additional assess-ments	Net over-assessments allowed	Previously allowed	Final tax collected	Interest	Per-cent tax reduc-tion
Piggly Wiggly Corporation <sup>1</sup> ..	Cincinnati, Ohio.....	1922	---	\$70, 221.45	---	\$87, 067.86	\$70, 221.45	---	---	\$42, 801.92	80.65
Title Insurance & Trust Co.....	Los Angeles, Calif.....	1922-26	---	---	\$301, 182.23	1, 128, 197.60	301, 192.23	\$18, 719.09	---	127, 416.96	28.36
United Verde Copper Co. <sup>2</sup> .....	Clarkdale, Ariz.....	1918	---	122, 977.57	---	3, 122, 670.96	122, 977.57	608, 285.61	2, 391, 407.78	99, 652.26	23.42
Weyerhaeuser, Charles A., estate of.	St. Paul, Minn.....	1930	\$277, 395.35	---	361, 785.41	791, 830.22	639, 180.76	---	157, 649.46	28, 601.75	80.72
Total.....	-----	-----	277, 395.35	193, 199.02	662, 977.64	5, 129, 766.64	1, 133, 572.01	627, 004.70	3, 352, 343.82	298, 372.89	-----

FEBRUARY 1934

General Petroleum Corpora-tion	San Francisco, Calif.....	1920	---	\$84, 353.21	---	\$325, 634.15	\$84, 353.21	---	---	---	25.90
Maoney, Edith Langley, es-tate of.	New York, N. Y.....	1924	---	---	\$86, 256.19	86, 256.19	86, 256.19	---	---	\$31, 696.19	100.00
Ohio Steel Foundry Co. <sup>3</sup> .....	Lima, Ohio.....	1918	---	---	---	---	---	---	---	---	---
Portland Electric Power Co. <sup>4</sup>	Portland, Ore.....	1928	---	---	125, 747.98	128, 001.11	125, 747.98	---	---	35, 523.97	98.24
Total.....	-----	-----	---	84, 353.21	212, 004.17	539, 891.45	296, 357.38	---	243, 534.07	67, 220.16	-----

MARCH 1934

Central Illinois Public Serv-ice Co. and subsidiaries <sup>5</sup>	Springfield, Ill.....	1924, 1925	---	\$80, 369.84	---	\$211, 519.12	\$80, 369.84	---	\$131, 149.28	\$37, 139.59	38.00
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APRIL 1934

Thorne, Samuel Brinckerhoff, estate of.	Greenwich, Conn.....	1930	---	---	\$187, 400.64	\$462, 980.27	\$187, 400.64	---	\$275, 579.63	\$11, 305.65	40.47
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MAY 1934

Fillman, J. H., & Sons Co. Title Guarantee & Trust Co.	Pittsburgh, Pa. Los Angeles, Calif.	1920 1929-31	\$1,191,704.59 104,629.06	\$4,415,000.98 281,923.78	\$1,191,704.59 104,629.06	\$3,223,296.39 177,294.72	\$618,989.97 16,335.24	26.99 37.11
			1,296,333.65	4,696,924.76	1,296,333.65	3,400,691.11	635,325.21	

JUNE 1934

American Printing Co. Fleishacker, Bells G. (Mrs.) Fleishacker, May Belle (Mrs.) Hecker, Frank J., estate of. Fressed Steel Car Co. and affiliated companies.	Fall River, Mass. San Francisco, Calif. do. Detroit, Mich. Pittsburgh, Pa.	1919 1928, 1929 1928, 1929 1927 1929-30	\$348,783.18 84,292.66 137,271.90	\$1,099,330.16 117,737.87 256,388.51	\$488,321.69 84,292.66 137,271.90	\$611,608.47 33,445.21 119,116.61	\$143,709.69 21,637.52 12,701.43	44.40 71.59 53.54
			183,380.24 100,776.25	456,524.28 219,494.46	351,555.69 172,063.91	104,068.69 47,428.55	42,066.92 16,216.72	77.00 78.39
			239,465.01	423,695.00	1,233,507.75	916,567.53	237,232.28	

JULY 1934

F. H. Smith Co. <sup>8</sup>	Wilmington, Del.	1927, 1928		\$148,628.76	\$148,628.76		\$46,641.87	100.00
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AUGUST 1934

Cuban-American Sugar Co. <sup>9</sup> Howard, Allasepa B. <sup>10</sup> Singer Manufacturing Co. and affiliated corporations. <sup>11</sup> Total.	New York. Los Angeles, Calif. Elizabeth, N. J.	1918 1928-30 1921-25	\$101,788.63 82,836.11 200,000.00	\$4,829,225.80 96,035.50 9,587,721.13	\$101,788.63 82,836.11 200,000.00	\$2,694,677.62 13,199.39 8,524,866.38	\$10,664.10 14,852.18 103,034.18	44.20 86.26 11.09
			384,624.74	14,512,952.52	384,624.74	2,895,614.39	128,550.46	

<sup>1</sup> Interest credited to taxable year 1926; withheld in connection with proposed deficiencies for 1930 and 1931, \$16,846.41.

<sup>2</sup> Interest credited to taxable years 1928, 1929, and 1930.

<sup>3</sup> Withheld, pending hearing before the United States Board of Tax Appeals.

<sup>4</sup> Includes notice of refund of \$10.61—excess interest collection.

<sup>5</sup> Interest credited to taxable year 1923.

<sup>6</sup> Interest credited to taxable years 1928 and 1929.

<sup>7</sup> Interest credited to taxable years 1925, 1926, and 1928.

<sup>8</sup> Includes notice of refund of \$3,374.60—excess interest collection.

<sup>9</sup> Interest credited to fiscal year Sept. 30, 1920.

<sup>10</sup> Interest credited to taxable years 1928, 1929, and 1930.

<sup>11</sup> Interest credited to taxable years 1931 and 1933.

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—Continued

SEPTEMBER 1934

Name of taxpayer	Address	Years involved	Abate-ments	Credits	Refunds	Original and additional assess-ments	Net over-assessments allowed	Previously allowed	Final tax collected	Interest	Per-cent tax reduc-tion
American Electric Power Cor-poration and subsidiaries. <sup>12</sup>	Wilmington, Del.....	1928, 1930	-----	\$29, 250.03	\$47, 354.98	\$150, 223.37	\$76, 605.01	-----	\$73, 608.68	\$13, 212.28	50.99

OCTOBER 1934

Title Insurance & Trust Co...	Los Angeles, Calif.....	1927-31	-----	-----	\$258, 298.43	\$796, 365.57	\$258, 298.43	-----	\$538, 067.14	\$89, 654.59	32.43
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NOVEMBER 1934

Burden, Florence Vanderbilt (Mrs.),	New York	1929-31	-----	-----	\$130, 811.68	\$419, 126.03	\$130, 811.68	-----	\$288, 314.35	\$22, 702.61	31.21
Central Hudson Gas & Elec-tric Corporation,	Poughkeepsie, N. Y...	1929-31	-----	\$13, 768.61	89, 236.31	615, 145.70	103, 004.92	-----	512, 140.78	16, 424.56	16.74
New York, Chicago & St. Louis R. R. Co. <sup>13</sup>	Cleveland, Ohio	{ 1918, 1919, 1921	-----	-----	-----	-----	-----	-----	-----	-----	-----
Pacific Gas & Electric Co. <sup>14</sup> ,	San Francisco, Calif...	1924, 1925	-----	716, 612.73	-----	1, 747, 523.76	716, 612.73	-----	1, 024, 002.53	354, 376.58	41.01
United Pcoahontas Coal Co...	Connellsville, Pa.....	1917	-----	99, 915.91	-----	248, 749.67	99, 915.91	-----	148, 883.76	94, 716.14	40.17
Total.....	-----	-----	-----	730, 381.34	319, 963.90	3, 030, 545.16	1, 050, 345.24	-----	1, 973, 291.42	488, 219.89	-----

DECEMBER 1934

The Detroit Edison Co. <sup>15</sup> ...	Detroit, Mich.....	1929, 1930	-----	-----	-----	-----	-----	-----	-----	-----	-----
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<sup>12</sup> Barred by statute of limitations—\$9.68.  
<sup>13</sup> Entire overassessment withheld in connection with proposed deficiencies for 1920 and 1922.  
<sup>14</sup> Barred by statute of limitations—\$6,908.50; interest credited to taxable years 1928-34.  
<sup>15</sup> Entire overassessment withheld in connection with proposed deficiency for 1931.

