the household due to special circumstances. For example, a nonpermanent failure to occupy the household by reason of illness or vacation shall be considered temporary absence due to special circumstances. Such absence will not prevent the taxpayer from qualifying as the head of a household if (i) it is reasonable to assume that such person will return to the household, and (ii) the taxpayer continues to maintain such household or a substantially equivalent household in anticipation of such return. However, the fact that the father or mother of the taxpayer dies within the year will not prevent the taxpayer from qualifying as a head of a household if the household constitutes the principal place of abode of the father or mother for the preceding part of such taxable year.

(d) Cost of maintaining a household. A taxpayer shall be considered as maintaining a household only if he pays more than one-half the cost thereof for his taxable year. The cost of maintaining a household shall be the expenses incurred for the mutual benefit of the occupants thereof by reason of its operation as the principal place of abode of such occupants for such taxable year. The cost of maintaining a household shall not include expenses otherwise incurred. The expenses of maintaining a household include property taxes, mortgage interest, rent, utility charges, upkeep and repairs, property insurance, and food consumed on the premises. Such expenses do not include the cost of clothing, education, medical treatment, vacations, life insurance, and transportation. In addition, the cost of maintaining a household shall not include any amount which represents the value of services rendered in the household by the taxpayer or by a person qualifying the taxpayer as a head of a household or as a surviving spouse.

(e) Certain married individuals living apart. For taxable years beginning after December 31, 1969, an individual who is considered as not married under section 143(b) shall be considered as not married for purposes of determining whether he or she qualifies as a single individual, a married individual, a head of household or a surviving spouse under sections 1 and 2 of the Code.

[T.D. 7117, 36 FR 9398, May 25, 1971]

§ 1.3–1 Application of optional tax.

(a) General rules. (1) For taxable years ending before January 1, 1970, an individual whose adjusted gross income is less than $5,000 (or a husband and wife filing a joint return whose combined adjusted gross income is less than $5,000) may elect to pay the tax imposed by section 3 in place of the tax imposed by section 1 (a) or (b). For taxable years beginning after December 31, 1969 and before January 1, 1971 an individual whose adjusted gross income is less than $10,000 (or a husband and wife filing a joint return whose combined adjusted gross income is less than $10,000) may elect to pay the tax imposed by section 3 as amended by the Tax Reform Act of 1969 in place of the tax imposed by section 1 (a) or (b). For taxable years beginning after December 31, 1970 an individual whose adjusted gross income is less than $10,000 (or a husband and wife filing a joint return whose combined adjusted gross income is less than $10,000) may elect to pay the tax imposed by section 3 as amended in place of the tax imposed by section 1 as amended. See § 1.4–2 for the manner of making such election. A taxpayer may make such election regardless of the sources from which his income is derived and regardless of whether his income is computed by the cash method or the accrual method. See section 62 and the regulations thereunder for the determination of adjusted gross income. For the purpose of determining whether a taxpayer may elect to pay the tax under section 3, the amount of the adjusted gross income is controlling, without reference to the number of exemptions to which the taxpayer may be entitled. See section 4 and the regulations thereunder for additional rules applicable to section 3.

(2) The following examples illustrate the rule that section 3 applies only if the adjusted gross income is less than $10,000 ($5,000 for taxable years ending before January 1, 1970).

Example 1. A is employed at a salary of $9,200 for the calendar year 1970. In the
course of such employment, he incurred travel expenses of $1,500 for which he was reim-
bursted during the year. Such items con-
stitute his sole income for 1970. In such case the gross income is $10,700 but the amount of
$1,500 is deducted from gross income in the
determination of adjusted gross income and
thus A's adjusted gross income for 1970 is
$9,200. Accordingly, the adjusted gross income
being less than $10,000, he may elect to pay
his tax for 1970 under section 3. Similarly, in
the case of an individual engaged in trade or
business (excluding from the term "engaged
in trade or business" the performance of per-
sonal services as an employee), there may be
deducted from gross income in ascertaining
adjusted gross income those expenses di-
rectly relating to the carrying on of such
trade or business.

