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Chapter 2

INTERNAL REVENUE CODE

Intended to Include All General and Permanent Laws of the United States and Parts of Such Laws, Relating Exclusively to Internal Revenue, in Force on January 2, 1939, and All Internal Revenue Laws Relating to Temporary Internal Revenue Taxes the Occasion for Which Arises After the Effective Date of the Code

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FIRST SESSION OF THE SEVENTY-SIXTH CONGRESS

OF THE

UNITED STATES OF AMERICA

AN ACT

To consolidate and codify the internal revenue laws of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the laws of the United States hereinafter codified and set forth as a part of this act under the heading "Internal Revenue Title" are hereby enacted into law.

SEC. 2. CITATION.—This act and the internal revenue title incorporated herein shall be known as the Internal Revenue Code and may be cited as "I. R. C.".

SEC. 3. EFFECTIVE DATE.—Except as otherwise provided herein, this act shall take effect on the day following the date of its enactment.

SEC. 4. REPEAL AND SAVINGS PROVISIONS.—(a) The Internal Revenue Title, as hereinafter set forth, is intended to include all general laws of the United States and parts of such laws, relating exclusively to internal revenue, in force on the 2d day of January 1939 (1) of a permanent nature and (2) of a temporary nature if embraced in said Internal Revenue Title. In furtherance of that purpose, all such laws and parts of laws codified herein, to the extent they relate exclusively to internal revenue, are repealed, effective, except as provided in section 5, on the day following the date of the enactment of this act.

(b) Such repeal shall not affect any act done or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause before the said repeal, but all rights and liabilities under said acts shall continue, and may be enforced in the same manner, as if said repeal had not been made; nor shall any office, position, employment, board, or committee, be abolished by such repeal, but the same shall continue under the pertinent provisions of the Internal Revenue Title.

(c) All offenses committed, and all penalties or forfeitures incurred under any statute hereby repealed, may be prosecuted and punished in the same manner and with the same effect as if this act had not been passed.

(d) All acts of limitation, whether applicable to civil causes and proceedings, or to the prosecution of offenses, or for the recovery of penalties or forfeitures, hereby repealed shall not be affected thereby, but all suits, proceedings, or prosecutions, whether civil or criminal, for causes arising, or acts done or committed, prior to said repeal, may be commenced and prosecuted within the same time as if this act had not been passed.

(e) The authority vested in the President of the United States, or in any officer or officers of the Treasury Department, by the law as it existed immediately prior to the enactment of this act, hereafter to give publicity to tax returns required under any internal revenue law in force immediately prior to the enactment of this act or any information therein contained, and to furnish copies thereof and to prescribe the terms and conditions upon which such publicity may be given or such copies furnished, and to make rules and regulations with respect to such publicity, is hereby preserved. And the provisions of law authorizing such publicity and prescribing the terms, conditions, limitations, and restrictions upon such publicity and upon the use of the information gained through such publicity and the provisions of law prescribing penalties for unlawful publicity of such returns and for unlawful use of such information are hereby preserved and continued in full force and effect.

SEC. 5. CONTINUANCE OF EXISTING LAW.—Any provision of law in force on the 2d day of January 1939 corresponding to a provision contained in the Internal Revenue Title shall remain in force until the corresponding provision under such Title takes effect.

SEC. 6. ARRANGEMENT, CLASSIFICATION, AND CROSS REFERENCES.—The arrangement and classification of the several provisions of the Internal Revenue Title have been made for the purpose of a more convenient and orderly arrangement of the same, and, therefore, no inference, implication or presumption of legislative construction shall be drawn or made by reason of the location or grouping of any particular section or provision or portion thereof, nor shall any outline, analysis, cross reference, or descriptive matter relating to the contents of said Title be given any legal effect.

SEC. 7. EFFECT UPON SUBSEQUENT LEGISLATION.—The enactment of this act shall not repeal nor affect any act of Congress passed since the 2d day of January 1939, and all acts passed since that date shall have full effect as if passed after the enactment of this act; but, so far as such acts vary from, or conflict with, any provision contained in this act, they are to have effect as subsequent statutes, and as repealing any portion of this act inconsistent therewith.

SEC. 8. COPIES AS EVIDENCE OF ORIGINAL.—Copies of this act printed at the Government Printing Office and bearing its imprint shall be conclusive evidence of the original Internal Revenue Code in the custody of the Secretary of State.

SEC. 9. PUBLICATION.—The said Internal Revenue Code shall be published as a separate part of a volume of the United States Statutes at Large, with an appendix and index, but without marginal references; the date of enactment, bill number, public and chapter number shall be printed as a headnote.

SEC. 10. INTERNAL REVENUE TITLE.—The Internal Revenue Title, heretofore referred to, and hereby and herein enacted into law, is as follows:

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CHAPTER 1—INCOME TAX

SUBCHAPTER A—INTRODUCTORY PROVISIONS

SEC. 1. APPLICATION OF CHAPTER.

The provisions of this chapter shall apply only to taxable years beginning after December 31, 1938. Income, war-profits, and excess-profits taxes for taxable years beginning prior to January 1, 1939, shall not be affected by the provisions of this chapter, but shall remain subject to the applicable provisions of the Revenue Act of 1938 and prior revenue acts, except as such provisions are modified by legislation enacted subsequent to the Revenue Act of 1938.

SEC. 2. CROSS REFERENCES.

The cross references in this chapter to other portions of the chapter, where the word "see" is used, are made only for convenience, and shall be given no legal effect.

SEC. 3. CLASSIFICATION OF PROVISIONS.

The provisions of this chapter are herein classified and designated as—

Subchapter A—Introductory provisions,

Subchapter B—General provisions, divided into Parts and sections,

Subchapter C—Supplemental provisions, divided into Supplements and sections.

SEC. 4. SPECIAL CLASSES OF TAXPAYERS.

The application of the General Provisions and of Supplements A to D, inclusive, to each of the following special classes of taxpayers, shall be subject to the exceptions and additional provisions found in the Supplement applicable to such class, as follows:

(a) Estates and trusts and the beneficiaries thereof,—Supplement E.

(b) Members of partnerships,—Supplement F.

(c) Insurance companies,—Supplement G.

(d) Nonresident alien individuals,—Supplement H.

(e) Foreign corporations,—Supplement I.

(f) Individual citizens of any possession of the United States who are not otherwise citizens of the United States and who are not residents of the United States,—Supplement J.

(g) Individual citizens of the United States or domestic corporations, satisfying the conditions of section 251 by reason of deriving a large portion of their gross income from sources within a possession of the United States,—Supplement J.

(h) China Trade Act corporations,—Supplement K.
(i) Foreign personal holding companies and their shareholders,—Supplement P.
(j) Mutual investment companies—Supplement.

SUBCHAPTER B—GENERAL PROVISIONS

Part I—Rates of Tax

SEC. 11. NORMAL TAX ON INDIVIDUALS.

There shall be levied, collected, and paid for each taxable year upon the net income of every individual a normal tax of 4 per centum of the amount of the net income in excess of the credits against net income provided in section 25.

SEC. 12. SURTAX ON INDIVIDUALS.

(a) DEFINITION OF "SURTAX NET INCOME".—As used in this section the term "surtax net income" means the amount of the net income in excess of the credits against net income provided in section 25 (b).

(b) RATES OF SURTAX.—There shall be levied, collected, and paid for each taxable year upon the surtax net income of every individual a surtax as follows:

Upon a surtax net income of $4,000 there shall be no surtax; upon surtax net incomes in excess of $4,000 and not in excess of $6,000, 4 per centum of such excess.

$80 upon surtax net incomes of $6,000; and upon surtax net incomes in excess of $6,000 and not in excess of $8,000, 5 per centum in addition of such excess.

$180 upon surtax net incomes of $8,000; and upon surtax net incomes in excess of $8,000 and not in excess of $10,000, 6 per centum in addition of such excess.

$300 upon surtax net incomes of $10,000; and upon surtax net incomes in excess of $10,000 and not in excess of $12,000, 7 per centum in addition of such excess.

$440 upon surtax net incomes of $12,000; and upon surtax net incomes in excess of $12,000 and not in excess of $14,000, 8 per centum in addition of such excess.

$600 upon surtax net incomes of $14,000; and upon surtax net incomes in excess of $14,000 and not in excess of $16,000, 9 per centum in addition of such excess.

$780 upon surtax net incomes of $16,000; and upon surtax net incomes in excess of $16,000 and not in excess of $18,000, 11 per centum in addition of such excess.

$1,000 upon surtax net incomes of $18,000; and upon surtax net incomes in excess of $18,000 and not in excess of $20,000, 13 per centum in addition of such excess.

$1,260 upon surtax net incomes of $20,000; and upon surtax net incomes in excess of $20,000 and not in excess of $22,000, 15 per centum in addition of such excess.

$1,560 upon surtax net incomes of $22,000; and upon surtax net incomes in excess of $22,000 and not in excess of $26,000, 17 per centum in addition of such excess.

$2,240 upon surtax net incomes of $26,000; and upon surtax net incomes in excess of $26,000 and not in excess of $32,000, 19 per centum in addition of such excess.

$3,380 upon surtax net incomes of $32,000; and upon surtax net incomes in excess of $32,000 and not in excess of $38,000, 21 per centum in addition of such excess.

$4,640 upon surtax net incomes of $38,000; and upon surtax net incomes in excess of $38,000 and not in excess of $44,000, 24 per centum in addition of such excess.

$6,080 upon surtax net incomes of $44,000; and upon surtax net incomes in excess of $44,000 and not in excess of $50,000, 27 per centum in addition of such excess.

$7,700 upon surtax net incomes of $50,000; and upon surtax net incomes in excess of $50,000 and not in excess of $56,000, 31 per centum in addition of such excess.

$9,560 upon surtax net incomes of $56,000; and upon surtax net incomes in excess of $56,000 and not in excess of $62,000, 35 per centum in addition of such excess.

$11,660 upon surtax net incomes of $62,000; and upon surtax net incomes in excess of $62,000 and not in excess of $68,000, 39 per centum in addition of such excess.

$14,000 upon surtax net incomes of $68,000; and upon surtax net incomes in excess of $68,000 and not in excess of $74,000, 43 per centum in addition of such excess.

$16,580 upon surtax net incomes of $74,000; and upon surtax net incomes in excess of $74,000 and not in excess of $80,000, 47 per centum in addition of such excess.

$19,400 upon surtax net incomes of $80,000; and upon surtax net incomes in excess of $80,000 and not in excess of $90,000, 51 per centum in addition of such excess.

$24,500 upon surtax net incomes of $90,000; and upon surtax net incomes in excess of $90,000 and not in excess of $100,000, 55 per centum in addition of such excess.

$30,000 upon surtax net incomes of $100,000; and upon surtax net incomes in excess of $100,000 and not in excess of $150,000, 58 per centum in addition of such excess.

$59,000 upon surtax net incomes of $150,000; and upon surtax net incomes in excess of $150,000 and not in excess of $200,000, 60 per centum in addition of such excess.

$89,000 upon surtax net incomes of $200,000; and upon surtax net incomes in excess of $200,000 and not in excess of $250,000, 62 per centum in addition of such excess.

$120,000 upon surtax net incomes of $250,000; and upon surtax net incomes in excess of $250,000 and not in excess of $300,000, 64 per centum in addition of such excess.

$152,000 upon surtax net incomes of $300,000; and upon surtax net incomes in excess of $300,000 and not in excess of $400,000, 66 per centum in addition of such excess.

$218,000 upon surtax net incomes of $400,000; and upon surtax net incomes in excess of $400,000 and not in excess of $500,000, 68 per centum in addition of such excess.

$286,000 upon surtax net incomes of $500,000; and upon surtax net incomes in excess of $500,000 and not in excess of $750,000, 70 per centum in addition of such excess.

$461,000 upon surtax net incomes of $750,000; and upon surtax net incomes in excess of $750,000 and not in excess of $1,000,000, 72 per centum in addition of such excess.

$641,000 upon surtax net incomes of $1,000,000; and upon surtax net incomes in excess of $1,000,000 and not in excess of $2,000,000, 73 per centum in addition of such excess.

$1,371,000 upon surtax net incomes of $2,000,000; and upon surtax net incomes in excess of $2,000,000 and not in excess of $5,000,000, 74 per centum in addition of such excess.

$3,591,000 upon surtax net incomes of $5,000,000; and upon surtax net incomes in excess of $5,000,000, 75 per centum in addition of such excess.

(c) TAX IN CASE OF CAPITAL GAINS OR LOSSES.—

For rate and computation of alternative tax in lieu of normal tax and surtax in the case of a capital gain or loss from the sale or exchange of capital assets held for more than eighteen months, see section 117 (c).

(d) SALE OF OIL OR GAS PROPERTIES.—

For limitation of surtax attributable to the sale of oil or gas properties, see section 105.

(e) TAX ON PERSONAL HOLDING COMPANIES.—

For surtax on personal holding companies, see section 500.

(f) AVOIDANCE OF SURTAXES BY INCORPORATION.—

For surtax on corporations which accumulate surplus to avoid surtax on shareholders, see section 102.

SEC. 13. TAX ON CORPORATIONS IN GENERAL.

(a) ADJUSTED NET INCOME.—For the purposes of this chapter the term "adjusted net income" means the net income minus the credit provided in section 26 (a), relating to interest on certain obligations of the United States and Government corporations.

(b) IMPOSITION OF TAX.—There shall be levied, collected, and paid for each taxable year upon the net income of every corporation the net income of which is more than $25,000 (except a corporation subject to the tax imposed by section 14, section 231 (a), Supplement G, or Supplement Q) a tax computed under subsection (c) of this section or a tax computed under subsection (d) of this section, whichever tax is the lesser.

(c) GENERAL RULE.—The tax computed under this subsection shall be as follows:

(1) A tentative tax shall first be computed equal to 19 per centum of the adjusted net income.

(2) The tax shall be the tentative tax reduced by the sum of—

(A) 16½ per centum of the credit for dividends received provided in section 26 (b); and

(B) 2½ per centum of the dividends paid credit provided in section 27, but not to exceed 2½ per centum of the adjusted net income.

(d) ALTERNATIVE TAX (CORPORATIONS WITH NET INCOME SLIGHTLY MORE THAN $25,000).—

(1) If no portion of the gross income consists of interest allowed as a credit by section 26 (a) (relating to interest on certain obligations of the United States and Government corporations), or of dividends of the class with respect to which credit is allowed by section 26 (b), then the tax computed under this subsection shall be equal to $3,525, plus 32 per centum of the amount of the net income in excess of $25,000.

(2) If any portion of the gross income consists of such interest or dividends, then the tax computed under this subsection shall be as follows:

(A) The net income shall be divided into two divisions, the first division consisting of $25,000, and the second division consisting of the remainder of the net income.