Date reported	Name	Interest	Cause of delay of settlement
July 1928.....	New York L	\$536,831.71	Figures not available when report of case was made.
September 1928....	Parke, Davis	18,211.71	Withheld in connection with proposed deficiencies for the years 1920 and 1921.
October 1928.....	New York L	42,450.05	Difference between amount previously reported and amount allowed.
January 1929.....	American W and subsid	-----	By agreement the tax liability for fiscal year Aug. 31, 1919, increased by an amount equivalent to the amount withheld in connection with deficiencies for 1920 and 1921.
June 1929.....	Truson Steel	794.66	Erroneously held to be barred from allowance by statute of limitations.
July 1929.....	Mutual Life New York	74,619.38	Withheld from adjustment in connection with proposed deficiencies for the years 1930 and 1931.
August 1930.....	New York L	535,381.94	Entire overassessment withheld in connection with a proposed deficiency for 1920.
October 1930.....	Western Ma	31,084.06	Withheld in connection with proposed deficiencies for the years 1926, 1927, 1929, and 1930.
February 1931.....	Illinois Adm facturing C	14,515.39	Withheld in connection with proposed deficiencies for the years 1924, 1925, and 1927.
April 1931.....	Crown Willa (Maine).	16,743.80	Withheld in connection with proposed deficiency for the year 1928.
July 1931.....	Barker, Law	46,247.50	Do.
October 1931.....	Clark, W. A.	18,599.66	Withheld in connection with proposed deficiencies for the years 1929 and 1930.
May 1932.....	American W Electric Co	23,174.14	Additional interest allowance on account of repeal of sec. 319, Legislative Appropriation Act.
August 1932.....	Vacuum Oil	68,645.29	Withheld in connection with proposed deficiencies for the years 1922-28, inclusive.
Do.....	Singer Manu subsidiaries	46,641.23	Additional interest allowance on account of repeal of sec. 319, Legislative Appropriation Act.
October 1932.....	Sears, Roebu	14,332.28	Do.
November 1932....	National Cit York.	35,114.19	Do.
March 1933.....	Iroquois Iro sidiaries.	47,798.11	Withheld, pending investigation.
April 1933.....	Pennsylvania subsidiaries	670,006.99	Withheld in connection with proposed deficiencies for the years 1924-29, inclusive.
Do.....	Newport Ne & Dry Doc	33,354.73	Withheld in connection with proposed deficiencies for the years 1927-31, inclusive.
May 1933.....	Erie Railroac	23,243.33	Withheld in connection with proposed deficiency for the year 1929.
June 1933.....	Miami Realt	99,401.68	Entire overassessment withheld in connection with a proposed deficiency for 1926.
September 1933..	The Ohio Po	6,107.81	Withheld in connection with proposed deficiencies for 1928-30.
	Total..	2,403,299.64	



*Overassessments previously withheld, allowed during 1934*

Date reported	Name of taxpayer	Address	Years involved	Abatement	Credits	Refunds	Original and additional assessments	Net over-assessments allowed	Previously allowed	Final tax collected	Interest	Cause of delay of settlement
July 1928	New York Life Insurance Co.	New York, N. Y.	1917, 1918				\$2,919,191.66			\$2,919,191.00	\$36,631.71	Figures not available when report of
September 1928	Parke, Davis & Co.	Detroit, Mich.	1919		\$96,695.73	\$96,695.73	350.28	\$96,695.73			18,211.71	Withheld in connection with proposed deficiencies for the years 1929 and 1921.
October 1928	New York Life Insurance Co.	New York, N. Y.	1922								42,459.65	In cases between amount previously reported and amount allowed for year Aug. 31, 1919, increased by an amount which was previously withheld in connection with deficiencies for 1920 and 1921.
January 1929	American Window Glass Co. and subsidiaries.	Pittsburgh, Pa.	1917-19							197,519.56		By agreement the tax liability for fiscal year 1929 was assessed on amount previously withheld in connection with deficiencies for 1920 and 1921.
June 1929	Truson Steel Co.	Youngstown, Ohio.	1919			1,886.15		1,886.15			794.06	Erroneously held to be barred from refund by the statute of limitations.
July 1929	Mutual Life Insurance Co. of New York.	New York, N. Y.	1924		\$136,627.83			136,627.83			74,619.38	Withheld from adjustment in connection with proposed deficiencies for the years 1929 and 1921.
August 1930	New York Life Insurance Co.	do.	1923			1,057,729.63		1,057,729.63			538,381.94	Final reassessment withheld in connection with a proposed deficiency for 1929.
October 1930	Western Maryland Rwy. Co.	Baltimore, Md.	1924, 1925		66,221.59			66,221.59			31,084.06	Withheld in connection with proposed deficiencies for the years 1926, 1927, 1929, and 1930.
February 1931	Illinois Addressograph Manufacturing Co.	Chicago, Ill.	1915-18		15,679.16			15,679.16			14,515.39	Withheld in connection with proposed deficiencies for the years 1924, 1925, and 1927.
April 1931	Crown Williamette Paper Co. (Maine).	San Francisco, Calif.	1924, 1925		31,823.21			31,823.21			16,743.80	Withheld in connection with proposed deficiency for the year 1925.
July 1931	Barker, Lawrence, Inc.	Los Angeles, Calif.	1924		149,452.95			149,452.95			46,247.50	Do.
October 1931	Clark, W. A., Jr.	Bufile, Mont.	1921		28,651.35			28,651.35			18,599.66	Withheld in connection with proposed deficiencies for the years 1929 and 1931.
May 1932	American Water Works & Electric Co.	New York, N. Y.	1923, 1924								23,174.14	Additional interest allowance on account of repeal of sec. 319, Legislative Classification Act.
August 1932	Vacuum Oil Co.	do.	1919		80,086.73			80,086.73			68,645.29	Withheld in connection with proposed deficiencies for the years 1922-28, inclusive.
Do.	Singer Manufacturing Co. and subsidiaries.	Elizabeth, N. J.	1921, 1922, 1924, 1925								46,641.23	Interest allowance on account of repeal of sec. 313, Legislative Appropriation Act.
October 1932	Seers, Roebuck & Co.	Chicago, Ill.	1925								14,322.28	Do.
November 1932	National City Bank of New York.	New York, N. Y.	1925								35,114.19	Do.
March 1933	Iron Co. and subsidiaries.	Youngstown, Ohio.	1918, 1919		467,692.60		2,838,486.69	2,759,812.21		86,594.48	47,738.11	Withheld, pending investigation.
April 1933	Pennsylvania R. R. Co. and subsidiaries.	Philadelphia, Pa.	1920, 1921		922,685.98			922,685.98			679,056.59	Withheld in connection with proposed deficiencies for the years 1924-26, inclusive.
Do.	Newport News Shipbuilding & Dry Dock Co.	Newport News, Va.	1925		80,777.93			80,777.93			33,354.73	Withheld in connection with proposed deficiencies for the years 1927-31, inclusive.
May 1933	Erie Railroad Co.	Cleveland, Ohio.	1926		61,577.34			61,577.34			23,243.33	Withheld in connection with proposed deficiencies for the year 1929.
June 1933	Miami Realty Trust.	Chicago, Ill.	1923-26, 1928		182,787.80		388,788.02	27,687.22	\$21,619.46	136,517.40	99,401.68	Entire overassessment withheld in connection with a proposed deficiency for 1928.
September 1933	The Ohio Power Co.	Newark, Ohio.	1923, 1927	2,361,200.12	31,856.71			31,856.71			6,107.81	Withheld in connection with proposed deficiencies for 1928-30.
	Total			2,361,200.12	2,122,673.39	1,292,719.21	6,193,812.99	5,686,022.72	21,619.46	3,372,813.44	2,463,226.64	



## PART II

*Statistical summary, classification and analysis of overassessments, followed by a brief resumé of each case, alphabetically arranged*

OVERASSESSMENT CASES FOR THE PERIOD JAN. 1, TO DEC. 31, 1934, INCLUSIVE (TOTAL CASES REPORTED, 29)

