82D CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 2493

# AMENDMENT OF SECTIONS 433 (B), 457, AND 459 OF THE INTERNAL REVENUE CODE AND OF SECTION 319 (C) OF THE REVENUE ACT OF 1951

JULY 5, 1952.—Ordered to be printed

Mr. DOUGHTON, from the committee of conference, submitted the following

## CONFERENCE REPORT

[To accompany H. R. 8271]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8271) to amend section 457 of the Internal Revenue Code having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 2 and 4 and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

*SEC. 2. Section 459 of the Internal Revenue Code (miscellaneous provisions relating to the computation of average base period net income) is hereby amended by adding at the end thereof the following new subsection:*

*"(f) COMPANIES PRESERVING DEFENSE CAPACITY AND INCREASING CAPACITY FOR MANUFACTURING PEACETIME PRODUCTS FROM CERTAIN STRATEGIC AND CRITICAL METALS.—*

*"(1) ELIGIBILITY REQUIREMENT.—In the case of a taxpayer which commenced business on or prior to January 1, 1936, and since such date has been primarily engaged in manufacturing, if—*

*"(A) The percentage of the taxpayer's purchases of raw materials which were strategic and critical metals (as defined in paragraph (3)) was 80 per centum or more for each of the taxable years beginning with or within the taxpayer's base period;*

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*"(B) The taxpayer's average monthly excess profits net income (computed in the manner provided in section 443 (e)) for the period comprising all taxable years ending with or within the first twenty-four months of its base period was 250 per centum or more of the average monthly excess profits net income (so computed) of the taxpayer for the period comprising all taxable years ending with or within the last twenty-four months of its base period;*

*"(C) The adjusted basis of the taxpayer's total facilities (as defined in section 444 (d)) as of the beginning of its base period (when added to the total facilities at such time of all corporations with which the taxpayer has the privilege under section 141 of filing a consolidated return for its first taxable year under this subchapter) did not exceed $10,000,000; and*

*"(D) The adjusted basis of the taxpayer's total facilities (as defined in section 444 (d)) on the last day of its base period was 180 per centum, or more of the adjusted basis of its total facilities on the first day of its base period,*

*the taxpayer's average base period net income determined under this subsection shall be the amount computed under paragraph (2).*

*"(2) COMPUTATION.—The average base period net income determined under this subsection for a taxpayer entitled to the benefits of this subsection shall be the amount computed under section 435 (e) (2) (E) and (F) except that there shall be substituted for the aggregate of the excess profits net income for each of the six months in the period beginning July 1, 1949, and ending December 31, 1949, an amount computed by multiplying the aggregate of the excess profits net income for each of the six months in the period beginning July 1, 1946 and ending December 31, 1946, by the per centum determined by dividing the adjusted basis of taxpayer's total facilities (as defined in section 444 (d)) on December 31, 1948, by the adjusted basis of its total facilities on the first day of its base period. The average base period net income computed under the preceding sentence shall not exceed 80 per centum of the excess profits tax net income for the taxpayer's first taxable year under this subchapter.*

*"(3) DEFINITION OF STRATEGIC AND CRITICAL METALS.—As used in this subsection, the term 'strategic and critical metals' means copper and zinc which on January 1, 1945, had been determined by proper authority to be strategic and critical under the provisions of the Strategic and Critical Stock Piling Act and shall include scrap containing such metals."*

And the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with amendments as follows:

On page 4, line 10, of the Senate engrossed amendments, strike out "That, effective" and insert *Effective*

On page 6, line 2, of the Senate engrossed amendments, strike out "the Commissioner with the approval of".

And the Senate agree to the same.

Amend the title so as to read: "An Act to amend sections 433 (b), 457, and 459 of the Internal Revenue Code, and for other purposes."