(B) To the first division shall be allocated, until an aggregate of $25,000 has been so allocated: First, the portion of the gross income consisting of such interest; second, the portion of the gross income consisting of such dividends; and third, an amount equal to the excess, if any, of $25,000 over the amounts already allocated to the first division.

(C) To the second division shall be allocated, until there has been so allocated an aggregate equal to the excess of the net income over $25,000: First, the portion of the gross income consisting of such interest which is not already allocated to the first division; second, the portion of the gross income consisting of such dividends which is not already allocated to the first division; and third, an amount equal to the excess, if any, of the net income over the sum of $25,000 plus the amounts already allocated to the second division.

(D) The tax shall be equal to the sum of the following:

(i) A tax on the $25,000 allocated to the first division, computed under section 14 (c), on the basis of the allocation made to the first division and as if the amount so allocated constituted the entire net income of the corporation.

(ii) 12 per centum of the dividends received allocated as such to the second division.

(iii) 32 per centum of the remainder of the amount allocated to the second division, except interest allowed as a credit under section 26 (a).

(e) CORPORATIONS IN BANKRUPTCY AND RECEIVERSHIP.—If a domestic corporation is for any portion of the taxable year in bankruptcy under the laws of the United States, or insolvent and in receivership in any court of the United States or of any State, Territory, or the District of Columbia, then, when the tax is computed under subsection (c), the tentative tax shall be reduced by 2½ per centum of the adjusted net income, instead of by 2½ per centum of the dividends paid credit.

(f) JOINT-STOCK LAND BANKS.—In the case of a joint-stock land bank organized under the Federal Farm Loan Act, 39 Stat. 360, 42 Stat. 1454 (U. S. C. Title 12, § 641), as amended, when the tax is computed under subsection (c), the tentative tax shall be reduced by 2½ per centum of the adjusted net income, instead of by 2½ per centum of the dividends paid credit.

(g) RENTAL HOUSING CORPORATIONS.—In the case of a corporation which at the close of the taxable year is regulated or restricted by the Federal Housing Administrator under section 207 (b) (2) of the National Housing Act, as amended, 52 Stat. 17, when the tax is computed under subsection (c), the tentative tax shall be reduced by 2½ per centum of the adjusted net income, instead of by 2½ per centum of the dividends paid credit; but only if such Administrator certifies to the Commissioner the fact that such regulation or restriction existed at the close of the taxable year. It shall be the duty of such Administrator promptly to make such certification to the Commissioner after the close of the taxable year of each corporation which is so regulated or restricted by him.

(h) EXEMPT CORPORATIONS.—

For corporations exempt from taxation under this chapter, see section 101.

(i) TAX ON PERSONAL HOLDING COMPANIES.—

For surtax on personal holding companies, see section 500.

(j) IMPROPER ACCUMULATION OF SURPLUS.—

For surtax on corporations which accumulate surplus to avoid surtax on shareholders, see section 102.

SEC. 14. TAX ON SPECIAL CLASSES OF CORPORATIONS.

(a) SPECIAL CLASS NET INCOME.—For the purposes of this chapter the term "special class net income" means the adjusted net income minus the credit for dividends received provided in section 26 (b).

(b) IMPOSITION OF TAX.—There shall be levied, collected, and paid for each taxable year upon the special class net income of the following corporations (in lieu of the tax imposed by section 13) the tax hereinafter in this section specified.

(c) CORPORATIONS WITH NET INCOMES OF NOT MORE THAN $25,000.—If the net income of the corporation is not more than $25,000, and if the corporation does not come within one of the classes specified in subsection (d), (e), (f), or (g) of this section, the tax shall be as follows:

Upon special class net incomes not in excess of $5,000, 12½ per centum.

$625 upon special class net incomes of $5,000, and upon special class net incomes in excess of $5,000 and not in excess of $20,000, 14 per centum in addition of such excess.

$2,725 upon special class net incomes of $20,000, and upon special class net incomes in excess of $20,000, 16 per centum in addition of such excess.

(d) SPECIAL CLASSES OF CORPORATIONS.—In the case of the following corporations the tax shall be an amount equal to 16½ per centum of the special class net income, regardless of the amount thereof:

(1) Banks, as defined in section 104.

(2) Corporations organized under the China Trade Act, 1922, (42 Stat. 849 (U. S. C., Title 15, c. 4).)

(3) Corporations which, by reason of deriving a large portion of their gross income from sources within a possession of the United States, are entitled to the benefits of section 251.

(e) FOREIGN CORPORATIONS.—

(1) In the case of a foreign corporation engaged in trade or business within the United States or having an office or place of business therein, the tax shall be an amount equal to 19 per centum of the special class net income, regardless of the amount thereof.

(2) In the case of a foreign corporation not engaged in trade or business within the United States and not having an office or place of business therein, the tax shall be as provided in section 231 (a).

(f) INSURANCE COMPANIES.—In the case of insurance companies, the tax shall be as provided in Supplement G.

(g) MUTUAL INVESTMENT COMPANIES.—In the case of mutual investment companies, as defined in Supplement Q, the tax shall be as provided in such Supplement.

(h) EXEMPT CORPORATIONS.—

For corporations exempt from taxation under this chapter, see section 101.

(i) TAX ON PERSONAL HOLDING COMPANIES.—

For surtax on personal holding companies, see section 500.

(j) IMPROPER ACCUMULATION OF SURPLUS.—

For surtax on corporations which accumulate surplus to avoid surtax on stockholders, see section 102.

SEC. 15. CORPORATE TAXES EFFECTIVE FOR TWO TAXABLE YEARS.

The taxes imposed by section 13, section 14 (except subsection (e) (2)), Supplement G, or Supplement Q, of this chapter, or by section 13, section 14, or Supplement G of the Revenue Act of 1936, shall not apply to any taxable year beginning after December 31, 1939.

Part II—Computation of Net Income

SEC. 21. NET INCOME.

(a) DEFINITION.—"Net income" means the gross income computed under section 22, less the deductions allowed by section 23.

(b) CROSS REFERENCES.—

For definition of "adjusted net income", see section 13 (a); for definition of "special class net income", see section 14 (a).

SEC. 22. GROSS INCOME.

(a) GENERAL DEFINITION.—"Gross income" includes gains, profits, and income derived from salaries, wages, or compensation for personal service, of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever. In the case of Presidents of the United States and judges of courts of the United States taking office after June 6, 1932, the compensation received as such shall be included in gross income; and all Acts fixing the compensation of such Presidents and judges are hereby amended accordingly.

(b) EXCLUSIONS FROM GROSS INCOME.—The following items shall not be included in gross income and shall be exempt from taxation under this chapter:

(1) LIFE INSURANCE.—Amounts received under a life insurance contract paid by reason of the death of the insured, whether in a single sum or otherwise (but if such amounts are held by the insurer under an agreement to pay interest thereon, the interest payments shall be included in gross income);

(2) ANNUITIES, ETC.—Amounts received (other than amounts paid by reason of the death of the insured and interest payments on such amounts and other than amounts received as annuities) under a life insurance or endowment contract, but if such amounts (when added to amounts received before the taxable year under such contract) exceed the aggregate premiums or consideration paid (whether or not paid during the taxable year) then the excess shall be included in gross income. Amounts received as an annuity under an annuity or endowment contract shall be included in gross income; except that there shall be excluded from gross income the excess of the amount received in the taxable year over an amount equal to 3 per centum of the aggregate premiums or consideration paid for such annuity (whether or not paid during such year), until the aggregate amount excluded from gross income under this chapter or prior income tax laws in respect of such annuity equals the aggregate premiums or consideration paid for such annuity. In the case of a transfer for a valuable consideration, by assignment or otherwise, of a life insurance, endowment, or annuity contract, or any interest therein, only the actual value of such consideration and the amount of the premiums and other sums subsequently paid by the transferee shall be exempt from taxation under paragraph (1) or this paragraph;

(3) GIFTS, BEQUESTS, AND DEVISES.—The value of property acquired by gift, bequest, devise, or inheritance (but the income from such property shall be included in gross income);

(4) TAX-FREE INTEREST.—Interest upon (A) the obligations of a State, Territory, or any political subdivision thereof, or the District of Columbia; or (B) obligations of a corporation organized under Act of Congress, if such corporation is an instrumentality of the United States; or (C) the obligations of the United States or its possessions. Every person owning any of the obligations enumerated in clause (A), (B), or (C) shall, in the return required by this chapter, submit a statement showing the number and amount of such obligations owned by him and the income received therefrom, in such form and with such information as the Commissioner may require. In the case of obligations of the United States issued after September 1, 1917 (other than postal savings certificates of deposit) and in the case of obligations of a corporation organized under Act of Congress, the interest shall be exempt only if and to the extent provided in the respective Acts authorizing the issue thereof as amended and supplemented, and shall be excluded from gross income only if and to the extent it is wholly exempt from the taxes imposed by this chapter;

(5) COMPENSATION FOR INJURIES OR SICKNESS.—Amounts received, through accident or health insurance or under workmen's compensation acts, as compensation for personal injuries or sickness, plus the amount of any damages received whether by suit or agreement on account of such injuries or sickness;

(6) MINISTERS.—The rental value of a dwelling house and appurtenances thereof furnished to a minister of the gospel as part of his compensation;

(7) INCOME EXEMPT UNDER TREATY.—Income of any kind, to the extent required by any treaty obligation of the United States;

(8) MISCELLANEOUS ITEMS.—The following items, to the extent provided in section 116:

Earned income from sources without the United States;
Salaries of certain Territorial employees;
The income of foreign governments;
Income of States, municipalities, and other political subdivisions;
Receipts of shipowners' mutual protection and indemnity associations;
Dividends from China Trade Act corporations;
Compensation of employees of foreign governments.

(c) INVENTORIES.—Whenever in the opinion of the Commissioner the use of inventories is necessary in order clearly to determine the income of any taxpayer, inventories shall be taken by such taxpayer upon such basis as the Commissioner, with the approval of the Secretary, may prescribe as conforming as nearly as may be to the best accounting practice in the trade or business and as most clearly reflecting the income.

(d) INVENTORIES IN CERTAIN INDUSTRIES.—

(1) PRODUCERS AND PROCESSORS OF CERTAIN NON-FERROUS METALS.—A taxpayer shall be entitled to elect the method of taking inventories provided in paragraph (2) if his principal business is—

(A) Smelting non-ferrous ores or concentrates, or refining non-ferrous metals, or both; or

(B) Producing brass, copper products, or brass products, or any one or more of them, not further advanced than rods, sheets, tubes, bars, plates, or strips.

(2) INVENTORIES OF RAW MATERIALS.—A taxpayer entitled to elect, and who has so elected, shall, in taking his inventory as of the close of any taxable year of raw materials which are—

(A) used in a business described in paragraph (1); and
(B) not yet included in goods in process or finished goods; and
(C) so intermingled that they cannot be identified with specific invoices;

treat such raw materials remaining on hand as being: First, those included in the inventory as of the beginning of the taxable year (in the order of acquisition) to the extent thereof, and second, those acquired in the taxable year, in the order of acquisition.

(3) TANNERS.—A taxpayer whose principal business is tanning hides or skins, or both, shall be entitled to elect (with respect to any taxable year) the method provided in paragraph (2) as to the raw materials (including those included in goods in process and in finished goods) in the business of tanning hides, or skins, or both, if so intermingled that they cannot be identified with specific invoices.

(4) INVENTORIES AT COST.—In the case of the application of the provisions of paragraph (2) or (3) all inventories of such materials shall be taken at cost, including the inventory as of the close of the preceding taxable year even though such preceding taxable year began prior to January 1, 1939.

(5) ELECTION OF METHOD.—The method provided in paragraph (2) or (3) shall not be applied unless the taxpayer, at or before the filing of his return for the preceding taxable year, has filed with the Commissioner his election to have it apply.

(6) REGULATIONS AS TO CHANGE.—The change to such method shall be made in accordance with such regulations as the Commissioner, with the approval of the Secretary, may prescribe as necessary to prevent the avoidance of tax.

(7) CHANGE TO DIFFERENT METHOD.—An election made under this subsection shall be irrevocable and the method so elected shall be applied in all subsequent taxable years notwithstanding any change

in the principal business of the taxpayer, unless with the approval of the Commissioner change to a different method is authorized, and then upon such terms and conditions and in accordance with such regulations as the Commissioner, with the approval of the Secretary, may prescribe.

(e) DISTRIBUTIONS BY CORPORATIONS.—Distributions by corporations shall be taxable to the shareholders as provided in section 115.

(f) DETERMINATION OF GAIN OR LOSS.—In the case of a sale or other disposition of property, the gain or loss shall be computed as provided in section 111.

(g) GROSS INCOME FROM SOURCES WITHIN AND WITHOUT UNITED STATES.—

For computation of gross income from sources within and without the United States, see section 119.

(h) FOREIGN PERSONAL HOLDING COMPANIES.—

For provisions relating to gross income of foreign personal holding companies and of their shareholders, see section 334.

(i) CONSENT DIVIDENDS.—

For inclusion in gross income of amounts specified in shareholders' consents, see section 28.

(j) INCOME FROM MORTGAGES MADE OR OBLIGATIONS ISSUED BY JOINT STOCK LAND BANKS.—

For taxable status of income derived from mortgages made or obligations issued by joint stock land banks, see section 3799.

SEC. 23. DEDUCTIONS FROM GROSS INCOME.

In computing net income there shall be allowed as deductions:

(a) EXPENSES.—

(1) IN GENERAL.—All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; traveling expenses (including the entire amount expended for meals and lodging) while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity.

(2) CORPORATE CHARITABLE CONTRIBUTIONS.—No deduction shall be allowable under paragraph (1) to a corporation for any contribution or gift which would be allowable as a deduction under subsection (q) were it not for the 5 per centum limitation therein contained and for the requirement therein that payment must be made within the taxable year.

(b) INTEREST.—All interest paid or accrued within the taxable year on indebtedness, except on indebtedness incurred or continued to purchase or carry obligations (other than obligations of the United States issued after September 24, 1917, and originally subscribed for by the taxpayer) the interest upon which is wholly exempt from the taxes imposed by this chapter.

(c) TAXES GENERALLY.—Taxes paid or accrued within the taxable year, except—

(1) Federal income, war-profits, and excess-profits taxes (other than the excess-profits tax imposed by section 106 of the Revenue Act of 1935, 49 Stat. 1019, or by section 600 of this title);

(2) income, war-profits, and excess-profits taxes imposed by the authority of any foreign country or possession of the United States; but this deduction shall be allowed in the case of a taxpayer who does not signify in his return his desire to have to any extent the benefits of section 131 (relating to credit for taxes of foreign countries and possessions of the United States);

(3) estate, inheritance, legacy, succession, and gift taxes; and

(4) taxes assessed against local benefits of a kind tending to increase the value of the property assessed; but this paragraph

shall not exclude the allowance as a deduction of so much of such taxes as is properly allocable to maintenance or interest charges.