Original and additional assessments.....		\$31, 829, 902. 90	
Less: Total tax liability.....		22, 137, 475. 77	
			<u>9, 692, 427. 13</u>
Gross overassessments.....			9, 692, 427. 13
Previously allowed.....	\$3, 522, 619. 09		
Barred by statute of limitations.....	6, 918. 18		
Withheld in connection with proposed deficiencies.....	16, 846. 41		
			<u>3, 546, 383. 68</u>
Net overassessments for cases reported during the calendar year 1934.....			<u>6, 146, 043. 45</u>
Composed of—			
Refunds.....	\$3, 556, 657. 17		
Credits.....	2, 072, 525. 92		
Abatements.....	516, 860. 36		
			6, 146, 043. 45
Interest paid on overassessments reported during the calendar year 1934.....			<u>2, 022, 874. 87</u>
Total of overassessments and interest.....			8, 168, 918. 32
Add:			
Overassessments previously reported and withheld, allowed during 1934.....			5, 686, 022. 72
Interest on overassessments previously reported and withheld, allowed during 1934.....			2, 403, 299. 64
			<u>16, 258, 240. 68</u>
Deduction in assessed tax by overassessments reported (percent).....			19. 31
Average percentage of interest paid on overassessments.....			32. 91

NOTE.—Above summary represents 26 cases, since figures are not included for 1 case unadjusted pending litigation, and 2 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.....	\$1, 152, 021. 08	18. 69
Estate tax.....	1, 149, 554. 06	18. 65
Depreciation.....	1, 024, 626. 91	16. 62
Recomputation of tax liability as insurance company.....	636, 923. 44	10. 33
Inventory adjustment.....	459, 787. 62	7. 45
Order of United States Board of Tax Appeals.....	343, 247. 32	5. 57
Taxable income of husband eliminated from wife's income.....	304, 400. 67	4. 94
Losses sustained from embezzlements.....	235, 200. 40	3. 82
Foreign taxes.....	200, 000. 00	3. 25
Nontaxable dividends.....	130, 811. 68	2. 12
Invested capital.....	122, 977. 57	2. 00
Remission of interest assessed on deficiencies.....	89, 072. 85	1. 45
Duplicate assessments.....	23, 822. 67	. 39
Loss on sale of capital assets.....	21, 336. 18	. 35
Amortization of bond discount.....	16, 700. 58	. 27
Miscellaneous.....	252, 406. 83	4. 10
Total overassessments.....	6, 162, 889. 86	100. 00
Withheld to meet possible deficiencies.....	16, 846. 41	-----
Net overassessments allowed for cases reported during the calendar year 1934.....	6, 146, 043. 45	-----

## ANALYSIS

The foregoing data are representative of 26 cases, in which the original and additional assessments aggregated \$31,829,902.90. The total tax collected from these assessments amounted to \$22,137,475.77, leaving overassessments of \$9,692,427.13. Of this amount, however, \$3,522,619.09 was previously allowed; \$6,918.18 was barred from payment under the statute of limitations; and \$16,846.41 is withheld for adjustment in connection with proposed deficiencies for other years, resulting in net overassessments for cases reported during the calendar year 1934 of \$6,146,043.45.

The total refunds shown in detail in part I amount to \$3,556,657.17; the total credits amount to \$2,072,525.92; and the total abatements in connection with the same cases amount to \$516,860.36. 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 1934. On these overassessments, the sum of \$2,022,874.87 was allowed in interest, making net overassessments and interest of \$8,168,918.32.

In order to obtain the grand total of all overassessments and interest allowed during 1934, it is necessary to add to the total reported overassessments shown above, overassessments of \$5,686,022.72 and interest of \$2,403,299.64 on cases previously reported in other years and withheld which were allowed during the year 1934. The grand total of overassessments and interest allowed during 1934, therefore amounts to \$16,258,240.68.

## RÉSUMÉ OF CASES, ALPHABETICALLY ARRANGED

## AMERICAN ELECTRIC POWER CORPORATION AND SUBSIDIARIES, WILMINGTON, DEL.

Overassessments, 1928, 1930.....	\$76,605.01
Barred by statute.....	9.68

The principal cause of the above overassessments in the amount of \$64,095.68 is due to the allowance of additional deductions for depreciation. After a field investigation and consideration by Bureau engineers it was determined that the deductions allowed in a prior audit were inadequate and less than a reasonable allowance authorized by section 23 (k), Revenue Act of 1928, and the regulations promulgated thereunder. The total depreciation allowance as determined is based upon actual cost of properties, except for two subsidiary companies where the allowances are based upon historical cost appraisals which showed values considerably less than book costs, and were based upon actual cash costs of construction for 80 percent of the property and estimated costs at date of installation for the balance. In arriving at the bases for depreciation, overhead charged and certain expense items included in the appraisals were eliminated as well as fully depreciated property and nondepreciable property.

The allowance of an additional deduction for ordinary and necessary expenses incurred during the taxable year causes \$2,700 of the overassessments for the year 1928. The deduction claimed in the return filed and allowed in a prior audit was understated. Section 23 (a) Revenue Act of 1928; Article 121, regulations 74; Appeal of Denholm & Mckay Co. (2 B. T. A. 444).

The balance of the overassessments for the year 1928 amounting to \$9,809.33 represents the remission of interest on a previously asserted deficiency.

AMERICAN PRINTING CO., FALL RIVER, MASS.

Overassessment, 1919----- \$488, 321. 69

Of the overassessment, \$459,787.62 is caused by the revision of the opening and closing inventory valuations. It was found after investigation that the inventory valuations reported in the return were understated and that the understatement of the opening inventory exceeded that of the closing inventory, producing an overstatement of net income. The opening inventory is determined in accordance with the decision rendered by the United States Board of Tax Appeals in the instant case for the year 1918 (*American Printing Company v. Commissioner* (27 B. T. A. 1270)); and the closing inventory corresponds with the opening inventory used in the determination of taxable income for the succeeding year. Section 203, Revenue Act of 1918, and the regulations promulgated thereunder.

The allowance of an additional deduction for depreciation causes \$19,711.65 of the overassessment. On October 22, 1931, the District Court for the District of Massachusetts handed down its decision holding that the basis for depreciation in 1919 of assets acquired in 1917 in liquidating the subsidiary company of the taxpayer was the fair market value of the assets at the time of acquisition in December 1917. The court held that the Government's contention that the transaction was an intercompany one and that the basis should be the same as it would be in the hands of the transferor was without merit (*American Printing Company v. Commissioner, supra*). No appeal will be taken with respect to the decision of the district court touching the base to be employed in the determination of the depreciation deduction. The Department of Justice has approved of the settlement.

The balance of the overassessment amounting to \$8,822.42 is caused by the elimination of certain amounts included in the gross income reported in the return filed since it was determined that such income was erroneously overstated. Section 233 (a), Revenue Act of 1918; articles 31, 52, and 541, regulations 45.

BURDEN, FLORENCE VANDERBILT (MRS.), NEW YORK

Overassessments, 1929-31----- \$130, 811. 68

The taxpayer filed claims for refund for each of the above-mentioned years based upon the contention that a portion of the dividends received was nontaxable due to the fact that the amounts were paid out of the depletion reserve or out of earnings accumulated prior to March 1, 1913.

The Security Section of the Valuation Division of the Bureau gave consideration to the contention of the taxpayer and determined that certain percentages of the dividends reported by the taxpayer were nontaxable. Section 115 (b), Revenue Act of 1928; articles 623 and 626, regulations 74.

CENTRAL HUDSON GAS &amp; ELECTRIC CORPORATION, POUGHKEEPSIE, N. Y.

Overassessments, 1929-31..... \$103,004.92

Of the overassessments, \$96,324.29 and \$4,620.70 are caused by the allowance of additional deductions for depreciation and losses sustained upon the final disposition of certain capital assets, respectively. Sections 23 (f), (g), and (k), and 113, Revenue Act of 1928, and the regulations promulgated thereunder.

The classified depreciation rates used in arriving at the composite rates are similar and in some instances lower than those used in determining the composite rates of similar concerns. The composite rates allowed are considered to be based on the average life of the property in service, and therefore sufficient to return the full cost of the property including both depreciation and ordinary obsolescence, consequently no losses are allowed on retirements of property on account of wear and tear and normal obsolescence. In the case of abandonment of assets brought about by special or extraordinary obsolescence, which would ordinarily be assumed in the abandonment of complete units, losses on abandonment are recognized as the facts in each case warrant.

The amount of \$391.48 of the overassessments results from the elimination of a portion of the gross income as determined in a prior audit. After investigation it was determined that such income was overstated. Section 22 (a), Revenue Act of 1928; article 51, regulations 74.

The balance of the overassessments amounting to \$1,668.45 represents interest assessed on previously asserted deficiencies.

CENTRAL ILLINOIS PUBLIC SERVICE CO. AND SUBSIDIARIES, SPRINGFIELD, ILL.