Example 2. If B has, as his only income for
1970, a salary of $11,600 and his spouse has no
gross income, then B's adjusted gross income
is $11,600 (not $11,600 reduced by exemptions
of $1,250) and he is not for such year, entitled
to pay his tax under section 3. If, however, B
has for 1970 a salary of $13,000 and incident to
his employment he incurs expenses in the
amount of $3,400 for travel, meals, and lodg-
ing while away from home, for which he is
not reimbursed, the adjusted gross income is
$13,000 minus $3,400 or $9,600. In such case his
adjusted gross income being less than $10,000,
B may elect to pay the tax under section 3. If, however, B's wife has adjusted gross in-
come of $400, the total adjusted gross income
is $10,000. In such case, if B and his wife file
a joint return, they may not elect to pay the
optimal tax since the combined adjusted
gross income being less than $10,000. B may
nevertheless elect to pay the optimal tax,
but if he makes this election he must file a
separate return and, since his wife has gross
income, he may not claim an exemption for
her in computing the optimal tax.

(b) Surviving spouse. The return of a
surviving spouse is treated as a joint
return for purposes of section 3. See
section 2, and the regulations there-
under. With respect to the qualifica-
tions of a taxpayer as a surviving
spouse, accordingly, if the taxpayer
qualifies as a surviving spouse and
elects to pay the optimal tax, he shall
use the column in the tax table, appro-
priate to his number of exemptions,
provided for cases in which a joint re-
turn is filed.

(c) Use of tax table. (1) To determine
the amount of the tax, the individual
ascertains the amount of his adjusted
gross income, refers to the appropriate
table set forth in section 3 or the regula-
tions thereunder, ascertains the in-
come bracket into which such income
falls, and, using the number of exemp-
tions applicable to his case, finds the
tax in the vertical column having at
the top thereof a number corresponding
to the number of exemptions to which
the taxpayer is entitled.

(2) Section 3(b) (relating to taxable
years beginning after Dec. 31, 1964 and
ending before Jan. 1, 1970) contains 5
tables for use in computing the tax.
Table I is to be used by a single person
who is not a head of household. Table
II is to be used by a head of household.
Table III is to be used by married per-
sons filing joint returns and by a sur-
viving spouse. Table IV is to be used by
married persons filing separate returns
using the 10 percent standard deduc-
tion. Table V is to be used by married
persons filing separate returns using the
minimum standard deduction. For an
explanation of the standard deduc-
tion see section 141 and the regula-
tions thereunder.

(3) 30 tables are provided for use in
computing the tax under the Tax Re-
form Act of 1969. Tables I through XV
apply for taxable years beginning after
December 31, 1969 and ending before
January 1, 1971. Tables XVI through
XXX apply for taxable years beginning
after December 31, 1970. The standard
deduction for Tables I through XV, ap-
pllicable to taxable years beginning in
1970, is 10 percent. The standard deduc-
tion for Tables XVI through XXX, ap-
pllicable to taxable years beginning in
1971, is 13 percent. For an explanation
of the standard deduction and the low
income allowance see section 141 as
amended by the Tax Reform Act of
1969.

(4) In the case of married persons fil-
ing separate returns who qualify to use
the optimal tax imposed by section 3,
such persons shall use the tax imposed
by the table for the applicable year in
accordance with the rules prescribed by
sections 4(c) and 141 and the regula-
tions thereunder governing the use and
application of the standard deduction
and the low income allowance.

(5) The tax shown in the tax tables
set forth in section 3 or the regula-
tions thereunder reflects full income split-
ting in the case of a joint return (in-
cluding the return of a surviving
spouse) and lesser income splitting in
§ 1.4–2

Elections.

(a) Making of election. The election to pay the optional tax imposed under section 3 shall be made by (1) filing a return on Form 1040A, or (2) filing a return on Form 1040 and electing in such return, in accordance with the provisions of section 144 and the regulations thereunder, to take the standard deduction provided by section 141.

(b) Election under section 3 and election of standard deduction. Section 144 (a) and the regulations thereunder provide rules for treating an election to pay the tax under section 3 as an election to take the standard deduction, and for treating an election to take the standard deduction as an election to pay the tax under section 3. For example, if the taxpayer's return shows $5,000 or more income...