(d) TAXES OF SHAREHOLDER PAID BY CORPORATION.—The deduction for taxes allowed by subsection (c) shall be allowed to a corporation in the case of taxes imposed upon a shareholder of the corporation upon his interest as shareholder which are paid by the corporation without reimbursement from the shareholder, but in such cases no deduction shall be allowed the shareholder for the amount of such taxes.

(e) LOSSES BY INDIVIDUALS.—In the case of an individual, losses sustained during the taxable year and not compensated for by insurance or otherwise—

(1) if incurred in trade or business; or

(2) if incurred in any transaction entered into for profit, though not connected with the trade or business; or

(3) of property not connected with the trade or business, if the loss arises from fires, storms, shipwreck, or other casualty, or from theft. No loss shall be allowed as a deduction under this paragraph if at the time of the filing of the return such loss has been claimed as a deduction for estate tax purposes in the estate tax return.

(f) LOSSES BY CORPORATIONS.—In the case of a corporation, losses sustained during the taxable year and not compensated for by insurance or otherwise.

(g) CAPITAL LOSSES.—

(1) LIMITATION.—Losses from sales or exchanges of capital assets shall be allowed only to the extent provided in section 117.

(2) SECURITIES BECOMING WORTHLESS.—If any securities (as defined in paragraph (3) of this subsection) become worthless during the taxable year and are capital assets, the loss resulting therefrom shall, for the purposes of this chapter, be considered as a loss from the sale or exchange, on the last day of such taxable year, of capital assets.

(3) DEFINITION OF SECURITIES.—As used in this subsection the term "securities" means (A) shares of stock in a corporation, and (B) rights to subscribe for or to receive such shares.

(h) WAGERING LOSSES.—Losses from wagering transactions shall be allowed only to the extent of the gains from such transactions.

(i) BASIS FOR DETERMINING LOSS.—The basis for determining the amount of deduction for losses sustained, to be allowed under subsection (e) or (f), and for bad debts, to be allowed under subsection (k), shall be the adjusted basis provided in section 113 (b) for determining the loss from the sale or other disposition of property.

(j) LOSS ON WASH SALES OF STOCK OR SECURITIES.—

For disallowance of loss deduction in the case of sales of stock or securities where within thirty days before or after the date of the sale the taxpayer has acquired substantially identical property, see section 118.

(k) BAD DEBTS.—

(1) GENERAL RULE.—Debts ascertained to be worthless and charged off within the taxable year (or, in the discretion of the Commissioner, a reasonable addition to a reserve for bad debts); and when satisfied that a debt is recoverable only in part, the Commissioner may allow such debt, in an amount not in excess of the part charged off within the taxable year, as a deduction. This paragraph shall not apply in the case of a taxpayer, other than a bank, as defined in section 104, with respect to a debt evidenced by a security as defined in paragraph (3) of this subsection.

(2) SECURITIES BECOMING WORTHLESS.—If any securities (as defined in paragraph (3) of this subsection) are ascertained to be worthless and charged off within the taxable year and are capital assets, the loss resulting therefrom shall, in the case of a taxpayer

other than a bank, as defined in section 104, for the purposes of this chapter, be considered as a loss from the sale or exchange, on the last day of such taxable year, of capital assets.

(3) DEFINITION OF SECURITIES.—As used in this subsection the term "securities" means bonds, debentures, notes, or certificates, or other evidences of indebtedness, issued by any corporation (including those issued by a government or political subdivision thereof), with interest coupons or in registered form.

(l) DEPRECIATION.—A reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each.

(m) DEPLETION.—In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case; such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the Commissioner, with the approval of the Secretary. In any case in which it is ascertained as a result of operations or of development work that the recoverable units are greater or less than the prior estimate thereof, then such prior estimate (but not the basis for depletion) shall be revised and the allowance under this subsection for subsequent taxable years shall be based upon such revised estimate. In the case of leases the deductions shall be equitably apportioned between the lessor and lessee. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each.

For percentage depletion allowable under this subsection, see section 114 (b), (3) and (4).

(n) BASIS FOR DEPRECIATION AND DEPLETION.—The basis upon which depletion, exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be as provided in section 114.

(o) CHARITABLE AND OTHER CONTRIBUTIONS.—In the case of an individual, contributions or gifts payment of which is made within the taxable year to or for the use of:

(1) the United States, any State, Territory, or any political subdivision thereof, or the District of Columbia, for exclusively public purposes;

(2) a domestic corporation, or domestic trust, or domestic community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation;

(3) the special fund for vocational rehabilitation authorized by section 12 of the World War Veterans' Act, 1924, 43 Stat. 611 (U. S. C., Title 38, § 440);

(4) posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private shareholder or individual; or

(5) a domestic fraternal society, order, or association, operating under the lodge system, but only if such contributions or gifts are to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals;

to an amount which in all the above cases combined does not exceed 15 per centum of the taxpayer's net income as computed without the benefit of this subsection. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the Commissioner, with the approval of the Secretary.

For unlimited deduction if contributions and gifts exceed 90 per centum of the net income, see section 120.

(p) PENSION TRUSTS.—

(1) GENERAL RULE.—An employer establishing or maintaining a pension trust to provide for the payment of reasonable pensions to his employees shall be allowed as a deduction (in addition to the contributions to such trust during the taxable year to cover the pension liability accruing during the year, allowed as a deduction under subsection (a) of this section) a reasonable amount transferred or paid into such trust during the taxable year in excess of such contributions, but only if such amount (1) has not theretofore been allowable as a deduction, and (2) is apportioned in equal parts over a period of ten consecutive years beginning with the year in which the transfer or payment is made.

(2) DEDUCTIONS UNDER PRIOR INCOME TAX ACTS.—Any deduction allowable under section 23 (q) of the Revenue Act of 1928, 45 Stat. 802, or the Revenue Act of 1932, 47 Stat. 182, or the Revenue Act of 1934, 48 Stat. 691, under section 23 (p) of the Revenue Act of 1936, 49 Stat. 1661, or the Revenue Act of 1938, 52 Stat. 464, which under such section was apportioned to any taxable year beginning after December 31, 1937, shall be allowed as a deduction in the years to which so apportioned to the extent allowable under such section if it had remained in force with respect to such year.

(3) EXEMPTION OF TRUSTS UNDER SECTION 165.—The provisions of paragraphs (1) and (2) of this subsection shall be subject to the qualification that the deduction under either paragraph shall be allowable only with respect to a taxable year (whether the year of the transfer or payment or a subsequent year) of the employer ending within or with a taxable year of the trust with respect to which the trust is exempt from tax under section 165.

(q) CHARITABLE AND OTHER CONTRIBUTIONS BY CORPORATIONS.—In the case of a corporation, contributions or gifts payment of which is made within the taxable year to or for the use of a domestic corporation, or domestic trust, or domestic community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or the prevention of cruelty to children (but in the case of contributions or gifts to a trust, chest, fund, or foundation, only if such contributions or gifts are to be used within the United States exclusively for such purposes), no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legis-

lation; to an amount which does not exceed 5 per centum of the taxpayer's net income as computed without the benefit of this subsection. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the Commissioner, with the approval of the Secretary.

(r) DIVIDENDS PAID BY BANKING CORPORATIONS.—

For deduction of dividends paid by certain banking corporations, see section 121.

SEC. 24. ITEMS NOT DEDUCTIBLE.

(a) GENERAL RULE.—In computing net income no deduction shall in any case be allowed in respect of—

(1) Personal, living, or family expenses;

(2) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate;

(3) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made;

(4) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy; or

(5) Any amount otherwise allowable as a deduction which is allocable to one or more classes of income other than interest (whether or not any amount of income of that class or classes is received or accrued) wholly exempt from the taxes imposed by this chapter.

(b) LOSSES FROM SALES OR EXCHANGES OF PROPERTY.—

(1) LOSSES DISALLOWED.—In computing net income no deduction shall in any case be allowed in respect of losses from sales or exchanges of property, directly or indirectly—

(A) Between members of a family, as defined in paragraph (2) (D);

(B) Except in the case of distributions in liquidation, between an individual and a corporation more than 50 per centum in value of the outstanding stock of which is owned, directly or indirectly, by or for such individual;

(C) Except in the case of distributions in liquidation, between two corporations more than 50 per centum in value of the outstanding stock of each of which is owned, directly or indirectly, by or for the same individual, if either one of such corporations, with respect to the taxable year of the corporation preceding the date of the sale or exchange was, under the law applicable to such taxable year, a personal holding company or a foreign personal holding company;

(D) Between a grantor and a fiduciary of any trust;

(E) Between the fiduciary of a trust and the fiduciary of another trust, if the same person is a grantor with respect to each trust; or

(F) Between a fiduciary of a trust and a beneficiary of such trust.

(2) STOCK OWNERSHIP, FAMILY, AND PARTNERSHIP RULE.—For the purposes of determining, in applying paragraph (1), the ownership of stock—

(A) Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust, shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries;

(B) An individual shall be considered as owning the stock owned, directly or indirectly, by or for his family;

(C) An individual owning (otherwise than by the application of subparagraph (B)) any stock in a corporation shall be considered as owning the stock owned, directly or indirectly, by or for his partner;

(D) The family of an individual shall include only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants; and

(E) Constructive Ownership as Actual Ownership.—Stock constructively owned by a person by reason of the application of subparagraph (A) shall, for the purpose of applying subparagraph (A), (B), or (C), be treated as actually owned by such person, but stock constructively owned by an individual by reason of the application of subparagraph (B) or (C) shall not be treated as owned by him for the purpose of again applying either of such subparagraphs in order to make another the constructive owner of such stock.

(c) UNPAID EXPENSES AND INTEREST.—In computing net income no deduction shall be allowed under section 23 (a), relating to expenses incurred, or under section 23 (b), relating to interest accrued—

(1) If such expenses or interest are not paid within the taxable year or within two and one half months after the close thereof; and

(2) If, by reason of the method of accounting of the person to whom the payment is to be made, the amount thereof is not, unless paid, includible in the gross income of such person for the taxable year in which or with which the taxable year of the taxpayer ends; and

(3) If, at the close of the taxable year of the taxpayer or at any time within two and one half months thereafter, both the taxpayer and the person to whom the payment is to be made are persons between whom losses would be disallowed under section 24 (b).

(d) HOLDERS OF LIFE OR TERMINABLE INTEREST.—Amounts paid under the laws of any State, Territory, District of Columbia, possession of the United States, or foreign country as income to the holder of a life or terminable interest acquired by gift, bequest, or inheritance shall not be reduced or diminished by any deduction for shrinkage (by whatever name called) in the value of such interest due to the lapse of time, nor by any deduction allowed by this chapter (except the deductions provided for in subsections (l) and (m) of section 23) for the purpose of computing the net income of an estate or trust but not allowed under the laws of such State, Territory, District of Columbia, possession of the United States, or foreign country for the purpose of computing the income to which such holder is entitled.

(e) TAX WITHHELD ON TAX-FREE COVENANT BONDS.—

For nondeductibility of tax withheld on tax-free covenant bonds, see section 143 (a) (3).

SEC. 25. CREDITS OF INDIVIDUAL AGAINST NET INCOME.

(a) CREDITS FOR NORMAL TAX ONLY.—There shall be allowed for the purpose of the normal tax, but not for the surtax, the following credits against the net income:

(1) INTEREST ON UNITED STATES OBLIGATIONS.—The amount received as interest upon obligations of the United States which is included in gross income under section 22.

(2) INTEREST ON OBLIGATIONS OF INSTRUMENTALITIES OF THE UNITED STATES.—The amount received as interest on obligations of a corporation organized under Act of Congress, if (A) such corporation is an instrumentality of the United States; and (B) such interest is included in gross income under section 22; and (C) under the Act authorizing the issue thereof, as amended and supplemented, such interest is exempt from normal tax.

(3) EARNED INCOME CREDIT.—10 per centum of the amount of the earned net income, but not in excess of 10 per centum of the amount of the net income.

(4) EARNED INCOME DEFINITIONS.—For the purposes of this section—

(A) "Earned income" means wages, salaries, professional fees, and other amounts received as compensation for personal services actually rendered, but does not include any amount not included in gross income, nor that part of the compensation derived by the taxpayer for personal services rendered by him to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered. In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income producing factors, a reasonable allowance as compensation for the personal services actually rendered by the taxpayer, not in excess of 20 per centum of his share of the net profits of such trade or business, shall be considered as earned income.

(B) "Earned income deductions" means such deductions as are allowed by section 23 for the purpose of computing net income, and are properly allocable to or chargeable against earned income.

(C) "Earned net income" means the excess of the amount of the earned income over the sum of the earned income deductions. If the taxpayer's net income is not more than $3,000, his entire net income shall be considered to be earned net income, and if his net income is more than $3,000, his earned net income shall not be considered to be less than $3,000. In no case shall the earned net income be considered to be more than $14,000.

(b) CREDITS FOR BOTH NORMAL TAX AND SURTAX.—There shall be allowed for the purposes of the normal tax and the surtax the following credits against net income:

(1) PERSONAL EXEMPTION.—In the case of a single person or a married person not living with husband or wife, a personal exemption of $1,000; or in the case of the head of a family or a married person living with husband or wife, a personal exemption of $2,500. A husband and wife living together shall receive but one personal exemption. The amount of such personal exemption shall be $2,500. If such husband and wife make separate returns, the personal exemption may be taken by either or divided between them.

(2) CREDIT FOR DEPENDENTS.—$400 for each person (other than husband or wife) dependent upon and receiving his chief support from the taxpayer if such dependent person is under eighteen years of age or is incapable of self-support because mentally or physically defective.

(3) CHANGE OF STATUS.—If the status of the taxpayer, insofar as it affects the personal exemption or credit for dependents, changes during the taxable year, the personal exemption and credit shall be apportioned, under rules and regulations prescribed by the Commissioner with the approval of the Secretary, in accordance with the number of months before and after such change. For the purpose of such apportionment a fractional part of a month shall be disregarded unless it amounts to more than half a month in which case it shall be considered as a month.

SEC. 26. CREDITS OF CORPORATIONS.

In the case of a corporation the following credits shall be allowed to the extent provided in the various sections imposing tax—

(a) INTEREST ON OBLIGATIONS OF THE UNITED STATES AND ITS INSTRUMENTALITIES.—The amount received as interest upon obligations of the United States or of corporations organized under Act

of Congress which is allowed to an individual as a credit for purposes of normal tax by section 25 (a) (1) or (2).

(b) DIVIDENDS RECEIVED.—85 per centum of the amount received as dividends from a domestic corporation which is subject to taxation under this chapter, but not in excess of 85 per centum of the adjusted net income. The credit allowed by this subsection shall not be allowed in respect of dividends received from a corporation organized under the China Trade Act, 1922, 42 Stat. 849 (U. S. C., Title 15, c. 4), or from a corporation which under section 251 is taxable only on its gross income from sources within the United States by reason of its receiving a large percentage of its gross income from sources within a possession of the United States.