Overassessments, 1924, 1925..... \$80,369.84

The principal cause of the above overassessments in the amount of \$54,808.08 is due to the allowance of additional deductions for depreciation. The depreciation deductions claimed on the returns filed were greatly understated since no consistent method of computing depreciation had been established and certain of the subsidiary corporations had failed to claim a deduction for depreciation. The taxpayer submitted for verification an appraisal of its property as of March 1, 1913, together with corrected additions for all years subsequent to that date. After adjustments to reproductive cost additions as shown by the taxpayer's brief for subsequent years were made and the overassessments are predicated on this basis.

The allowance of additional deductions for ordinary and necessary business expenses, interest, and Federal capital-stock taxes causes \$11,676.60 of the overassessments. Sections 234 (a) (1), (2), and (3), Revenue Acts of 1924 and 1926; articles 101, 121, 131, and 561, regulations 65 and 69.

The allowance of deductions for losses sustained upon the final disposition of certain capital assets causes \$7,699.46 of the overassessments. It was determined that such losses constitute proper deductions and were erroneously omitted from the returns filed. Sections 202 (a) and 234 (a) (4), Revenue Acts of 1924 and 1926, and the regulations promulgated thereunder.

Of the overassessments, \$5,265.51 are due to the allowance of additional deductions for amortization of bond discount, and for premium

paid on the retirement of its own bonds, inasmuch as such deductions were understated in the returns filed. Sections 234 (a) (1), Revenue Acts of 1924 and 1926; articles 545, 561, and 563, regulations 65 and 69.

The allowance of deductions representing amounts contributed to a pension fund maintained for the benefit of the taxpayer's employees causes \$830.21 of the overassessments. After investigation it was determined that such amounts constitute allowable deductions in the determination of taxable income and were erroneously omitted from the returns filed. Sections 234 (a) (1), Revenue Acts of 1924 and 1926; articles 101 and 561, regulations 65 and 69; *Hibbard, Spencer, Bartlett and Company v. Commissioner* (5 B. T. A. 464); *Elgin National Watch Company v. Commissioner* (17 B. T. A. 339).

The balance of the overassessments amounting to \$89.98 is caused by the elimination from gross income of an amount representing income accrued in a prior taxable year, which was included in the determination of taxable income for such year, and an amount representing income of another taxpayer. Sections 232 and 233 (a), Revenue Act of 1926, and the regulations promulgated thereunder.

CUBAN-AMERICAN SUGAR CO. AND SUBSIDIARIES, NEW YORK

Overassessment, 1918..... \$101,788.63

On September 15, 1932, a report was submitted to the Joint Committee on Internal Revenue Taxation pursuant to section 710 of the Revenue Act of 1928 for the above-named taxpayers covering overassessments from September 30, 1917, to September 30, 1920, inclusive. In the report a total overassessment of \$2,190,151.02 was indicated for the fiscal year ended September 30, 1918, in favor of the Cuban-American Sugar Co., but \$157,391.38 of the overassessment was held to be barred from allowance by the statute of limitations, due to the fact that no grounds for refund were set forth in the claim, leaving an allowable overassessment of \$2,032,759.64. However, the final order of the United States Board of Tax Appeals, entered December 16, 1932, disclosed a total overassessment of \$2,190,151.02 of which \$292,146.67 was shown as an overpayment. A certificate of overassessment in the amount of \$2,032,759.64 of which \$134,755.29 constituted an overpayment, was scheduled for allowance on March 15, 1933, the balance of the overpayment amounting to \$157,391.38 being shown as barred by the statute of limitations.

Application for the reconsideration of the decision holding that the sum of \$157,391.38 of the total overassessment was barred by the statute of limitations was made. The application was based upon the decision of the Supreme Court of the United States in the case of *United States v. Memphis Cotton Oil Company* (288 U. S. 62), which was decided subsequent to the settlement of the instant case by the former special advisory committee.

After careful consideration of all factors involved an agreement was reached with the taxpayer's representative whereby an additional overassessment of \$101,788.63 would be allowed for the fiscal year ended September 30, 1918, if the taxpayers would relinquish their rights to the balance claimed of \$55,602.75 and sign a closing agreement to that effect under the provisions of section 606, Revenue Act of 1928. The closing agreement has been received and the case settled on this basis.

## THE DETROIT EDISON CO., DETROIT, MICH.

Overassessments, 1929, 1930..... \$241, 473. 04

Of the overassessments \$197,837.08 are due to the allowance of additional deductions for depreciation. It was determined that the deductions claimed in the returns filed were inadequate and less than the reasonable allowances authorized by section 23 (k), Revenue Act of 1928, and the regulations promulgated thereunder.

The allowance of additional deductions for ordinary and necessary expenses, taxes, and dividends causes \$42,891.09 of the overassessments. Such deductions were understated in the returns filed as provided by section 23 (a) (c) and (p), Revenue Act of 1928, and the regulations promulgated thereunder.

The balance of the overassessments amounting to \$744.87 results from a deduction in the amount erroneously included in the returns filed as rental income. Section 22 (a) Revenue Act of 1928; article 51, regulations 74.

This case has been withheld from allowance to date on account of a proposed deficiency for the taxable year 1931.

## FLEISHHACKER, BELLA G. (MRS.), SAN FRANCISCO, CALIF.

Overassessments, 1928, 1929..... \$84, 292. 66

The overassessments result from the elimination from taxable income of amounts reported, in the separate income-tax returns of the taxpayer filed for the above years, as her assumed share of the community income which is determined to represent taxable income of her husband.

These adjustments are based on the decision of the Supreme Court in *United States v. Malcolm* (282 U. S. 792, and on *Mim.* 3859, C. B. X-1, 140), holding that the decision cited is not applicable to income from property acquired prior to July 29, 1927. See also *Hirsch v. U. S.* (62 Fed. (2d) 128), certiorari denied April 10, 1933. The only income considered as community income is that from community property acquired after July 29, 1927, and from salaries, wages, and fees earned after that date. In the instant case taxpayer and her husband made returns of taxable income on a strictly community-property basis, thus necessitating the adjustments set forth above.

The net taxable incomes reported by taxpayer's husband for 1928 and 1929 have been adjusted for all of the items described above, resulting in the finding of deficiencies with respect to the husband. Taxpayer's husband has consented to the assessment and collection of such deficiencies.

## FLEISHHACKER, MAY BELLE (MRS.), SAN FRANCISCO, CALIF.

Overassessments, 1928, 1929..... \$137, 271. 90

The above overassessments result from the elimination from taxable income of amounts reported, in the separate income-tax returns of this taxpayer filed for the above years, as her assumed share of the community income which, after a field investigation and consideration in the Bureau, are determined to represent taxable income of her husband. Proper adjustment has been made to the reported income of the husband in the determination of his tax liability. Section 22

(a), Revenue Act of 1928; article 51, regulations 74; *Hirsch v. U. S.* (62 Fed. (2d) 1928); certiorari denied, (289 U. S. 735); *United States v. Malcolm* (282 U. S. 792; Mim. 3859, C. B. X-1, 140).

GENERAL PETROLEUM CORPORATION, SAN FRANCISCO, CALIF.

Overassessment, 1920..... \$84, 353. 21

The overassessment is determined pursuant to the final order of the United States Board of Tax Appeals entered in the instant case for the above year, Docket No. 49908.

The basis of settlement consists of the allowance of additional depletion, amortization of ship charters, inventory adjustments, bond discount, and depreciation.

HECKER, FRANK J., ESTATE OF, DETROIT, MICH.

Overassessment, 1927..... \$351, 117. 61

The entire overassessment results from the allowance of a credit under the provisions of section 301 (b), Revenue Act of 1926, representing the amount of State inheritance taxes paid subsequent to the filing of the Federal estate-tax return, and is determined pursuant to the final order of the United States Board of Tax Appeals entered in the instant case, Docket No. 49094.