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DANIEL A. REED,
RICHARD M. SIMPSON,
*Managers on the Part of the House.*

WALTER F. GEORGE,
TOM CONNALLY,
ED C. JOHNSON,
HUGH BUTLER,
EDWARD MARTIN,
*Managers on the Part of the Senate.*

## STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8271) to amend section 457 of the Internal Revenue Code submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

Amendment No. 1: The effect of Senate amendment No. 1 is to add to section 459 of the Internal Revenue Code a new subsection providing that, in the case of a taxpayer which commenced business on or prior to January 1, 1936, and since such date has been primarily engaged in manufacturing, if—

(1) The percentage of the taxpayer's purchases of raw materials which were strategic and critical metals (defined to be certain copper and zinc) was 80 percent or more for each of the taxable years beginning with or within the taxpayer's base period;

(2) The taxpayer's average monthly excess profits net income for the period comprising all taxable years ending with or within the first 24 months of its base period was 250 percent or more of the average monthly excess profits net income of the taxpayer for the period comprising all taxable years ending with or within the last 24 months of its base period;

(3) The adjusted basis of the taxpayer's total facilities as of the beginning of its base period (when added to the total facilities at such time of all corporations with which the taxpayer has the privilege under section 141 of filing a consolidated return for its first taxable year under this subchapter) did not exceed $10,000,000; and

(4) The adjusted basis of the taxpayer's total facilities on the last day of its base period was 180 percent or more of the adjusted basis of its total facilities on the first day of its base period,

then the taxpayer's average base period net income determined under the new subsection shall be the amount computed under section 435 (e) (2) (E) and (F) of the code except that there shall be substituted for the aggregate of the excess profits net income for each of the 6 months in the period beginning July 1, 1949, and ending December 31, 1949, an amount computed by multiplying the aggregate of the excess profits net income for each of the 6 months in the period beginning July 1, 1946, and ending December 31, 1946 by the percent determined by dividing the adjusted basis of taxpayer's total facilities on December 31, 1948, by the adjusted basis of its total facilities on the first day of its base period. The average base period net income as so computed shall not exceed 80 percent of the excess-profits tax net income for the taxpayer's first taxable year under subchapter D of chapter 1 of the code.

The House recedes with an amendment which makes technical and clerical changes in the Senate amendment.

Amendment No. 2: Senate amendment No. 2 provides that the amendment made by Senate amendment No. 1 shall be applicable with respect to all taxable years ending after June 30, 1950. The House recedes.

Amendment No. 3: This amendment adds to section 433 (b) of the Internal Revenue Code (relating to the computation of average base period net income for excess profits tax purposes) two paragraphs providing for adjustments in certain cases for base period losses arising from branch operations. The House recedes with technical amendments.

Amendment No. 4: This amendment added to the bill a new section relating to the effective date of the amendments made by section 319 of the Revenue Act of 1951 with respect to the allowance of percentage depletion for coal and metal mines and for certain other mines and natural mineral deposits. The 1951 amendments applied only to taxable years beginning after December 31, 1950. The effect of the Senate amendment is to provide that in the case of a taxable year beginning before January 1, 1951, and ending after December 31, 1950, the allowance for percentage depletion under section 114 (b) (4) of the Internal Revenue Code is an amount equal to the sum of—

(1) that portion of a tentative allowance, computed under the provisions of section 114 (b) (4) of the Internal Revenue Code applicable (without regard to the Senate amendment) to taxable years beginning before January 1, 1951, and ending after December 31, 1950, which the number of days in such taxable year prior to January 1, 1951, bears to the total number of days in such taxable year; plus

(2) that portion of a tentative allowance, computed under the provisions of section 114 (b) (4) applicable (without regard to the Senate amendment) to taxable years beginning after December 31, 1950, as if such provisions were applicable to the entire taxable year, which the number of days in such taxable year after December 31, 1950, bears to the total number of days in such taxable year.

The House recedes.

R. L. Doughton,
John D. Dingell,
W. D. Mills,
Daniel A. Reed,
Richard M. Simpson,
*Managers on the Part of the House.*

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