(c) NET OPERATING LOSS OF PRECEDING YEAR.—

(1) AMOUNT OF CREDIT.—The amount of the net operating loss (as defined in paragraph (2)) of the corporation for the preceding taxable year (if beginning after December 31, 1937), but not in excess of the adjusted net income for the taxable year.

(2) DEFINITION.—As used in this chapter the term "net operating loss" means the excess of the deductions allowed by this chapter over the gross income, with the following exceptions and limitations—

(A) The deduction for depletion shall not exceed the amount which would be allowable if computed without reference to discovery value or to percentage depletion under section 114 (b) (2), (3), or (4);

(B) There shall be included in computing gross income the amount of interest received which is wholly exempt from the taxes imposed by this chapter, decreased by the amount of interest paid or accrued which is not allowed as a deduction by section 23 (b), relating to interest on indebtedness incurred or continued to purchase or carry certain tax-exempt obligations.

In the case of a taxable year beginning after December 31, 1937, and before January 1, 1939, the term "net operating loss" means net operating loss as defined in section 26 (c) of the Revenue Act of 1938, 52 Stat. 467.

(d) BANK AFFILIATES.—In the case of a holding company affiliate (as defined in section 2 of the Banking Act of 1933), the amount of the earnings or profits which the Board of Governors of the Federal Reserve System certifies to the Commissioner has been devoted by such affiliate during the taxable year to the acquisition of readily marketable assets other than bank stock in compliance with section 5144 of the Revised Statutes. The aggregate of the credits allowable under this subsection for all taxable years beginning after December 31, 1935, shall not exceed the amount required to be devoted under such section 5144 to such purposes, and the amount of the credit for any taxable year shall not exceed the adjusted net income for such year.

(e) DIVIDENDS PAID CREDIT.—

For corporation dividends paid credit, see section 27.

(f) CONSENT DIVIDENDS CREDIT.—

For corporation consent dividends credit, see section 28.

SEC. 27. CORPORATION DIVIDENDS PAID CREDIT.

(a) DEFINITION IN GENERAL.—As used in this chapter with respect to any taxable year the term "dividends paid credit" means the sum of:

(1) The basic surtax credit for such year, computed as provided in subsection (b);

(2) The dividend carry-over to such year, computed as provided in subsection (c);

(3) The amount, if any, by which any deficit in the accumulated earnings and profits, as of the close of the preceding taxable year

(whether beginning on, before, or after January 1, 1939), exceeds the amount of the credit provided in section 26 (c) (relating to net operating losses), for such preceding taxable year (if beginning after December 31, 1937); and

(4) Amounts used or irrevocably set aside to pay or to retire indebtedness of any kind, if such amounts are reasonable with respect to the size and terms of such indebtedness. As used in this paragraph the term "indebtedness" means only an indebtedness of the corporation existing at the close of business on December 31, 1937, and evidenced by a bond, note, debenture, certificate of indebtedness, mortgage, or deed of trust, issued by the corporation and in existence at the close of business on December 31, 1937, or by a bill of exchange accepted by the corporation prior to, and in existence at, the close of business on such date. Where the indebtedness is for a principal sum, with interest, no credit shall be allowed under this paragraph for amounts used or set aside to pay such interest.

(b) BASIC SURTAX CREDIT.—As used in this chapter the term "basic surtax credit" means the sum of:

(1) The dividends paid during the taxable year, increased by the consent dividends credit provided in section 28, and reduced by the amount of the credit provided in section 26 (a), relating to interest on certain obligations of the United States and Government corporations;

(2) The net operating loss credit provided in section 26 (c) (1);

(3) The bank affiliate credit provided in section 26 (d).

The aggregate of the amounts under paragraphs (2) and (3) shall not exceed the adjusted net income for the taxable year.

(c) DIVIDEND CARRY-OVER.—There shall be computed with respect to each taxable year of a corporation a dividend carry-over to such year from the two preceding taxable years, which shall consist of the sum of—

(1) The amount of the basic surtax credit for the second preceding taxable year, reduced by the adjusted net income for such year, and further reduced by the amount, if any, by which the adjusted net income for the first preceding taxable year exceeds the sum of—

(A) The basic surtax credit for such year; and

(B) The excess, if any, of the basic surtax credit for the third preceding taxable year over the adjusted net income for such year; and

(2) The amount, if any, by which the basic surtax credit for the first preceding taxable year exceeds the adjusted net income for such year.

In the case of a preceding taxable year, referred to in this subsection, which begins in 1937, the adjusted net income shall be the adjusted net income as defined in section 14 of the Revenue Act of 1936, and the basic surtax credit shall be only the dividends paid credit computed under the Revenue Act of 1936 without the benefit of the dividend carry-over provided in section 27 (b) of such Act. In the case of a preceding taxable year, referred to in this subsection, which begins in 1938, the adjusted net income shall be the adjusted net income as defined in section 13 (a) of the Revenue Act of 1938, 52 Stat. 455, and the basic surtax credit shall be the basic surtax credit as defined in section 27 of the Revenue Act of 1938, 52 Stat. 468.

(d) DIVIDENDS IN KIND.—If a dividend is paid in property other than money (including stock of the corporation if held by the corporation as an investment) the amount with respect thereto which shall be used in computing the basic surtax credit shall be the adjusted basis of the property in the hands of the corporation at

the time of the payment, or the fair market value of the property at the time of the payment, whichever is the lower.

(e) DIVIDENDS IN OBLIGATIONS OF THE CORPORATION.—If a dividend is paid in obligations of the corporation, the amount with respect thereto which shall be used in computing the basic surtax credit shall be the face value of the obligations, or their fair market value at the time of the payment, whichever is the lower. If the fair market value of any such dividend paid in any taxable year of the corporation beginning after December 31, 1935, is lower than the face value, then when the obligation is redeemed by the corporation the excess of the amount for which redeemed over the fair market value at the time of the dividend payment (to the extent not allowable as a deduction in computing net income for any taxable year) shall be treated as a dividend paid in the taxable year in which the redemption occurs.

(f) TAXABLE STOCK DIVIDENDS.—In case of a stock dividend or stock right which is a taxable dividend in the hands of shareholders under section 115 (f), the amount with respect thereto which shall be used in computing the basic surtax credit shall be the fair market value of the stock or the stock right at the time of the payment.

(g) DISTRIBUTIONS IN LIQUIDATION.—In the case of amounts distributed in liquidation the part of such distribution which is properly chargeable to the earnings or profits accumulated after February 28, 1913, shall, for the purposes of computing the basic surtax credit under this section, be treated as a taxable dividend paid.

(h) PREFERENTIAL DIVIDENDS.—The amount of any distribution (although each portion thereof is received by a shareholder as a taxable dividend), not made in connection with a consent distribution (as defined in section 28 (a) (4)), shall not be considered as dividends paid for the purpose of computing the basic surtax credit, unless such distribution is pro rata, with no preference to any share of stock as compared with other shares of the same class, and with no preference to one class of stock as compared with another class except to the extent that the former is entitled (without reference to waivers of their rights by shareholders) to such preference.

For a distribution made in connection with a consent distribution, see section 28.

(i) NONTAXABLE DISTRIBUTIONS.—If any part of a distribution (including stock dividends and stock rights) is not a taxable dividend in the hands of such of the shareholders as are subject to taxation under this chapter for the period in which the distribution is made, such part shall not be included in computing the basic surtax credit.

SEC. 28. CONSENT DIVIDENDS CREDIT.

(a) DEFINITIONS.—As used in this section—

(1) CONSENT STOCK.—The term "consent stock" means the class or classes of stock entitled, after the payment of preferred dividends (as defined in paragraph (2)), to a share in the distribution (other than in complete or partial liquidation) within the taxable year of all the remaining earnings or profits, which share constitutes the same proportion of such distribution regardless of the amount of such distribution.

(2) PREFERRED DIVIDENDS.—The term "preferred dividends" means a distribution (other than in complete or partial liquidation), limited in amount, which must be made on any class of stock before a further distribution (other than in complete or partial liquidation) of earnings or profits may be made within the taxable year.

(3) CONSENT DIVIDENDS DAY.—The term "consent dividends day" means the last day of the taxable year of the corporation, unless during the last month of such year there have occurred one or more

days on which was payable a partial distribution (as defined in paragraph (5)), in which case it means the last of such days.

(4) CONSENT DISTRIBUTION.—The term "consent distribution" means the distribution which would have been made if on the consent dividends day (as defined in paragraph (3)) there had actually been distributed in cash and received by each shareholder making a consent filed by the corporation under subsection (d), the specific amount stated in such consent.

(5) PARTIAL DISTRIBUTION.—The term "partial distribution" means such part of an actual distribution, payable during the last month of the taxable year of the corporation, as constitutes a distribution on the whole or any part of the consent stock (as defined in paragraph (1)), which part of the distribution, if considered by itself and not in connection with a consent distribution (as defined in paragraph (4)), would be a preferential distribution, as defined in paragraph (6).

(6) PREFERENTIAL DISTRIBUTION.—The term "preferential distribution" means a distribution which is not pro rata, or which is with preference to any share of stock as compared with other shares of the same class, or to any class of consent stock as compared with any other class of consent stock.

(b) CORPORATIONS NOT ENTITLED TO CREDIT.—A corporation shall not be entitled to a consent dividends credit with respect to any taxable year—

(1) Unless, at the close of such year, all preferred dividends (for the taxable year and, if cumulative, for prior taxable years) have been paid; or

(2) If, at any time during such year, the corporation has taken any steps in, or in pursuance of a plan of, complete or partial liquidation of all or any part of the consent stock.

(c) ALLOWANCE OF CREDIT.—There shall be allowed to the corporation, as a part of its basic surtax credit for the taxable year, a consent dividends credit equal to such portion of the total sum agreed to be included in the gross income of shareholders by their consents filed under subsection (d) as it would have been entitled to include in computing its basic surtax credit if actual distribution of an amount equal to such total sum had been made in cash and each shareholder making such a consent had received, on the consent dividends day, the amount specified in the consent.

(d) SHAREHOLDERS' CONSENTS.—The corporation shall not be entitled to a consent dividends credit with respect to any taxable year—

(1) Unless it files with its return for such year (in accordance with regulations prescribed by the Commissioner with the approval of the Secretary) signed consents made under oath by persons who were shareholders, on the last day of the taxable year of the corporation, of any class of consent stock; and

(2) Unless in each such consent the shareholder agrees that he will include as a taxable dividend, in his return for the taxable year in which or with which the taxable year of the corporation ends, a specific amount; and

(3) Unless the consents filed are made by such of the shareholders and the amount specified in each consent is such, that the consent distribution would not have been a preferential distribution—

(A) If there was no partial distribution during the last month of the taxable year of the corporation, or

(B) If there was such a partial distribution, then when considered in connection with such partial distribution;

and

(4) Unless in each consent made by a shareholder who is taxable with respect to a dividend only if received from sources within the United States, such shareholder agrees that the specific amount stated in the consent shall be considered as a dividend received by him from sources within the United States; and

(5) Unless each consent filed is accompanied by cash, or such other medium of payment as the Commissioner may by regulations authorize, in an amount equal to the amount that would be required by section 143 (b) or 144 to be deducted and withheld by the corporation if the amount specified in the consent had been, on the last day of the taxable year of the corporation, paid to the shareholder in cash as a dividend. The amount accompanying the consent shall be credited against the tax imposed by section 211 (a) or 231 (a) upon the shareholder.

(e) CONSENT DISTRIBUTION AS PART OF ENTIRE DISTRIBUTION.—If during the last month of the taxable year with respect to which shareholders' consents are filed by the corporation under subsection (d) there is made a partial distribution, then, for the purposes of this chapter, such partial distribution and the consent distribution shall be considered as having been made in connection with each other and each shall be considered together with the other as one entire distribution.

(f) TAXABILITY OF AMOUNTS SPECIFIED IN CONSENTS.—The total amount specified in a consent filed under subsection (d) shall be included as a taxable dividend in the gross income of the shareholder making such consent, and, if the shareholder is taxable with respect to a dividend only if received from sources within the United States, shall be included in the computation of his tax as a dividend received from sources within the United States; regardless of—

(1) Whether he actually so includes it in his return; and

(2) Whether the distribution by the corporation of an amount equal to the total sum included in all the consents filed, had actual distribution been made, would have been in whole or in part a taxable dividend; and

(3) Whether the corporation is entitled to any consent dividends credit by reason of the filing of such consents, or to a credit less than the total sum included in all the consents filed.

(g) CORPORATE SHAREHOLDERS.—If the shareholder who makes the consent is a corporation, the amount specified in the consent shall be considered as part of its earnings or profits for the taxable year, and shall be included in the computation of its accumulated earnings and profits.

(h) BASIS OF STOCK IN HANDS OF SHAREHOLDERS.—The amount specified in a consent made under subsection (d) shall, for the purpose of adjusting the basis of the consent stock with respect to which the consent was given, be treated as having been reinvested by the shareholder as a contribution to the capital of the corporation; but only in an amount which bears the same ratio to the consent dividends credit of the corporation as the amount of such shareholder's consent stock bears to the total amount of consent stock with respect to which consents are made.

(i) EFFECT ON CAPITAL ACCOUNT OF CORPORATION.—The amount of the consent dividends credit allowed under subsection (c) shall be considered as paid in surplus or as a contribution to the capital of the corporation, and the accumulated earnings and profits as of the close of the taxable year shall be correspondingly reduced.

(j) AMOUNTS NOT INCLUDED IN SHAREHOLDER'S RETURN.—The failure of a shareholder of consent stock to include in his gross income for the proper taxable year the amount specified in the consent made by him and filed by the corporation, shall have the same effect, with respect to the deficiency resulting therefrom, as is provided in section 272 (f) with respect to a deficiency resulting from a mathematical error appearing on the face of the return.

Part III—Credits Against Tax

SEC. 31. TAXES OF FOREIGN COUNTRIES AND POSSESSIONS OF UNITED STATES.

The amount of income, war-profits, and excess-profits taxes imposed by foreign countries or possessions of the United States shall be allowed as a credit against the tax, to the extent provided in section 131.

SEC. 32. TAXES WITHHELD AT SOURCE.

The amount of tax withheld at the source under section 143 or 144 shall be allowed as a credit against the tax.

SEC. 33. CREDIT FOR OVERPAYMENTS.

For credit against the tax of overpayments of taxes imposed by this chapter for other taxable years, see section 322.

Part IV—Accounting Periods and Methods of Accounting

SEC. 41. GENERAL RULE.

The net income shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer; but if no such method of accounting has been so employed, or if the method employed does not clearly reflect the income, the computation shall be made in accordance with such method as in the opinion of the Commissioner does clearly reflect the income. If the taxpayer's annual accounting period is other than a fiscal year as defined in section 48 or if the taxpayer has no annual accounting period or does not keep books, the net income shall be computed on the basis of the calendar year.

For use of inventories, see section 22 (c).