J. H. HILLMAN & SONS CO., PITTSBURGH, PA.

Overassessment, 1920..... \$1, 191, 704. 59

The principal cause of the above overassessment in the amount of \$1,152,021.08 represents a portion of the tax assessed against the taxpayer upon the basis of a consolidated return filed on behalf of the taxpayer and certain subsidiary corporations as members of an affiliated group. J. H. Hillman & Sons Co. filed on September 15, 1921, a consolidated income and profits tax return for the calendar year 1920 for itself and 23 related corporations. Such related corporations filed at the same time "Information returns" (form 1122). No schedule, showing any apportionment of assessment "as agreed among" the corporations, was filed with the consolidated return, and the space provided on the information returns relating to such apportionment was left blank. The entire tax was assessed against the parent company and payments were made to the collector by the parent. The record indicates that contributions were made to the parent company by various members of the affiliated group which amounts were deemed to be their pro-rata share of the tax paid by the parent company. After a field investigation and consideration in the Bureau it was determined that certain of the corporations constitute affiliated groups and certain others are nonaffiliated, and the tax liabilities have been separately determined upon the basis of the several affiliated groups and the several nonaffiliated companies. Section 240, Revenue Act of 1918, and the regulations promulgated thereunder.

The balance of the overassessment amounting to \$39,683.51 represents the remission of interest assessed on a previously asserted deficiency.

As a result of the foregoing adjustments the taxpayer and certain of the associated companies have agreed to the dismissal of suits now

pending in the United States Court of Claims and the United States District Court for the Western District of Pennsylvania for the recovery of amounts of income and profits taxes and interest in excess of the above-indicated overassessment, and to the final disposition of certain appeals pending before the United States Board of Tax Appeals.

HOWARD, ALLASEBA B., LOS ANGELES, CALIF.

Overassessments, 1928-30..... \$82, 836. 11

The taxpayer was a resident of the State of California during the years involved. Separate returns were filed by the taxpayer and her husband, Paul J. Howard, for each of the above-mentioned years, in which each spouse reported one-half of the total net income, all of which was indicated in the returns as being income from community-owned property. Upon audit of the returns all income except that pertaining to dividends, interest, and personal services were transferred from the taxpayer's returns to her husband's returns. As a result, deficiencies in tax in excess of \$102,000 have been assessed against the taxpayer's husband, for the years 1928, 1929, and 1930. The overassessments in favor of the taxpayer are due to the elimination of income reported as being income from community-owned property, based upon the ruling contained in I. T. 2457, C. B. VIII-1, page 89, to the effect that where community property was acquired prior to July 29, 1927, the income therefrom may not be divided for income-tax purposes but is taxable to the husband in its entirety, regardless of when such income is received.

MALONEY, EDITH LANGLEY, ESTATE OF, NEW YORK

Overassessment, 1924..... \$86, 256. 19

The entire overassessment represents a deficiency in tax and interest assessed against this taxpayer as a transferee of the assets of another taxpayer. In his will the testator provided that all the residue of his property remaining after the payment of debts and legacies were to be held in trust by his executors and trustees for the purpose of collecting the income therefrom and pay it to certain beneficiaries. On April 6, 1918, part of the real estate was requisitioned by the Government under the Food and Fuel Act for use as an expeditionary depot, and on May 31, 1918, the remaining portion of the property was requisitioned for the same purpose. The War Department subsequently made an award which was not acceptable to the trustee and he elected to take 75 percent of the award and such further sum as the court may award as compensation. He accordingly executed a deed conveying the property to the United States and received \$1,429,129.81, which amount was distributed by him to the beneficiaries. Suit was filed in the United States District Court for the Eastern District of New York, and the city of New York was made a party thereto. Judgment was rendered in favor of the trustee which was affirmed by the circuit court but found in favor of the city the sum of \$162,240 with interest, and the judgment as modified was affirmed by the Supreme Court.

The judgment in the amount of \$2,649,404.45 was paid to the trustee and after deducting the expenses the remainder was distributed to the

beneficiaries. In the instant case the return filed by the estate of Edith Langley Maloney included \$820,656.71 received as decedent's one-third interest in the judgment and the gain thereon was computed. As the estate reported a net loss of \$33,000 from other sources, there was no tax liability for the year under consideration.

However, assessments were accordingly made against the trustee for the total tax upon the transaction. Inasmuch as the entire trust estate has been distributed to the beneficiaries, the tax and interest assessed were subsequently abated and assessments were made against the beneficiaries as transferees under the provisions of section 280 of the 1924 Revenue Act.

NEW YORK, CHICAGO & ST. LOUIS RAILROAD CO., CLEVELAND, OHIO

Overassessments, 1918, 1919, 1921..... \$97, 324. 39

The principal cause of the overassessments relates to the settlement with the Director General of Railroads of Federal control items, income having been increased by items representing additional compensation in excess of the standard return certified by the Interstate Commerce Commission which excess was received in the final settlement; also items relative to the Federal control period pertaining to rental interest on additions and betterments.

The question of the years in which additional compensation and rental interest are to be included in taxable income has been consistently decided against the Government by the United States Board of Tax Appeals and the courts.

The deductions are now being allowed in accordance with the decision of the United States Board of Tax Appeals in the case of Terminal Railroad Association of St. Louis (17 B. T. A. 1135), which followed the decision in the case of Chicago, Rock Island & Pacific Railway Co. (13 B. T. A. 988).

The overassessments have been withheld from payment to date on account of proposed deficiencies for the taxable years 1920 and 1922.

OHIO STEEL FOUNDRY CO., LIMA, OHIO

Overassessment, 1918..... \$154, 054. 60

The year 1918 was previously adjusted in March 1932 by the issuance of an overassessment in the amount of \$135,672.32. A report of the overassessment was forwarded to the joint congressional committee and the case was stipulated before the United States Board of Tax Appeals and the overassessment paid.

The present overassessment which was reported to the joint committee on February 20, 1934, is predicated on the allowance of amortization. The staff of the joint committee interposed objections to this allowance contending that the proposed refund be recomputed and offset at least in part by the disallowance of a loss which was apparently erroneously allowed. The case has been withheld from settlement and the taxpayer has instituted suit in the United States Court of Claims. Appeal is also pending in the United States Board of Tax Appeals but to date disposition of the case has not been determined.

## PACIFIC GAS &amp; ELECTRIC CO., SAN FRANCISCO, CALIF.

Overassessments, 1924, 1925-----	\$716, 612. 73
Barred by statute-----	6, 908. 57

The major cause of the overassessments in the amount of \$705,177.66 is due to the allowance of additional deductions for depreciation as authorized by sections 234 (a) (7), Revenue Acts of 1924 and 1926 and the regulations promulgated thereunder. The taxpayer in its original returns for the above-mentioned years computed depreciation upon the so-called sinking-fund basis and subsequently filed amended returns claiming depreciation on the straight-line basis using the same values and lives as were used in the original return. It was found upon investigation that the base as determined is the historical cost of assets in service December 31, 1919, as ascertained by an inventory and appraisal undertaken by the California Railroad Commission at that time with cost of subsequent additions. Interest during construction and taxes as elements of cost have been eliminated.

The balance of the overassessments amounting to \$11,435.07 results from the allowance of additional deductions for amortization of bond discount, since such deductions were understated in the returns filed. Sections 234 (a) (1) Revenue Acts of 1924 and 1926; articles 561 and 563, regulations 65 and 69.

## PIGGLY WIGGLY CORPORATION, CINCINNATI, OHIO

Overassessment, 1922-----	\$70, 221. 45
Withheld-----	16, 846. 41

The amount of \$86,571.64 of the overassessment is caused by the allowance of deductions for losses sustained during the taxable year arising from embezzlement. After investigation it was determined that such losses constitute proper deductions for the above year and were erroneously omitted from the return filed. Section 234 (a) (4), Revenue Act of 1921; articles 141 and 561, regulations 62. *Piggly Wiggly Corporation v. Commissioner* (28 B. T. A. 412).

The balance of the overassessment amounting to \$496.22 results from the allowance of an additional deduction for depreciation. It was determined that the deduction claimed in the return filed was inadequate and less than the reasonable allowance authorized by section 234 (a) (7), Revenue Act of 1921, and the regulations promulgated thereunder.

## PORTLAND ELECTRIC POWER CO., PORTLAND, OREG.

Overassessment, 1928-----	\$125, 747. 98
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The principal cause of the above overassessment in the amount of \$84,013.33 is due to the allowance of an additional deduction for depreciation. The Bureau engineers upon investigation found that the deduction claimed in the return filed was inadequate and less than the reasonable allowance authorized by section 23 (k), Revenue Act of 1928, and the regulations promulgated thereunder. The amount taken on the taxpayer's books represents the allowance made by the Oregon Public Service Commission on a sinking-fund basis computed on the wearing value. The amount claimed is taken on what is claimed as the wearing value of depreciable assets which is

cost less estimated wear of various assets which is approximately 85 percent cost.

Another major cause of the overassessment in the amount of \$25,021.48 is attributable to the allowance of a deduction on account of a net loss sustained in a prior taxable year. Such deduction was erroneously omitted from the return filed. Section 117, Revenue Act of 1928, and the regulations promulgated thereunder.

Another cause of the overassessment in the amount of \$14,300.20 results from the allowance of additional deductions for ordinary and necessary business expenses incurred during the taxable year. Section 23 (a), Revenue Act of 1928; articles 68, 121, and 124, regulations 74.

The balance of the overassessment amounting to \$2,402.36 and \$10.61 is caused by the elimination from gross income reported in the return filed of certain amounts representing reimbursements for service extensions and connections and the remission of an excess interest collection, respectively. Section 22 (a), Revenue Act of 1928; Appeal of Liberty Light & Power Co. (4 B. T. A. 155).

PRESSED STEEL CAR CO. AND AFFILIATED COMPANIES, PITTSBURGH, PA.

Overassessments, 1929, 1930----- \$172, 065. 91

The amount of \$157,105.48 of the overassessments was determined pursuant to final orders of the United States Board of Tax Appeals entered in the instant case for the above years, Docket Nos. 69669 and 73494. The principal issues involved relate to the allowance of a loss to the parent corporation on the sale of a subsidiary stock to another subsidiary of the parent and the allowance of a deduction on account of partial worthlessness of notes that were not charged off during the taxable year.

The balance of the overassessments amounting to \$14,960.43 represents the remission of interest assessed on previously asserted deficiencies.

THE SINGER MANUFACTURING CO. AND AFFILIATED CORPORATIONS,  
ELIZABETH, N. J.

Overassessments, 1921-25----- \$200, 000

The above overassessments are due entirely to the allowance of additional credit for foreign taxes under the provisions of sections 238 (a) and (e) of the Revenue Acts of 1921, 1924, and 1926. The overassessments were allowed pursuant to directions contained in a letter from the Department of Justice dated May 18, 1934, in which the Attorney General approved this refund and directed its settlement. Payment of the sum mentioned above will accomplish full settlement of all issues involved in the cases of *Singer Manufacturing Co. v. United States*, now pending in the United States Court of Claims and the dismissal of said suits with prejudice.

F. H. SMITH CO., WILMINGTON, DEL.

Overassessments, 1927, 1928----- \$148, 628. 76

The overassessments above shown are due to the allowance as a deduction of amounts representing losses caused by embezzlements and the overstating of commissions received by officers of the company.

The proposed settlement will result in securing substantial deficiencies for the years 1927, 1928, and 1929 in the total amount of \$137,000 from such officers, and it is understood will include a deficiency for the year 1930 in the amount of \$4,650.69. It will also result in the withdrawal of suits and proceedings against the Government pending before the Court of Claims, the Board of Tax Appeals, and the Court of Appeals of the District of Columbia. The effect of the withdrawal of these suits will insure the Government's collection of amounts which will more than offset the refund, including the interest charges.

THORNE, SAMUEL BRINCKERHOFF, ESTATE OF, GREENWICH, CONN.

Overassessment, 1930----- \$187,400.64

The entire overassessment is caused by the allowance of an additional credit under the provisions of section 301 (b), Revenue Act of 1926, as amended by section 802 (a), Revenue Act of 1932, representing an amount of State inheritance taxes paid subsequent to the filing of the Federal estate-tax return, article 9 (a), regulations 70.

The taxes paid to the States of Utah, Montana, Minnesota, and New York were based upon the value of intangible property. Inasmuch as the taxes were paid prior to the decision in the case of the *First National Bank of Boston v. State of Maine* and since the estate cannot obtain a refund of any of the taxes paid, they are allowable as a credit for Federal estate-tax purposes.

TITLE GUARANTEE & TRUST CO., LOS ANGELES, CALIF.

Overassessments, 1929-31----- \$104,629.06

Of the overassessments, \$104,359.30 results from a recomputation of the tax liability under the provisions of section 204, Revenue Act of 1928. After investigation it was determined that the taxpayer constitutes an insurance company within the meaning of section 204, Revenue Act of 1928, and that the determination of its tax liability in a previous audit under the provisions of sections 13 to 26, inclusive, Revenue Act of 1928, materially overstated such liability. *United States v. Home Title Insurance Company* (285 U. S. 191).

The balance of the overassessments amounting to \$269.76 represents interest assessed on previously asserted deficiencies.

TITLE INSURANCE & TRUST CO., LOS ANGELES, CALIF.

Overassessments, 1922-26 (2 cases)----- \$301,192.23  
Overassessments, 1927-31----- 258,298.43

Of the overassessments, the amount of \$532,564.14 results from the recomputation of the tax liability under the provisions of sections 246, Revenue Acts of 1921 and 1926, and section 204, Revenue Act of 1928. The adjustments causing the overassessments may be ascribed to the elimination from gross income and deductions of items pertaining to noninsurance business rendered necessary by the decision of the United States District Court for the Southern District of California in the case of *Title Guarantee & Trust Company v. United States* (Mar. 14, 1933, reversing 49 Fed. (2d) 641). No appeal has been taken, the Department of Justice having accepted the decision

as sound in principle. The decision based on *Home Title Insurance Company v. United States* (285 U. S. 191), holds that the taxpayer therein 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 1926 and section 204 of the Revenue Act of 1928. Those sections defined what shall constitute the gross income of insurance companies.

The amount of \$9,016.02 of the overassessments is caused by the redetermination of the amount of loss sustained upon the sale of certain securities. Investigation discloses that the basis used for computing gain or loss upon the sale was erroneously understated, resulting in an understatement of the loss reported in the return. Sections 113 (a) (6) and 204 (c) (5), Revenue Act of 1928, and the regulations promulgated thereunder.

The balance of the overassessments amounting to \$17,910.50 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 United States District Court for the Southern District of California, Central Division, for the recovery of amounts of income tax and interest in excess of the aggregate of the above-indicated overassessments.

UNITED POCAHONTAS COAL CO., CONNELLSVILLE, PA.

Overassessment, 1917----- \$99,915.91

On July 17, 1934, the Attorney General, by virtue of the authority vested in him by Executive Order No. 6166, accepted the offer of the above-named taxpayer to settle the case in the United States Court of Claims upon payment of \$99,915.91, together with interest thereon from the date paid, as a tax for the year 1917. A memorandum or statement apprising the Joint Committee on Internal Revenue Taxation of the basis of settlement was submitted on November 15, 1934.

The basic question involved in this case is the effectiveness of amendments of claims for refund. The overassessment results from the stipulations of the suit pending in the United States Court of Claims for recovery of income and profits taxes and interest.

UNITED VERDE COPPER CO., CLARKDALE, ARIZ.

Overassessment, 1918----- \$122,977.57

The overassessment of \$608,285.61 for the year 1918 was reported to the Joint Committee on Internal Revenue Taxation in report approved by the then Commissioner on July 8, 1930, and the overassessment was scheduled for allowance on July 12, 1930. The taxpayer was dissatisfied with the amount of the overassessment allowed for the year 1918, and on July 8, 1932, filed suit for recovery of \$1,627,006.27 with interest thereon from date of payment.

The present overpayment results from the settlement of the suit and involved three questions: (1) Whether the Commissioner erroneously reduced consolidated invested capital on account of depletion sustained prior to March 1, 1913, and for the period from March 1, 1913, to December 31, 1915; (2) whether the sustained depletion which was deducted was properly computed; and (3)

whether or not there was an error in computing inventory by including in it metals on hand but previously sold.

The Commissioner conceded that an error had been made and adjustments to invested capital to reflect the restoration of the value of certain assets erroneously charged off on the books were allowed. Section 326, Revenue Act of 1918, 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 and profits taxes in excess of the amount of the above-indicated overassessment.

WEYERHAEUSER, CHARLES A., ESTATE OF, ST. PAUL, MINN.

Overassessment, 1930..... \$639, 180. 76

The major contributing cause of this overassessment in the amount of \$610,597.83 is due to 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. Article 9 (a), regulations 70.

The amount of \$23,822.67 of the overassessment represents a duplicate assessment of tax.

The balance of the overassessment amounting to \$4,760.26 represents the remission of interest assessed on a previously asserted deficiency.