SEC. 42. PERIOD IN WHICH ITEMS OF GROSS INCOME INCLUDED.

The amount of all items of gross income shall be included in the gross income for the taxable year in which received by the taxpayer, unless, under methods of accounting permitted under section 41, any such amounts are to be properly accounted for as of a different period. In the case of the death of a taxpayer there shall be included in computing net income for the taxable period in which falls the date of his death, amounts accrued up to the date of his death if not otherwise properly includible in respect of such period or a prior period.

SEC. 43. PERIOD FOR WHICH DEDUCTIONS AND CREDITS TAKEN.

The deductions and credits (other than the corporation dividends paid credit provided in section 27) provided for in this chapter shall be taken for the taxable year in which "paid or accrued" or "paid or incurred", dependent upon the method of accounting upon the basis of which the net income is computed, unless in order to clearly reflect the income the deductions or credits should be taken as of a different period. In the case of the death of a taxpayer there shall be allowed as deductions and credits for the taxable period in which falls the date of his death, amounts accrued up to the date of his death (except deductions under section 23 (o)) if not otherwise properly allowable in respect of such period or a prior period.

SEC. 44. INSTALLMENT BASIS.

(a) DEALERS IN PERSONAL PROPERTY.—Under regulations prescribed by the Commissioner with the approval of the Secretary, a person who regularly sells or otherwise disposes of personal property on the installment plan may return as income therefrom in any taxable year that proportion of the installment payments actually received in that year which the gross profit realized or to be realized when payment is completed, bears to the total contract price.

(b) SALES OF REALTY AND CASUAL SALES OF PERSONALITY.—In the case (1) of a casual sale or other casual disposition of personal property (other than property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year), for a price exceeding $1,000, or (2) of a sale or other disposition of real property, if in either case the initial payments do not exceed 30 per centum of the selling price (or, in case the sale or other disposition was in a taxable year beginning prior to January 1, 1934, the percentage of the selling price prescribed in the law applicable to such year), the income may, under regulations prescribed by the Commissioner with the approval of the Secretary, be returned on the basis and in the manner above prescribed in this section. As used in this section the term "initial payments" means the payments received in cash or property other than evidences of indebtedness of the purchaser during the taxable period in which the sale or other disposition is made.

(c) CHANGE FROM ACCRUAL TO INSTALLMENT BASIS.—If a taxpayer entitled to the benefits of subsection (a) elects for any taxable year to report his net income on the installment basis, then in computing his income for the year of change or any subsequent year, amounts actually received during any such year on account of sales or other dispositions of property made in any prior year shall not be excluded.

(d) GAIN OR LOSS UPON DISPOSITION OF INSTALLMENT OBLIGATIONS.—If an installment obligation is satisfied at other than its face value or distributed, transmitted, sold, or otherwise disposed of, gain or loss shall result to the extent of the difference between the basis of the obligation and (1) in the case of satisfaction at other than face value or a sale or exchange—the amount realized, or (2) in case of a distribution, transmission, or disposition otherwise than by sale or exchange—the fair market value of the obligation at the time of such distribution, transmission, or disposition. Any gain or loss so resulting shall be considered as resulting from the sale or exchange of the property in respect of which the installment obligation was received. The basis of the obligation shall be the excess of the face value of the obligation over an amount equal to the income which would be returnable were the obligation satisfied in full. This subsection shall not apply to the transmission at death of installment obligations if there is filed with the Commissioner, at such time as he may by regulation prescribe, a bond in such amount and with such sureties as he may deem necessary, conditioned upon the return as income, by the person receiving any payment on such obligations, of the same proportion of such payment as would be returnable as income by the decedent if he had lived and had received such payment. If an installment obligation is distributed by one corporation to another corporation in the course of a liquidation, and under section 112 (b) (6) no gain or loss with respect to the receipt of such obligation is recognized in the case of the recipient corporation, then no gain or loss with respect to the distribution of such obligation shall be recognized in the case of the distributing corporation.

SEC. 45. ALLOCATION OF INCOME AND DEDUCTIONS.

In any case of two or more organizations, trades, or businesses (whether or not incorporated, whether or not organized in the United States, and whether or not affiliated) owned or controlled directly or indirectly by the same interests, the Commissioner is authorized to distribute, apportion, or allocate gross income or deductions between or among such organizations, trades, or businesses, if he determines that such distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any of such organizations, trades, or businesses.

SEC. 46. CHANGE OF ACCOUNTING PERIOD.

If a taxpayer changes his accounting period from fiscal year to calendar year, from calendar year to fiscal year, or from one fiscal year to another, the net income shall, with the approval of the Commissioner, be computed on the basis of such new accounting period, subject to the provisions of section 47.

SEC. 47. RETURNS FOR A PERIOD OF LESS THAN TWELVE MONTHS.

(a) RETURNS FOR SHORT PERIOD RESULTING FROM CHANGE OF ACCOUNTING PERIOD.—If a taxpayer, with the approval of the Commissioner, changes the basis of computing net income from fiscal year to calendar year a separate return shall be made for the period between the close of the last fiscal year for which return was made and the following December 31. If the change is from calendar year to fiscal year, a separate return shall be made for the period between the close of the last calendar year for which return was made and the date designated as the close of the fiscal year. If the change is from one fiscal year to another fiscal year a separate return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year.

(b) INCOME COMPUTED ON BASIS OF SHORT PERIOD.—Where a separate return is made under subsection (a) on account of a change in the accounting period, and in all other cases where a separate return is required or permitted, by regulations prescribed by the Commissioner with the approval of the Secretary, to be made for a fractional part of a year, then the income shall be computed on the basis of the period for which separate return is made.

(c) INCOME PLACED ON ANNUAL BASIS.—If a separate return is made (except returns of the income of a corporation) under subsection (a) on account of a change in the accounting period, the net income, computed on the basis of the period for which separate return is made, shall be placed on an annual basis by multiplying the amount thereof by twelve and dividing by the number of months included in the period for which the separate return is made. The tax shall be such part of the tax computed on such annual basis as the number of months in such period is of twelve months.

(d) EARNED INCOME.—The Commissioner with the approval of the Secretary shall by regulations prescribe the method of applying the provisions of subsections (b) and (c) (relating to computing income on the basis of a short period, and placing such income on an annual basis) to cases where the taxpayer makes a separate return under subsection (a) on account of a change in the accounting period, and it appears that for the period for which the return is so made he has received earned income.

(e) REDUCTION OF CREDITS AGAINST NET INCOME.—In the case of a return made for a fractional part of a year, except a return made under subsection (a), on account of a change in the accounting period, the personal exemption and credit for dependents shall be reduced respectively to amounts which bear the same ratio to the full credits provided as the number of months in the period for which return is made bears to twelve months.

(f) CLOSING OF TAXABLE YEAR IN CASE OF JEOPARDY.—

For closing of taxable year in case of jeopardy, see section 146.

SEC. 48. DEFINITIONS.

When used in this chapter—

(a) TAXABLE YEAR.—"Taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed under this Part. "Taxable year" includes, in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the Commissioner with the approval of the Secretary, the period for which such return is made.

(b) FISCAL YEAR.—"Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.

(c) "PAID OR INCURRED", "PAID OR ACCRUED".—The terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under this Part.

(d) TRADE OR BUSINESS.—The term "trade or business" includes the performance of the functions of a public office.

Part V—Returns and Payment of Tax

SEC. 51. INDIVIDUAL RETURNS.

(a) REQUIREMENT.—The following individuals shall each make under oath a return stating specifically the items of his gross income and the deductions and credits allowed under this chapter and such other information for the purpose of carrying out the provisions of this chapter as the Commissioner with the approval of the Secretary may by regulations prescribe—

(1) Every individual who is single or who is married but not living with husband or wife, if—

(A) Having a net income for the taxable year of $1,000 or over; or

(B) Having a gross income for the taxable year of $5,000 or over, regardless of the amount of the net income.

(2) Every individual who is married and living with husband or wife, if no joint return is made under subsection (b) and if—

(A) Such individual has for the taxable year a net income of $2,500 or over or a gross income of $5,000 or over (regardless of the amount of the net income), and the other spouse has no gross income; or

(B) Such individual and his spouse each has for the taxable year a gross income (regardless of the amount of the net income) and the aggregate net income of the two is $2,500 or over; or

(C) Such individual and his spouse each has for the taxable year a gross income (regardless of the amount of the net income) and the aggregate gross income is $5,000 or over.

(b) HUSBAND AND WIFE.—In the case of a husband and wife living together the income of each (even though one has no gross income) may be included in a single return made by them jointly, in which case the tax shall be computed on the aggregate income, and the liability with respect to the tax shall be joint and several. No joint return may be made if either the husband or wife is a nonresident alien.

(c) PERSONS UNDER DISABILITY.—If the taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer.

(d) SIGNATURE PRESUMED CORRECT.—The fact that an individual's name is signed to a filed return shall be prima facie evidence for all purposes that the return was actually signed by him.

(e) FIDUCIARIES.—

For returns to be made by fiduciaries, see section 142.

SEC. 52. CORPORATION RETURNS.

(a) REQUIREMENT.—Every corporation subject to taxation under this chapter shall make a return, stating specifically the items of its gross income and the deductions and credits allowed by this chapter and such other information for the purpose of carrying out the provisions of this chapter as the Commissioner with the approval of the Secretary may by regulations prescribe. The return shall be sworn to by the president, vice president, or other principal officer and by

the treasurer, assistant treasurer, or chief accounting officer. In cases where receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations, such receivers, trustees, or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns made by receivers, trustees, or assignees shall be collected in the same manner as if collected from the corporations of whose business or property they have custody and control.

(b) CROSS REFERENCE.

For provisions as to consolidated returns in the case of railroad corporations, see section 141.

SEC. 53. TIME AND PLACE FOR FILING RETURNS.

(a) TIME FOR FILING.—

(1) GENERAL RULE.—Returns made on the basis of the calendar year shall be made on or before the 15th day of March following the close of the calendar year. Returns made on the basis of a fiscal year shall be made on or before the 15th day of the third month following the close of the fiscal year.

(2) EXTENSION OF TIME.—The Commissioner may grant a reasonable extension of time for filing returns, under such rules and regulations as he shall prescribe with the approval of the Secretary. Except in the case of taxpayers who are abroad, no such extension shall be for more than six months.

(b) TO WHOM RETURN MADE.—

(1) INDIVIDUALS.—Returns (other than corporation returns) shall be made to the collector for the district in which is located the legal residence or principal place of business of the person making the return, or, if he has no legal residence or principal place of business in the United States, then to the collector at Baltimore, Maryland.

(2) CORPORATIONS.—Returns of corporations shall be made to the collector of the district in which is located the principal place of business or principal office or agency of the corporation, or, if it has no principal place of business or principal office or agency in the United States, then to the collector at Baltimore, Maryland.

SEC. 54. RECORDS AND SPECIAL RETURNS.

(a) BY TAXPAYER.—Every person liable to any tax imposed by this chapter or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

(b) TO DETERMINE LIABILITY TO TAX.—Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records, as the Commissioner deems sufficient to show whether or not such person is liable to tax under this chapter.

(c) INFORMATION AT THE SOURCE.—

For requirement of statements and returns by one person to assist in determining the tax liability of another person, see sections 147 to 150.

(d) COPIES OF RETURNS.—If any person, required by law or regulations made pursuant to law to file a copy of any income return for any taxable year, fails to file such copy at the time required, there shall be due and assessed against such person $5 in the case of an individual return or $10 in the case of a fiduciary, partnership, or corporation return, and the collector with whom the return is filed shall prepare such copy. Such amount shall be collected and paid, without interest, in the same manner as the amount of tax due in excess of that shown by the taxpayer upon a return in the case of a mathematical error appearing on the face of the return. Copies

of returns filed or prepared pursuant to this subsection shall remain on file for a period of not less than two years from the date they are required to be filed, and may be destroyed at any time thereafter under the direction of the Commissioner.

(e) FOREIGN PERSONAL HOLDING COMPANIES.—

For information returns by officers, directors, and large shareholders, with respect to foreign personal holding companies, see sections 338, 339, and 340.

For information returns by attorneys, accountants, and so forth, as to formation, and so forth, of foreign corporations, see section 3604.

SEC. 55. PUBLICITY OF RETURNS.

(a) PUBLIC RECORD AND INSPECTION.—

(1) Returns made under this chapter upon which the tax has been determined by the Commissioner shall constitute public records; but, except as hereinafter provided in this section, they shall be open to inspection only upon order of the President and under rules and regulations prescribed by the Secretary and approved by the President.

(2) And all returns made under this chapter, subchapters A, B, and D of chapter 2, subchapter B of chapter 3, chapters 4, 7, 12, and 21, subchapter A of chapter 29, and subchapters A and B of chapter 30, shall constitute public records and shall be open to public examination and inspection to such extent as shall be authorized in rules and regulations promulgated by the President.

(3) Whenever a return is open to the inspection of any person a certified copy thereof shall, upon request, be furnished to such person under rules and regulations prescribed by the Commissioner with the approval of the Secretary. The Commissioner may prescribe a reasonable fee for furnishing such copy.

(b) INSPECTION BY STATES.—

(1) STATE OFFICERS.—The proper officers of any State may, upon the request of the governor thereof, have access to the returns of any corporation, or to an abstract thereof showing the name and income of the corporation, at such times and in such manner as the Secretary may prescribe.

(2) STATE BODIES OR COMMISSIONS.—All income returns filed under this chapter (or copies thereof, if so prescribed by regulations made under this subsection), shall be open to inspection by any official, body, or commission, lawfully charged with the administration of any State tax law, if the inspection is for the purpose of such administration or for the purpose of obtaining information to be furnished to local taxing authorities as provided in this paragraph. The inspection shall be permitted only upon written request of the governor of such State, designating the representative of such official, body, or commission to make the inspection on behalf of such official, body, or commission. The inspection shall be made in such manner, and at such times and places, as shall be prescribed by regulations made by the Commissioner with the approval of the Secretary. Any information thus secured by any official, body, or commission of any State may be used only for the administration of the tax laws of such State, except that upon written request of the Governor of such State any such information may be furnished to any official, body, or commission of any political subdivision of such State, lawfully charged with the administration of the tax laws of such political subdivision, but may be furnished only for the purpose of, and may be used only for, the administration of such tax laws.

(c) INSPECTION BY SHAREHOLDERS.—All bona fide shareholders of record owning 1 per centum or more of the outstanding stock of any corporation shall, upon making request of the Commissioner, be allowed to examine the annual income returns of such corporation and of its subsidiaries.

(d) INSPECTION BY COMMITTEES OF CONGRESS.—

(1) COMMITTEES ON WAYS AND MEANS AND FINANCE.—

(A) The Secretary and any officer or employee of the Treasury Department, upon request from the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, or a select committee of the Senate or House specially authorized to investigate returns by a resolution of the Senate or House, or a joint committee so authorized by concurrent resolution, shall furnish such committee sitting in executive session with any data of any character contained in or shown by any return.