#### SUPPLEMENT TO PART II

TREASURY DEPARTMENT,  
BUREAU OF INTERNAL REVENUE,  
*Washington, April 24, 1935.*

HON. ROBERT L. DOUGHTON,  
*Chairman, Joint Committee on Internal Revenue Taxation,  
House of Representatives.*

MY DEAR MR. CHAIRMAN: There is submitted herewith an analysis of the overassessments reported to the Joint Committee on Internal Revenue Taxation for the calendar year 1934 and other overassessments in excess of \$20,000 which were reviewed in the Review Division of this office. This analysis is similar to those submitted in prior years by the special assistant to the Secretary of the Treasury.

It is believed that this analysis will be of interest to your committee and will prove useful as a supplement to the prior analyses covering the period from June 1, 1928, to December 31, 1933.

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

Very truly yours,

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

## REPORT OF INCOME-TAX CASES FOR YEAR ENDED DECEMBER 31, 1934

The number of income-tax cases involving overassessments and made the subject of the present analysis is 355. From an examination of these cases it is found that the original taxes assessed amounted to \$78,793,407.25, the additional taxes and interest assessed amounted to \$45,798,344.11, the overassessments previously allowed amounted to \$4,071,907.09 and the overassessments herein analyzed amounted to \$46,595,470.95. The overassessments made the subject of this analysis involving the profits-tax years 1917 to 1921, inclusive, aggregate \$11,236,909.45, of which \$3,361,536.24 represent refunds, \$2,383,979.89 represent credits to other years and \$5,491,393.32 represent unpaid taxes abated. The sum of \$11,236,909.45 is 24.11 percent of the overassessments covered by this analysis, which is a material decrease from that shown in the report for the year 1933, which showed 31.47 percent. The percentage of overassessments due to court decisions increased from 9.59 percent, shown in the analysis of overassessments for the year 1933, to 10.34 percent, and that the percentage of overassessments due to Board decisions increased from 7.13 percent, for the year 1933, to 7.61 percent. It will also be noted that the percentages of total overassessments due to special assessment and invested capital changes decreased materially from those shown in the analysis covering the year 1933. The percentage of overassessments due to depreciation also decreased materially from that shown in the analysis covering the year 1933, which showed 6.15 percent. This decrease is apparently due to the Bureau's more stringent requirements concerning allowances for depreciation as set forth in Treasury Decision 4422, promulgated March 5, 1934. There are also included in the present report overassessments aggregating \$4,771,062.36, which have been adjusted since the date of the last report.

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.....	\$3,302,462.48	\$991,671.31	\$524,581.28	\$4,818,715.07	10.34
Board decisions.....	503,383.27	744,528.96	2,299,305.73	3,547,217.96	7.61
Retroactive provisions.....	46,650.93	1,878.84	109,490.09	158,019.86	.84
Special assessment.....	13,122.30	-----	-----	13,122.30	.03
Duplicate and erroneous assessments.....	1,268,581.80	156,642.41	9,483,221.39	10,908,445.60	23.41
Depreciation.....	299,800.64	839,125.04	391,195.16	1,530,120.84	3.29
Depletion.....	77,275.01	8,313.63	92,743.73	178,332.37	.88
Amortization.....	37,770.16	100,320.38	619,048.67	756,139.21	1.62
Obsolescence.....	14,414.19	58,376.30	547,861.70	620,652.19	1.33
Inventory changes.....	138,869.73	489,403.69	534,711.85	1,162,985.27	2.50
Affiliation changes.....	2,358.19	392,850.07	1,841,600.06	2,236,808.32	4.80
Shift of income.....	424,144.92	828,023.89	158,650.33	1,410,819.14	3.03
Invested capital changes.....	55,437.97	143,398.75	117,008.18	315,844.90	.60
Losses and bad debts.....	430,323.10	352,177.54	476,058.82	1,258,559.46	2.70
Foreign taxes.....	66,864.46	165,538.51	1,344.01	233,746.98	.50
Miscellaneous.....	2,314,304.01	1,633,203.08	13,498,374.39	17,445,881.48	37.44
Total.....	8,994,763.16	6,905,452.40	30,695,255.39	46,595,470.95	100.00

*Analysis of classification, "Miscellaneous"*

Classification	Refund	Credit	Abatement	Total	Percent of miscellaneous	Percent of total over assessment
Adjustment of gross income-----	\$1,059,962.00	\$383,034.03	\$4,761,430.15	\$6,204,426.18	35.56	13.32
Allocation of taxes-----			152,485.78	152,485.78	.87	.33
Nontaxable income and interest on deficiencies--	407,322.15	172,956.24	3,456,106.90	4,036,385.29	23.14	8.66
Taxes-----	1,031.45	14,956.97	74.08	16,062.50	.09	.03
Proceeds from sale of stock.	115,268.46	15,113.96	122,369.19	252,751.61	1.45	.54
Net losses-----	63,795.89	87,514.70	109,870.13	261,180.72	1.50	.56
Penalty-----	30,952.24	213.62	2,479,190.23	2,510,356.09	14.39	5.39
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-----	635,971.82	959,413.56	2,416,847.93	4,012,233.31	23.00	8.61
Total-----	2,314,304.01	1,633,203.08	13,498,374.39	17,445,881.48	100.00	37.44

## REPORT OF ESTATE TAX CASES FOR YEAR ENDED DECEMBER 31, 1934

The number of cases covered by this analysis is 107 in which the original taxes assessed amounted to \$50,859,986.63. The additional taxes assessed amounted to \$36,002,661.39 and the overassessments amounted to \$47,940,440.23. Of the total overassessments, the amount of \$858,959.63 was refunded and the amount of \$47,081,480.60 was abated. It will be noted that the amount of abatements due to Board decisions is three and one-half times the amount due to this cause for the year ended December 31, 1933. This increase is largely due to the overassessment in the estate-tax case of Thomas Fortune Ryan, wherein the full amount of the tax shown on the return was assessed and at the time the case was before the Board the evidence required to establish the estate's right to credit for State inheritance taxes was submitted and accordingly, credit for State inheritance taxes paid was allowed under section 301 (b) of the Revenue Act of 1926, as per the Board order in the case. Likewise, the greater portion of abatement under the heading "Interest adjustments" is due to the abating of interest assessed on that portion of the deficiency tax abated in the estate-tax case of Thomas Fortune Ryan.

*Analysis of estate-tax overassessments*

Classification	Refund	Abatement	Total	Percent
Credit for State inheritance taxes-----	\$321,613.64	\$4,132,729.68	\$4,454,343.32	9.2
Board decisions-----	194,261.50	38,765,820.33	38,960,081.83	80.0
Interest adjustments-----	31,459.17	3,672,351.80	3,703,810.97	7.0
Transfers-----	109,733.47	10,085.89	119,819.36	2.4
Duplicate assessments-----	363.18	494,486.29	494,849.47	1.0
Attorneys' fees, executors' commissions, miscellaneous administration expenses, and claims against the estate-----	52,648.81		52,648.81	.1
Miscellaneous-----	46,320.99	6,006.61	52,327.60	.1
Court decisions (instant case)-----	102,558.87		102,558.87	.2
Total-----	858,959.63	47,081,480.60	47,940,440.23	100.0

## PART III

## GENERAL SURVEY OF OVERASSESSMENTS

*Reports of refunds and credits.*—This is the seventh report on refunds and credits of internal-revenue taxes in excess of \$75,000 referred to the Joint Committee on Internal Revenue Taxation by the Commissioner of Internal Revenue. The first report was made pursuant to the urgent deficiency bill H. R. 16462. This report covered in detail the period March 1, 1927, to April 24, 1928. Subsequent refund reports were made under the requirements of section 710 of the Revenue Act of 1928 and reported overassessments for the period June 1 to December 31, 1928, and the calendar years 1929, 1930, 1931, 1932, and 1933.

*Disposition of cases reported.*—During the calendar year 1934, 29 overassessment cases were reported to the joint committee. There were 26 cases settled and allowances made on the basis of the summary of the facts and decision of the Commissioner of Internal Revenue. Of the remaining three cases, one case is unadjusted as a result of certain objections interposed by the staff of the joint committee and two cases are being withheld in connection with proposed deficiencies for other years. The unadjusted case will be settled by litigation, the taxpayer having instituted suit in the United States Court of Claims.

*Overassessment allowances and interest paid during 1934.*—The total net overassessments referred to the committee during the calendar year 1934, which were subsequently paid, credited, or abated amounted to \$6,146,043.45. On these overassessments, the sum of \$2,022,874.87 was allowed in interest, making the total of overassessments and interest on the cases reported for this period \$8,168,918.32. In order to obtain the grand total of all overassessments and interest allowed during 1934, it is necessary to add to the total reported overassessments and interest \$8,089,322.36 on cases previously reported in other years and withheld which were allowed during the year 1934. The grand total of overassessments and interest as shown in the preceding statistical summary (pt. II) amounts to \$16,258,240.68.