(B) Any such committee shall have the right, acting directly as a committee, or by or through such examiners or agents as it may designate or appoint, to inspect any or all of the returns at such times and in such manner as it may determine.

(C) Any relevant or useful information thus obtained may be submitted by the committee obtaining it to the Senate or the House, or to both the Senate and the House, as the case may be.

(2) JOINT COMMITTEE ON INTERNAL REVENUE TAXATION.—The Joint Committee on Internal Revenue Taxation shall have the same right to obtain data and to inspect returns as the Committee on Ways and Means or the Committee on Finance, and to submit any relevant or useful information thus obtained to the Senate, the House of Representatives, the Committee on Ways and Means, or the Committee on Finance. The Committee on Ways and Means or the Committee on Finance may submit such information to the House or to the Senate, or to both the House and the Senate, as the case may be.

(e) INSPECTION IN COLLECTOR'S OFFICE OF LIST OF TAXPAYERS.—The Commissioner shall as soon as practicable in each year cause to be prepared and made available to public inspection in such manner as he may determine, in the office of the collector in each internal revenue district and in such other places as he may determine, lists containing the name and the post-office address of each person making an income-tax return in such district.

(f) PENALTIES FOR DISCLOSING INFORMATION.—

(1) FEDERAL EMPLOYEES AND OTHER PERSONS.—It shall be unlawful for any collector, deputy collector, agent, clerk, or other officer or employee of the United States to divulge or to make known in any manner whatever not provided by law to any person the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any income return, or to permit any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; and it shall be unlawful for any person to print or publish in any manner whatever not provided by law any income return, or any part thereof or source of income, profits, losses, or expenditures appearing in any income return; and any offense against the foregoing provision shall be a misdemeanor and be punished by a fine not exceeding $1,000 or by imprisonment not exceeding one year, or both, at the discretion of the court; and if the offender be an officer or employee of the United States he shall be dismissed from office or discharged from employment.

(2) STATE EMPLOYEES.—Any officer, employee, or agent of any State or political subdivision, who divulges (except as authorized in paragraph 2 of subsection (b), or when called upon to testify in any judicial or administrative proceeding to which the State or political subdivision, or such State or local official, body, or commission, as such, is a party) any information acquired by him through an inspection permitted him or another under paragraph

2 of subsection (b) shall be guilty of a misdemeanor and shall upon conviction be punished by a fine of not more than $1,000, or by imprisonment for not more than one year, or both.

(3) SHAREHOLDERS.—Any shareholder who pursuant to the provisions of this section is allowed to examine the return of any corporation, and who makes known in any manner whatever not provided by law the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any such return, shall be guilty of a misdemeanor and be punished by a fine not exceeding $1,000 or by imprisonment not exceeding one year, or both.

(4) CROSS REFERENCE.—

For penalties for disclosing operations, style of work, or apparatus of any manufacturer or producer, see section 4047.

SEC. 56. PAYMENT OF TAX.

(a) TIME OF PAYMENT.—The total amount of tax imposed by this chapter shall be paid on the fifteenth day of March following the close of the calendar year, or, if the return should be made on the basis of a fiscal year, then on the fifteenth day of the third month following the close of the fiscal year.

(b) INSTALLMENT PAYMENTS.—The taxpayer may elect to pay the tax in four equal installments, in which case the first installment shall be paid on the date prescribed for the payment of the tax by the taxpayer, the second installment shall be paid on the fifteenth day of the third month, the third installment on the fifteenth day of the sixth month, and the fourth installment on the fifteenth day of the ninth month, after such date. If any installment is not paid on or before the date fixed for its payment, the whole amount of the tax unpaid shall be paid upon notice and demand from the collector.

(c) EXTENSION OF TIME FOR PAYMENT.—

(1) GENERAL RULE.—At the request of the taxpayer, the Commissioner may extend the time for payment of the amount determined as the tax by the taxpayer, or any installment thereof, for a period not to exceed six months from the date prescribed for the payment of the tax or an installment thereof. In such case the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension.

(2) LIQUIDATION OF PERSONAL HOLDING COMPANIES.—At the request of the taxpayer, the Commissioner may (under regulations prescribed by the Commissioner with the approval of the Secretary) extend (for a period not to exceed five years from the date prescribed for the payment of the tax) the time for the payment of such portion of the amount determined as the tax by the taxpayer as is attributable to the short-term or long-term capital gain derived by the taxpayer from the receipt by him of property other than money upon the complete liquidation (as defined in section 115 (c)) of a corporation. This paragraph shall apply only if the corporation, for its taxable year preceding the year in which occurred the complete liquidation (or the first of the series of distributions referred to in such section), was, under the law applicable to such taxable year, a personal holding company or a foreign personal holding company. An extension under this paragraph shall be granted only if it is shown to the satisfaction of the Commissioner that the failure to grant it will result in undue hardship to the taxpayer. If an extension is granted the amount with respect to which the extension is granted shall be paid on or before the date of the expiration of the extension. If an extension is granted under this paragraph the Commissioner may require the taxpayer to furnish a bond in such amount, not exceeding double the amount with respect to which the extension is granted, and with such

sureties as the Commissioner deems necessary, conditioned upon the payment of the amount with respect to which the extension is granted in accordance with the terms of the extension.

(d) VOLUNTARY ADVANCE PAYMENT.—A tax imposed by this chapter, or any installment thereof, may be paid, at the election of the taxpayer, prior to the date prescribed for its payment.

(e) ADVANCE PAYMENT IN CASE OF JEOPARDY.—

For advance payment in case of jeopardy, see section 146.

(f) TAX WITHHELD AT SOURCE.—

For requirement of withholding tax at the source in the case of nonresident aliens and foreign corporations, and in the case of so-called "tax-free covenant bonds", see sections 143 and 144.

(g) FRACTIONAL PARTS OF CENT.—In the payment of any tax under this chapter a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

(h) RECEIPTS.—Every collector to whom any payment of any income tax is made shall upon request give to the person making such payment a full written or printed receipt therefor.

SEC. 57. EXAMINATION OF RETURN AND DETERMINATION OF TAX.

As soon as practicable after the return is filed the Commissioner shall examine it and shall determine the correct amount of the tax.

SEC. 58. ADDITIONS TO TAX AND PENALTIES.

(a) For additions to the tax in case of negligence or fraud in the nonpayment of tax or failure to file return therefor, see Supplement M.

(b) For criminal penalties for nonpayment of tax or failure to file return therefor, see section 145.

SEC. 59. ADMINISTRATIVE PROCEEDINGS.

For administrative proceedings in respect of the nonpayment or overpayment of a tax imposed by this chapter, see as follows:

(a) Supplement L, relating to assessment and collection of deficiencies.

(b) Supplement M, relating to interest and additions to tax.

(c) Supplement N, relating to claims against transferees and fiduciaries.

(d) Supplement O, relating to overpayments.

SEC. 60. CROSS REFERENCES.

For general provisions relating to—

(a) Information and returns, see chapter 34.

(b) Assessment, see chapter 35.

(c) Collection, see chapter 36.

Part VI—Miscellaneous Provisions

SEC. 61. LAWS MADE APPLICABLE.

All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, shall be extended to and made a part of this chapter.

SEC. 62. RULES AND REGULATIONS.

The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this chapter.

SEC. 63. PUBLICATION OF STATISTICS.

The Commissioner, with the approval of the Secretary, shall prepare and publish annually statistics reasonably available with respect to the operation of the income, war-profits and excess-profits tax laws, including classifications of taxpayers and of income, the amounts allowed as deductions, exemptions, and credits, and any other facts deemed pertinent and valuable.

SEC. 64. DEFINITIONS.

For definitions of a general character, see section 3797.

SUBCHAPTER C—SUPPLEMENTAL PROVISIONS

Supplement A—Rates of Tax

[Supplementary to Subchapter B, Part I]

SEC. 101. EXEMPTIONS FROM TAX ON CORPORATIONS.

The following organizations shall be exempt from taxation under this chapter—

(1) Labor, agricultural, or horticultural organizations;

(2) Mutual savings banks not having a capital stock represented by shares;

(3) Fraternal beneficiary societies, orders, or associations, (A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system; and (B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents;

(4) Domestic building and loan associations substantially all the business of which is confined to making loans to members; and cooperative banks without capital stock organized and operated for mutual purposes and without profit;

(5) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(6) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation;

(7) Business leagues, chambers of commerce, real-estate boards, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(8) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes;

(9) Clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder;

(10) Benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations; but only if 85 per centum or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses;

(11) Farmers' or other mutual hail, cyclone, casualty, or fire insurance companies or associations (including interinsurers and reciprocal underwriters) the income of which is used or held for the purpose of paying losses or expenses;

(12) Farmers', fruit growers', or like associations organized and operated on a cooperative basis (a) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing expenses,

on the basis of either the quantity or the value of the products furnished by them, or (b) for the purpose of purchasing supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses. Exemption shall not be denied any such association because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 per centum per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the association, upon dissolution or otherwise, beyond the fixed dividends) is owned by producers who market their products or purchase their supplies and equipment through the association; nor shall exemption be denied any such association because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose. Such an association may market the products of nonmembers in an amount the value of which does not exceed the value of the products marketed for members, and may purchase supplies and equipment for nonmembers in an amount the value of which does not exceed the value of the supplies and equipment purchased for members, provided the value of the purchases made for persons who are neither members nor producers does not exceed 15 per centum of the value of all its purchases. Business done for the United States or any of its agencies shall be disregarded in determining the right to exemption under this paragraph;

(13) Corporations organized by an association exempt under the provisions of paragraph (12), or members thereof, for the purpose of financing the ordinary crop operations of such members or other producers, and operated in conjunction with such association. Exemption shall not be denied any such corporation because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 per centum per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, upon dissolution or otherwise, beyond the fixed dividends) is owned by such association, or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose;

(14) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this chapter;

(15) Corporations organized under Act of Congress, if such corporations are instrumentalities of the United States and if, under such Act, as amended and supplemented, such corporations are exempt from Federal income taxes;

(16) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if (A) no part of their net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (B) 85 per centum or more of the income consists of amounts collected from members for the sole purpose of making such payments and meeting expenses;

(17) Teachers' retirement fund associations of a purely local character, if (A) no part of their net earnings inures (other than through payment of retirement benefits) to the benefit of any private shareholder or individual, and (B) the income consists solely of amounts received from public taxation, amounts received from assessments upon the teaching salaries of members, and income in respect of investments;

(18) Religious or apostolic associations or corporations, if such associations or corporations have a common treasury or community treasury, even if such associations or corporations engage in business for the common benefit of the members, but only if the members thereof include (at the time of filing their returns) in their gross income their entire pro-rata shares, whether distributed or not, of the net income of the association or corporation for such year. Any amount so included in the gross income of a member shall be treated as a dividend received.

SEC. 102. SURTAX ON CORPORATIONS IMPROPERLY ACCUMULATING SURPLUS.

(a) IMPOSITION OF TAX. There shall be levied, collected, and paid for each taxable year (in addition to other taxes imposed by this chapter) upon the net income of every corporation (other than a personal holding company as defined in section 501 or a foreign personal holding company as defined in Supplement P) if such corporation, however created or organized, is formed or availed of for the purpose of preventing the imposition of the surtax upon its shareholders or the shareholders of any other corporation, through the medium of permitting earnings or profits to accumulate instead of being divided or distributed, a surtax equal to the sum of the following:

25 per centum of the amount of the undistributed section 102 net income not in excess of $100,000, plus

35 per centum of the undistributed section 102 net income in excess of $100,000.

(b) PRIMA FACIE EVIDENCE.—The fact that any corporation is a mere holding or investment company shall be prima facie evidence of a purpose to avoid surtax upon shareholders.

(c) EVIDENCE DETERMINATIVE OF PURPOSE.—The fact that the earnings or profits of a corporation are permitted to accumulate beyond the reasonable needs of the business shall be determinative of the purpose to avoid surtax upon shareholders unless the corporation by the clear preponderance of the evidence shall prove to the contrary.

(d) DEFINITIONS.—As used in this chapter—

(1) SECTION 102 NET INCOME.—The term "section 102 net income" means the net income minus the sum of—

(A) TAXES.—Federal income, war-profits, and excess-profits taxes paid or accrued during the taxable year, to the extent not allowed as a deduction by section 23, but not including the tax imposed by this section or a corresponding section of a prior income-tax law.

(B) DISALLOWED CHARITABLE, ETC., CONTRIBUTIONS.—Contributions or gifts payment of which is made within the taxable year, not otherwise allowed as a deduction, to or for the use of donees described in section 23 (o), for the purposes therein specified.

(C) DISALLOWED LOSSES.—Losses from sales or exchanges of capital assets which are disallowed as a deduction by section 117 (d).

(2) UNDISTRIBUTED SECTION 102 NET INCOME.—The term "undistributed section 102 net income" means the section 102 net income minus the basic surtax credit provided in section 27 (b), but the

computation of such credit under section 27 (b) (1) shall be made without its reduction by the amount of the credit provided in section 26 (a), relating to interest on certain obligations of the United States and Government corporations.

(e) TAX ON PERSONAL HOLDING COMPANIES.—

For surtax on personal holding companies, see section 500.

SEC. 103. RATES OF TAX ON CITIZENS AND CORPORATIONS OF CERTAIN FOREIGN COUNTRIES.

Whenever the President finds that, under the laws of any foreign country, citizens or corporations of the United States are being subjected to discriminatory or extraterritorial taxes, the President shall so proclaim and the rates of tax imposed by sections 11, 12, 13, 14, 201 (b), 204 (a), 207, 211 (a), 231 (a), and 362 shall, for the taxable year during which such proclamation is made and for each taxable year thereafter, be doubled in the case of each citizen and corporation of such foreign country; but the tax at such doubled rate shall be considered as imposed by sections 11, 12, 13, 14, 201 (b), 204 (a), 207, 211 (a), 231 (a), or 362, as the case may be. In no case shall this section operate to increase the taxes imposed by such sections (computed without regard to this section) to an amount in excess of 80 per centum of the net income of the taxpayer. Whenever the President finds that the laws of any foreign country with respect to which the President has made a proclamation under the preceding provisions of this section have been modified so that discriminatory and extraterritorial taxes applicable to citizens and corporations of the United States have been removed, he shall so proclaim, and the provisions of this section providing for doubled rates of tax shall not apply to any citizen or corporation of such foreign country with respect to any taxable year beginning after such proclamation is made.

SEC. 104. BANKS AND TRUST COMPANIES.

(a) DEFINITION.—As used in this section the term "bank" means a bank or trust company incorporated and doing business under the laws of the United States (including laws relating to the District of Columbia), of any State, or of any Territory, a substantial part of the business of which consists of receiving deposits and making loans and discounts, or of exercising fiduciary powers similar to those permitted to national banks under section 11 (k) of the Federal Reserve Act, 38 Stat. 262 (U. S. C., Title 12, § 248k), as amended, and which is subject by law to supervision and examination by State, Territorial or Federal authority having supervision over banking institutions.

(b) RATE OF TAX.—Banks shall be taxable under section 14 (d).

SEC. 105. SALE OF OIL OR GAS PROPERTIES.

In the case of a bona fide sale of any oil or gas property, or any interest therein, where the principal value of the property has been demonstrated by prospecting or exploration or discovery work done by the taxpayer, the portion of the tax imposed by section 12 attributable to such sale shall not exceed 30 per centum of the selling price of such property or interest.

SEC. 106. CLAIMS AGAINST UNITED STATES INVOLVING ACQUISITION OF PROPERTY.

In the case of amounts (other than interest) received by a taxpayer from the United States with respect to a claim against the United States involving the acquisition of property and remaining unpaid for more than fifteen years, the portion of the tax imposed by section 12 attributable to such receipt shall not exceed 30 per centum of the amount (other than interest) so received.

Supplement B—Computation of Net Income

[Supplementary to Subchapter B, Part II]

SEC. 111. DETERMINATION OF AMOUNT OF, AND RECOGNITION OF, GAIN OR LOSS.

(a) COMPUTATION OF GAIN OR LOSS.—The gain from the sale or other disposition of property shall be the excess of the amount realized therefrom over the adjusted basis provided in section 113 (b) for determining gain, and the loss shall be the excess of the adjusted basis provided in such section for determining loss over the amount realized.

(b) AMOUNT REALIZED.—The amount realized from the sale or other disposition of property shall be the sum of any money received plus the fair market value of the property (other than money) received.

(c) RECOGNITION OF GAIN OR LOSS.—In the case of a sale or exchange, the extent to which the gain or loss determined under this section shall be recognized for the purposes of this chapter, shall be determined under the provisions of section 112.

(d) INSTALLMENT SALES.—Nothing in this section shall be construed to prevent (in the case of property sold under contract providing for payment in installments) the taxation of that portion of any installment payment representing gain or profit in the year in which such payment is received.

SEC. 112. RECOGNITION OF GAIN OR LOSS.

(a) GENERAL RULE.—Upon the sale or exchange of property the entire amount of the gain or loss, determined under section 111, shall be recognized, except as hereinafter provided in this section.

(b) EXCHANGES SOLELY IN KIND.—

(1) PROPERTY HELD FOR PRODUCTIVE USE OR INVESTMENT.—No gain or loss shall be recognized if property held for productive use in trade or business or for investment (not including stock in trade or other property held primarily for sale, nor stocks, bonds, notes, choses in action, certificates of trust or beneficial interest, or other securities or evidences of indebtedness or interest) is exchanged solely for property of a like kind to be held either for productive use in trade or business or for investment.

(2) STOCK FOR STOCK OF SAME CORPORATION.—No gain or loss shall be recognized if common stock in a corporation is exchanged solely for common stock in the same corporation, or if preferred stock in a corporation is exchanged solely for preferred stock in the same corporation.

(3) STOCK FOR STOCK ON REORGANIZATION.—No gain or loss shall be recognized if stock or securities in a corporation a party to a reorganization are, in pursuance of the plan of reorganization, exchanged solely for stock or securities in such corporation or in another corporation a party to the reorganization.

(4) SAME.—GAIN OF CORPORATION.—No gain or loss shall be recognized if a corporation a party to a reorganization exchanges property, in pursuance of the plan of reorganization, solely for stock or securities in another corporation a party to the reorganization.

(5) TRANSFER TO CORPORATION CONTROLLED BY TRANSFEROR.—No gain or loss shall be recognized if property is transferred to a corporation by one or more persons solely in exchange for stock or securities in such corporation, and immediately after the exchange such person or persons are in control of the corporation; but in the case of an exchange by two or more persons this paragraph shall apply only if the amount of the stock and securities received by each is substantially in proportion to his interest in the property prior to the exchange.

(6) PROPERTY RECEIVED BY CORPORATION ON COMPLETE LIQUIDATION OF ANOTHER.—No gain or loss shall be recognized upon the receipt by a corporation of property distributed in complete liquidation of another corporation. For the purposes of this paragraph a distribution shall be considered to be in complete liquidation only if—

(A) the corporation receiving such property was, on the date of the adoption of the plan of liquidation, and has continued to be at all times until the receipt of the property, the owner of stock (in such other corporation) possessing at least 80 per centum of the total combined voting power of all classes of stock entitled to vote and the owner of at least 80 per centum of the total number of shares of all other classes of stock (except non-voting stock which is limited and preferred as to dividends), and was at no time on or after the date of the adoption of the plan of liquidation and until the receipt of the property the owner of a greater percentage of any class of stock than the percentage of such class owned at the time of the receipt of the property; and

(B) no distribution under the liquidation was made before the first day of the first taxable year of the corporation beginning after December 31, 1935; and either

(C) the distribution is by such other corporation in complete cancellation or redemption of all its stock, and the transfer of all the property occurs within the taxable year; in such case the adoption by the shareholders of the resolution under which is authorized the distribution of all the assets of such corporation in complete cancellation or redemption of all its stock, shall be considered an adoption of a plan of liquidation, even though no time for the completion of the transfer of the property is specified in such resolution; or

(D) such distribution is one of a series of distributions by such other corporation in complete cancellation or redemption of all its stock in accordance with a plan of liquidation under which the transfer of all the property under the liquidation is to be completed within three years from the close of the taxable year during which is made the first of the series of distributions under the plan, except that if such transfer is not completed within such period, or if the taxpayer does not continue qualified under subparagraph (A) until the completion of such transfer, no distribution under the plan shall be considered a distribution in complete liquidation.

If such transfer of all the property does not occur within the taxable year the Commissioner may require of the taxpayer such bond, or waiver of the statute of limitations on assessment and collection, or both, as he may deem necessary to insure, if the transfer of the property is not completed within such three-year period, or if the taxpayer does not continue qualified under subparagraph (A) until the completion of such transfer, the assessment and collection of all income, war-profits, and excess-profits taxes then imposed by law for such taxable year or subsequent taxable years, to the extent attributable to property so received. A distribution otherwise constituting a distribution in complete liquidation within the meaning of this paragraph shall not be considered as not constituting such a distribution merely because it does not constitute a distribution or liquidation within the meaning of the corporate law under which the distribution is made; and for the purposes of this paragraph a transfer of property of such other corporation to the taxpayer shall not be considered as not constituting a distribution (or one of a series of distributions) in complete cancellation or redemption of all the stock of such other corporation, merely because the carrying out of the plan involves (i) the transfer under

the plan to the taxpayer by such other corporation of property, not attributable to shares owned by the taxpayer, upon an exchange described in paragraph (4) of this subsection, and (ii) the complete cancellation or redemption under the plan, as a result of exchanges described in paragraph (3) of this subsection, of the shares not owned by the taxpayer.

(8) EXCHANGES AND DISTRIBUTIONS IN OBEDIENCE TO ORDERS OF SECURITIES AND EXCHANGE COMMISSION.—In the case of any exchange or distribution described in section 371, no gain or loss shall be recognized to the extent specified in such section with respect to such exchange or distribution.

(c) GAIN FROM EXCHANGES NOT SOLELY IN KIND.—

(1) If an exchange would be within the provisions of subsection (b) (1), (2), (3), or (5) of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property.

(2) If a distribution made in pursuance of a plan of reorganization is within the provisions of paragraph (1) of this subsection but has the effect of the distribution of a taxable dividend, then there shall be taxed as a dividend to each distributee such an amount of the gain recognized under paragraph (1) as is not in excess of his ratable share of the undistributed earnings and profits of the corporation accumulated after February 28, 1913. The remainder, if any, of the gain recognized under paragraph (1) shall be taxed as a gain from the exchange of property.

(d) SAME—GAIN OF CORPORATION.—If an exchange would be within the provisions of subsection (b) (4) of this section if it were not for the fact that the property received in exchange consists not only of stock or securities permitted by such paragraph to be received without the recognition of gain, but also of other property or money, then—

(1) If the corporation receiving such other property or money distributes it in pursuance of the plan of reorganization, no gain to the corporation shall be recognized from the exchange, but

(2) If the corporation receiving such other property or money does not distribute it in pursuance of the plan of reorganization, the gain, if any, to the corporation shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property so received, which is not so distributed.

(e) LOSS FROM EXCHANGES NOT SOLELY IN KIND.—If an exchange would be within the provisions of subsection (b) (1) to (5), inclusive, of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

(f) INVOLUNTARY CONVERSIONS.—If property (as a result of its destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation, or the threat or imminence thereof) is compulsorily or involuntarily converted into property similar or related in service or use to the property so converted, or into money which is forthwith in good faith, under regulations prescribed by the Commissioner with the approval of the Secretary, expended in the acquisition of other property similar or related in service or use to the property so converted, or in the acquisition of control of a corporation owning such other property, or in the establishment of a replacement fund, no gain or loss shall be recog-

nized. If any part of the money is not so expended, the gain, if any, shall be recognized, but in an amount not in excess of the money which is not so expended.

(g) DEFINITION OF REORGANIZATION.—As used in this section and section 113—

(1) The term "reorganization" means (A) a statutory merger or consolidation, or (B) the acquisition by one corporation in exchange solely for all or a part of its voting stock: of at least 80 per centum of the voting stock and at least 80 per centum of the total number of shares of all other classes of stock of another corporation; or of substantially all the properties of another corporation, or (C) a transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor or its shareholders or both are in control of the corporation to which the assets are transferred, or (D) a recapitalization, or (E) a mere change in identity, form, or place of organization, however effected.

(2) The term "a party to a reorganization" includes a corporation resulting from a reorganization and includes both corporations in the case of a reorganization resulting from the acquisition by one corporation of stock or properties of another.

(h) DEFINITION OF CONTROL.—As used in this section the term "control" means the ownership of stock possessing at least 80 per centum of the total combined voting power of all classes of stock entitled to vote and at least 80 per centum of the total number of shares of all other classes of stock of the corporation.

(i) FOREIGN CORPORATIONS.—In determining the extent to which gain shall be recognized in the case of any of the exchanges described in subsection (b) (3), (4), (5), or (6), or described in so much of subsection (c) as refers to subsection (b) (3) or (5), or described in subsection (d), a foreign corporation shall not be considered as a corporation unless, prior to such exchange, it has been established to the satisfaction of the Commissioner that such exchange is not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes.

(j) INSTALLMENT OBLIGATIONS.—

For nonrecognition of gain or loss in the case of installment obligations, see section 44 (d).

SEC. 113. ADJUSTED BASIS FOR DETERMINING GAIN OR LOSS.

(a) BASIS (UNADJUSTED) OF PROPERTY.—The basis of property shall be the cost of such property; except that—

(1) INVENTORY VALUE.—If the property should have been included in the last inventory, the basis shall be the last inventory value thereof.

(2) GIFTS AFTER DECEMBER 31, 1920.—If the property was acquired by gift after December 31, 1920, the basis shall be the same as it would be in the hands of the donor or the last preceding owner by whom it was not acquired by gift, except that for the purpose of determining loss the basis shall be the basis so determined or the fair market value of the property at the time of the gift, whichever is lower. If the facts necessary to determine the basis in the hands of the donor or the last preceding owner are unknown to the donee, the Commissioner shall, if possible, obtain such facts from such donor or last preceding owner, or any other person cognizant thereof. If the Commissioner finds it impossible to obtain such facts, the basis in the hands of such donor or last preceding owner shall be the fair market value of such property as found by the Commissioner as of the date or approximate date at which, according to the best information that the Commissioner is able to obtain, such property was acquired by such donor or last preceding owner.

(3) TRANSFER IN TRUST AFTER DECEMBER 31, 1920.—If the property was acquired after December 31, 1920, by a transfer in trust (other than by a transfer in trust by a bequest or devise) the basis shall be the same as it would be in the hands of the grantor, increased in the amount of gain or decreased in the amount of loss recognized to the grantor upon such transfer under the law applicable to the year in which the transfer was made.

(4) GIFT OR TRANSFER IN TRUST BEFORE JANUARY 1, 1921.—If the property was acquired by gift or transfer in trust on or before December 31, 1920, the basis shall be the fair market value of such property at the time of such acquisition.

(5) PROPERTY TRANSMITTED AT DEATH.—If the property was acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent, the basis shall be the fair market value of such property at the time of such acquisition. In the case of property transferred in trust to pay the income for life to or upon the order or direction of the grantor, with the right reserved to the grantor at all times prior to his death to revoke the trust, the basis of such property in the hands of the persons entitled under the terms of the trust instrument to the property after the grantor's death shall, after such death, be the same as if the trust instrument had been a will executed on the day of the grantor's death. For the purpose of this paragraph property passing without full and adequate consideration under a general power of appointment exercised by will shall be deemed to be property passing from the individual exercising such power by bequest or devise. If the property was acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent, and if the decedent died after August 26, 1937, and if the property consists of stock or securities of a foreign corporation, which with respect to its taxable year next preceding the date of the decedent's death was, under the law applicable to such year, a foreign personal holding company, then the basis shall be the fair market value of such property at the time of such acquisition or the basis in the hands of the decedent, whichever is lower.

(6) TAX-FREE EXCHANGES GENERALLY.—If the property was acquired, after February 28, 1913, upon an exchange described in section 112 (b) to (e), inclusive, the basis (except as provided in paragraphs (15), (17), or (18) of this subsection) shall be the same as in the case of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognized upon such exchange under the law applicable to the year in which the exchange was made. If the property so acquired consisted in part of the type of property permitted by section 112 (b) to be received without the recognition of gain or loss, and in part of other property, the basis provided in this paragraph shall be allocated between the properties (other than money) received, and for the purpose of the allocation there shall be assigned to such other property an amount equivalent to its fair market value at the date of the exchange. This paragraph shall not apply to property acquired by a corporation by the issuance of its stock or securities as the consideration in whole or in part for the transfer of the property to it.

(7) TRANSFERS TO CORPORATION.—If the property was acquired—

(A) after December 31, 1917, and in a taxable year beginning before January 1, 1936, by a corporation in connection with a reorganization, and immediately after the transfer an interest or control in such property of 50 per centum or more remained in the same persons or any of them, or

(B) in a taxable year beginning after December 31, 1935, by a corporation in connection with a reorganization,

then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made. This paragraph shall not apply if the property acquired consists of stock or securities in a corporation a party to the reorganization, unless acquired by the issuance of stock or securities of the transferee as the consideration in whole or in part for the transfer.

(8) PROPERTY ACQUIRED BY ISSUANCE OF STOCK OR AS PAID-IN SURPLUS.—If the property was acquired after December 31, 1920, by a corporation—

(A) by the issuance of its stock or securities in connection with a transaction described in section 112 (b) (5) (including, also, cases where part of the consideration for the transfer of such property to the corporation was property or money, in addition to such stock or securities), or

(B) as paid-in surplus or as a contribution to capital,

then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made.