*Comparison of 1934 overassessment allowances with previous years.*—In comparing the overassessment allowances made for the calendar year 1934 with prior years, only adjustments represented by refunds and credits are used, since the abatements constitute merely erroneous assessments, or adjusting bookkeeping entries, and do not directly affect the revenue. The relative increase and decrease in these allowances is clearly indicated by the following summary:

Total refunds and credits allowed:

21-month period ended Dec. 31, 1928.....	\$145, 860, 031
Calendar year 1929.....	54, 172, 647
Calendar year 1930.....	54, 852, 131
Calendar year 1931.....	25, 735, 820
Calendar year 1932.....	22, 913, 172
Calendar year 1933.....	16, 011, 681
Calendar year 1934.....	8, 954, 006

From the above it can be seen that the allowances made to taxpayers as a result of overassessments and overpayments of income and estate taxes have steadily declined in the above-mentioned years with the exception of the calendar year 1930. In that particular year, as previously reported, the allowances were disproportionately large on

account of a refund and credit allowed the United States Steel Corporation. This one case represented nearly 40 percent of all the refunds and credits for that year.

The amount of refund and credit allowances on cases in excess of \$75,000 for the year 1934 has been less than for any year in which a report of overassessments has been made by the joint committee. The extent of this decrease is perhaps best evidenced by comparing the average monthly refundment rate. The monthly rate for the 21-month period ended December 31, 1928, was \$6,945,717, as compared to \$4,514,387 for the calendar year 1929; \$4,571,011 for 1930; \$2,144,652 for 1931; \$1,909,431 for 1932, and \$1,334,307 for 1933. Taken collectively this reflects an average monthly rate of \$3,569,917 for the entire period up to and including 1933. For 1934, the monthly rate of refundment was \$746,167, which represents a decrease of 44 percent over 1933 and 79 percent over the average monthly rate for the preceding 6 years and 9 months. It will be observed in connection with this year's overassessment cases that over 80 percent of the tax originally and additionally assessed was ultimately collected.

It is also of interest to note the decrease in the cash refunds allowed on cases reported to the committee during the calendar year 1934. The amount of cash, exclusive of interest, returned to taxpayers on refund claims amounted to \$3,556,657.17 in 1934, in comparison with \$5,452,616.55 in 1933, a decrease of approximately 35 percent. The marked decrease in cash refunds is further emphasized when reference is made to allowances since 1927. Cash refunds for 1934 are about 94 percent less than those allowed for the period February 28, 1927, to April 24, 1928, and 93 percent less than allowances made for the 7-month period from June 1 to December 31, 1928. The diminution in current cash allowances as compared to the calendar years 1929, 1930, 1931, and 1932 is 91, 87, 76, and 71 percent, respectively.

*Interest paid on refunds and credits.*—The interest allowed on overassessments for 1934 totaled \$2,022,874.87. Of this amount, \$696,859.76 was credited, or offset, against taxes due in other years, and the balance of \$1,326,015.11 represented cash actually returned to various taxpayers. The average percentage of interest allowed on these overassessments was approximately 33 percent. The corresponding interest allowance for adjustments made in 1933 was about 41 percent.

*Overassessments attributable to excess-profits tax years.*—Analysis of all overassessments reported to the committee during the period covered by this report shows that allowances of \$2,124,061.60, or 35 percent, were made on account of taxes for the excess-profits tax years up to and including 1921, and the remaining 65 percent of the allowances were for years subsequent to 1921. Further analysis discloses that the interest paid on overassessments prior to 1922 totaled \$981,677.98, i. e., the interest charges attributable to the excess-profits tax years represent 49 percent of the interest paid on all overassessments reported to the committee during the calendar year 1934. The most important factor in connection with overassessment allowances in the past has been due to the settlement of these old cases. Adjustments relating to excess-profits tax years comprised about 88 percent of all overassessments allowed in 1927, and gradually decreased to 51 percent in 1933. The constant disposition of these cases, many of which included provisions that are no longer contained in the revenue laws dealing with special assessment,

invested capital, and amortization is truly reflected in the current allowances.

*Specific causes of overassessments.*—In order to obtain a comprehensive idea of what provisions of the law have been responsible for the large allowances already set forth in the classification of overassessments (pt. II) and to insure proper analysis of results, overassessments are discussed in the order in which they appear therein.

The principal cause of the 1934 overassessments is attributable to the application of the consolidated returns provision. The amount of \$1,152,021.08, or over 18 percent of all the overassessments results from this cause. This entire sum comprises an allowance made in one case and represents a portion of tax assessed against a taxpayer upon the basis of a consolidated return filed on behalf of the taxpayer and certain subsidiary corporations as members of an affiliated group. It was subsequently determined that certain of the corporations constituted affiliated groups and certain others nonaffiliated, and the tax liabilities were separately determined upon this basis in accordance with section 240 of the Revenue Act of 1918, and the regulations promulgated thereunder.

The interpretation of the consolidated provisions under the earlier acts gave rise to many difficult questions and much litigation before the meaning of the statute was defined. These difficulties were somewhat minimized in the 1924 and 1928 Revenue Acts by the revision and elimination of the most troublesome portions of the provision. This provision was further amended under the 1934 Revenue Act and limited the right to file consolidated returns to railroad corporations. Although it is proper to anticipate a decided decrease in these allowances, this result will not be accomplished until all cases involving this question are disposed of up to and including 1933.

Second in importance is the inheritance or estate tax, which accounts for 18 percent of the total overassessments reported. The principal cause of the 1930 and 1931 overassessments, as well as a major contributing cause since 1927, may be ascribed to this classification. Adjustments applicable thereto result from the allowance of a credit under the provision of section 301 (b), of the Revenue Act of 1926, and represent the amount of State inheritance taxes paid subsequent to the filing of Federal estate tax returns. These allowances were predicated on the fact that the amount of the estate and State inheritance taxes paid was less than the 80 percent of the Federal estate tax liability as finally determined.

The third major single cause of the overassessments results from the determination of depreciation allowances. The amount of \$1,024,626.91, or approximately 17 percent of all the overassessments, is attributable thereto. The income-tax procedure relating to depreciation was recently defined in the promulgation of Treasury Decision 4422. The principal change in the established procedure is the requirement that full and complete information with respect to the past history of depreciable property accounts must now be furnished by those taxpayers whose income-tax returns indicate that deductions from gross income on account of depreciation have been in excess of reasonable amounts. It is believed that this policy which adversely affects only those taxpayers who have claimed unreasonable allowances for depreciation in the past will have a decided effect in materially increasing the revenue.

Overassessments aggregating \$636,923.44 result from a recomputation of the tax liability under the provisions of section 246 of the Revenue Act of 1926, and section 204, Revenue Act of 1928. These sections set forth what shall constitute the gross income of insurance companies. In the examination of the cases involving these allowances it was found that the determination of tax liability was erroneously made under the provisions pertaining to ordinary corporations (secs. 230 to 240, inclusive, Revenue Act of 1926) which had the effect of overstating such liability.

The revision of reported valuations of opening and closing inventories is responsible for \$459,787.62, about 7 percent of the overassessments reported. The most frequent reasons for these adjustments are redetermination of market values.

It also appears from the classification of the 1934 overassessments that \$343,247.32 was allowed in pursuance of the orders of the United States Board of Tax Appeals. The cases attributable to these allowances are strictly settlement or compromise cases, and generally result from deficiency assessments. Before stipulations in connection therewith are acted upon by the Board they are duly reported to the joint committee for their examination.

The preceding detailed discussion of the principal cause of overassessments covers the first six classifications of causes and represents about 77 percent of the total overassessments. The remaining 23 percent embrace overassessment allowances of a more diversified character and of less importance from the standpoint of contributing cause.

*Conclusion.*—The majority of the overassessments reported to the joint committee during the calendar year 1934, and paid after the 30-day period prescribed by law, clearly represented accurate and careful determinations of final tax liability. Out of 29 cases reported, serious questions arose in only 5 cases. Special investigation was made of these five cases and conferences held. After such special consideration, the Bureau withheld one case from payment amounting to \$154,054.60. This case will be litigated.

Respectfully submitted.

WALTER L. TUCKER, *Auditor.*

Approved:

G. D. CHESTEEN,  
*Assistant Chief of Staff.*