(9) INVOLUNTARY CONVERSION.—If the property was acquired, after February 28, 1913, as the result of a compulsory or involuntary conversion described in section 112 (f), the basis shall be the same as in the case of the property so converted, decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made.

(10) WASH SALES OF STOCK.—If the property consists of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under section 118 of this chapter or corresponding provisions of prior income tax laws, relating to wash sales) of the loss from the sale or other disposition of substantially identical stock or securities, then the basis shall be the basis of the stock or securities so sold or disposed of, increased or decreased, as the case may be, by the difference, if any, between the price at which the property was acquired and the price at which such substantially identical stock or securities were sold or otherwise disposed of.

(11) PROPERTY ACQUIRED DURING AFFILIATION.—In the case of property acquired by a corporation, during a period of affiliation, from a corporation with which it was affiliated, the basis of such property, after such period of affiliation, shall be determined, in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, without regard to inter-company transactions in respect of which gain or loss was not recognized. For the purposes of this paragraph, the term "period of affiliation" means the period during which such corporations were affiliated (determined in accordance with the law applicable thereto) but does not include any taxable year beginning on or after January 1, 1922, unless a consolidated return was made, nor any taxable year after the taxable year 1928. The basis in case of property acquired by a corporation during any period, in the taxable year 1929 or any subsequent taxable year, in respect of which a consolidated return is made by such corporation under section 141 of this chapter or the Revenue Act of 1928, 45 Stat. 831, or the Revenue Act

of 1932, 47 Stat. 213, or the Revenue Act of 1934, 48 Stat. 720, or the Revenue Act of 1936, 49 Stat. 1698, shall be determined in accordance with regulations prescribed under section 141 (b) of this chapter or the Revenue Act of 1928 or the Revenue Act of 1932 or the Revenue Act of 1934 or the Revenue Act of 1936. The basis in the case of property held by a corporation during any period, in the taxable year 1929 or any subsequent taxable year, in respect of which a consolidated return is made by such corporation under section 141 of this chapter or the Revenue Act of 1928 or the Revenue Act of 1932 or the Revenue Act of 1934 or the Revenue Act of 1936, shall be adjusted in respect of any items relating to such period, in accordance with regulations prescribed under section 141 (b) of this chapter or the Revenue Act of 1928 or the Revenue Act of 1932 or the Revenue Act of 1934 or the Revenue Act of 1936, applicable to such period.

(12) BASIS ESTABLISHED BY REVENUE ACT OF 1932.—If the property was acquired, after February 28, 1913, in any taxable year beginning prior to January 1, 1934, and the basis thereof, for the purposes of the Revenue Act of 1932, 47 Stat. 199, was prescribed by section 113 (a) (6), (7), or (9) of such Act, then for the purposes of this chapter the basis shall be the same as the basis therein prescribed in the Revenue Act of 1932.

(13) PARTNERSHIPS.—If the property was acquired, after February 28, 1913, by a partnership and the basis is not otherwise determined under any other paragraph of this subsection, then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made. If the property was distributed in kind by a partnership to any partner, the basis of such property in the hands of the partner shall be such part of the basis in his hands of his partnership interest as is properly allocable to such property.

(14) PROPERTY ACQUIRED BEFORE MARCH 1, 1913.—In the case of property acquired before March 1, 1913, if the basis otherwise determined under this subsection, adjusted (for the period prior to March 1, 1913) as provided in subsection (b), is less than the fair market value of the property as of March 1, 1913, then the basis for determining gain shall be such fair market value. In determining the fair market value of stock in a corporation as of March 1, 1913, due regard shall be given to the fair market value of the assets of the corporation as of that date.

(15) PROPERTY RECEIVED BY A CORPORATION ON COMPLETE LIQUIDATION OF ANOTHER.—If the property was received by a corporation upon a distribution in complete liquidation of another corporation within the meaning of section 112 (b) (6), then the basis shall be the same as it would be in the hands of the transferor. The basis of property with respect to which election has been made in pursuance of the last sentence of section 113 (a) (15) of the Revenue Act of 1936, as amended, shall, in the hands of the corporation making such election, be the basis prescribed in the Revenue Act of 1934, as amended.

(16) BASIS ESTABLISHED BY REVENUE ACT OF 1934.—If the property was acquired, after February 28, 1913, in any taxable year beginning prior to January 1, 1936, and the basis thereof, for the purposes of the Revenue Act of 1934 was prescribed by section 113 (a) (6), (7), or (8) of such Act, then for the purposes of this chapter the basis shall be the same as the basis therein prescribed in the Revenue Act of 1934.

(17) PROPERTY ACQUIRED IN CONNECTION WITH EXCHANGES AND DISTRIBUTIONS IN OBEDIENCE TO CERTAIN ORDERS OF SECURITIES AND EXCHANGE COMMISSION.—If the property was acquired in any

manner described in section 372, the basis shall be that prescribed in such section with respect to such property.

(18) PROPERTY RECEIVED IN CERTAIN CORPORATE LIQUIDATIONS.—If the property was acquired by a shareholder in the liquidation of a corporation in cancellation or redemption of stock with respect to which gain was realized, but with respect to which, as the result of an election made by him under paragraph (7) of section 112 (b), of the Revenue Act of 1938, 52 Stat. 487, the extent to which gain was recognized was determined under such paragraph, then the basis shall be the same as the basis of such stock cancelled or redeemed in the liquidation, decreased in the amount of any money received by him, and increased in the amount of gain recognized to him.

(b) ADJUSTED BASIS.—The adjusted basis for determining the gain or loss from the sale or other disposition of property, whenever acquired, shall be the basis determined under subsection (a), adjusted as hereinafter provided.

(1) GENERAL RULE.—Proper adjustment in respect of the property shall in all cases be made—

(A) For expenditures, receipts, losses, or other items, properly chargeable to capital account, including taxes and other carrying charges on unimproved and unproductive real property, but no such adjustment shall be made for taxes or other carrying charges for which deductions have been taken by the taxpayer in determining net income for the taxable year or prior taxable years;

(B) in respect of any period since February 28, 1913, for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent allowed (but not less than the amount allowable) under this chapter or prior income tax laws. Where for any taxable year prior to the taxable year 1932 the depletion allowance was based on discovery value or a percentage of income, then the adjustment for depletion for such year shall be based on the depletion which would have been allowable for such year if computed without reference to discovery value or a percentage of income;

(C) in respect of any period prior to March 1, 1913, for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent sustained;

(D) in the case of stock (to the extent not provided for in the foregoing subparagraphs) for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax-free or were applicable in reduction of basis (not including distributions made by a corporation, which was classified as a personal service corporation under the provisions of the Revenue Act of 1918, Feb. 24, 1919, c. 18, 40 Stat. 1057, or the Revenue Act of 1921, Nov. 23, 1921, c. 136, 42 Stat. 227, out of its earnings or profits which were taxable in accordance with the provisions of section 218 of the Revenue Act of 1918 or 1921);

(E) to the extent provided in section 337 (f) in the case of the stock of United States shareholders in a foreign personal holding company; and

(F) to the extent provided in section 28 (h) in the case of amounts specified in a shareholder's consent made under section 28.

(2) SUBSTITUTED BASIS.—The term "substituted basis" as used in this subsection means a basis determined under any provision of subsection (a) of this section or under any corresponding provision of a prior income tax law, providing that the basis shall be determined—

(A) by reference to the basis in the hands of a transferor, donor, or grantor, or

(B) by reference to other property held at any time by the person for whom the basis is to be determined.

Whenever it appears that the basis of property in the hands of the taxpayer is a substituted basis, then the adjustments provided in paragraph (1) of this subsection shall be made after first making in respect of such substituted basis proper adjustments of a similar nature in respect of the period during which the property was held by the transferor, donor, or grantor, or during which the other property was held by the person for whom the basis is to be determined. A similar rule shall be applied in the case of a series of substituted bases.

SEC. 114. BASIS FOR DEPRECIATION AND DEPLETION.

(a) BASIS FOR DEPRECIATION.—The basis upon which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis provided in section 113 (b) for the purpose of determining the gain upon the sale or other disposition of such property.

(b) BASIS FOR DEPLETION.—

(1) GENERAL RULE.—The basis upon which depletion is to be allowed in respect of any property shall be the adjusted basis provided in section 113 (b) for the purpose of determining the gain upon the sale or other disposition of such property, except as provided in paragraphs (2), (3), and (4) of this subsection.

(2) DISCOVERY VALUE IN CASE OF MINES.—In the case of mines (other than metal, coal, or sulphur mines) discovered by the taxpayer after February 28, 1913, the basis for depletion shall be the fair market value of the property at the date of discovery or within thirty days thereafter, if such mines were not acquired as the result of purchase of a proven tract or lease, and if the fair market value of the property is materially disproportionate to the cost. The depletion allowance under section 23 (m) based on discovery value provided in this paragraph shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property upon which the discovery was made, except that in no case shall the depletion allowance under section 23 (m) be less than it would be if computed without reference to discovery value. Discoveries shall include minerals in commercial quantities contained within a vein or deposit discovered in an existing mine or mining tract by the taxpayer after February 28, 1913, if the vein or deposit thus discovered was not merely the uninterrupted extension of a continuing commercial vein or deposit already known to exist, and if the discovered minerals are of sufficient value and quantity that they could be separately mined and marketed at a profit.

(3) PERCENTAGE DEPLETION FOR OIL AND GAS WELLS.—In the case of oil and gas wells the allowance for depletion under section 23 (m) shall be 27½ per centum of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property, except that in no case shall the depletion allowance under section 23 (m) be less than it would be if computed without reference to this paragraph.

(4) PERCENTAGE DEPLETION FOR COAL AND METAL MINES AND SULPHUR.—The allowance for depletion under section 23 (m) shall be, in the case of coal mines, 5 per centum, in the case of metal mines, 15 per centum, and, in the case of sulphur mines or deposits,

23 per centum, of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property. A taxpayer making his first return under this chapter in respect of a property shall state whether he elects to have the depletion allowance for such property for the taxable year for which the return is made computed with or without regard to percentage depletion, and the depletion allowance in respect of such property for such year shall be computed according to the election thus made. If the taxpayer fails to make such statement in the return, the depletion allowance for such property for such year shall be computed without reference to percentage depletion. The method, determined as above, of computing the depletion allowance shall be applied in the case of the property for all taxable years in which it is in the hands of such taxpayer, or of any other person if the basis of the property (for determining gain) in his hands is, under section 113, determined by reference to the basis in the hands of such taxpayer, either directly or through one or more substituted bases, as defined in that section. The above right of election shall be subject to the qualification that this paragraph shall, for the purpose of determining whether the method of computing the depletion allowance follows the property, be considered a continuation of section 114 (b) (4) of the Revenue Act of 1934, 48 Stat. 710, and the Revenue Act of 1936, 49 Stat. 1686, and the Revenue Act of 1938, 52 Stat. 494, and as giving no new election in cases where either of such sections would, if applied, give no new election.

SEC. 115. DISTRIBUTIONS BY CORPORATIONS.

(a) DEFINITION OF DIVIDEND.—The term "dividend" when used in this chapter (except in section 203 (a) (3) and section 207 (c) (1), relating to insurance companies) means any distribution made by a corporation to its shareholders, whether in money or in other property, (1) out of its earnings or profits accumulated after February 28, 1913, or (2) out of the earnings or profits of the taxable year (computed as of the close of the taxable year without diminution by reason of any distributions made during the taxable year), without regard to the amount of the earnings and profits at the time the distribution was made.

(b) SOURCE OF DISTRIBUTIONS.—For the purposes of this chapter every distribution is made out of earnings or profits to the extent thereof, and from the most recently accumulated earnings or profits. Any earnings or profits accumulated, or increase in value of property accrued, before March 1, 1913, may be distributed exempt from tax, after the earnings and profits accumulated after February 28, 1913, have been distributed, but any such tax-free distribution shall be applied against and reduce the adjusted basis of the stock provided in section 113.

(c) DISTRIBUTIONS IN LIQUIDATION.—Amounts distributed in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock, and amounts distributed in partial liquidation of a corporation shall be treated as in part or full payment in exchange for the stock. The gain or loss to the distributee resulting from such exchange shall be determined under section 111, but shall be recognized only to the extent provided in section 112. Despite the provisions of section 117, the gain so recognized shall be considered as a short-term capital gain, except in the case of amounts distributed in complete liquidation. For the purpose of the preceding sentence, "complete liquidation" includes any one of a series of distributions made by a corporation in complete cancellation or redemption of all of its stock in accordance with a bona fide plan of liquidation and

under which the transfer of the property under the liquidation is to be completed within a time specified in the plan, not exceeding, from the close of the taxable year during which is made the first of the series of distributions under the plan, (1) three years, if the first of such series of distributions is made in a taxable year beginning after December 31, 1937, or (2) two years, if the first of such series of distributions was made in a taxable year beginning before January 1, 1938. In the case of amounts distributed (whether before January 1, 1939, or on or after such date) in partial liquidation (other than a distribution to which the provisions of subsection (h) of this section are applicable) the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits. If any distribution in complete liquidation (including any one of a series of distributions made by the corporation in complete cancellation or redemption of all its stock) is made by a foreign corporation which with respect to any taxable year beginning on or before, and ending after, August 26, 1937, was a foreign personal holding company, and with respect to which a United States group (as defined in section 331 (a) (2)) existed after August 26, 1937, and before January 1, 1938, then, despite the foregoing provisions of this subsection, the gain recognized resulting from such distribution shall be considered as a short-term capital gain—

(1) Unless such liquidation is completed before July 1, 1938; or

(2) Unless (if it is established to the satisfaction of the Commissioner by evidence submitted before July 1, 1938, that due to the laws of the foreign country in which such corporation is incorporated, or for other reason, it is or will be impossible to complete the liquidation of such company before such date) the liquidation is completed on or before such date as the Commissioner may find reasonable, but not later than December 31, 1938.

(d) OTHER DISTRIBUTIONS FROM CAPITAL.—If any distribution (not in partial or complete liquidation) made by a corporation to its shareholders is not out of increase in value of property accrued before March 1, 1913, and is not a dividend, then the amount of such distribution shall be applied against and reduce the adjusted basis of the stock provided in section 113, and if in excess of such basis, such excess shall be taxable in the same manner as a gain from the sale or exchange of property.

(e) DISTRIBUTIONS BY PERSONAL SERVICE CORPORATIONS.—Any distribution made by a corporation, which was classified as a personal service corporation under the provisions of the Revenue Act of 1918 or the Revenue Act of 1921, out of its earnings or profits which were taxable in accordance with the provisions of section 218 of the Revenue Act of 1918, 40 Stat. 1070, or section 218 of the Revenue Act of 1921, 42 Stat. 245, shall be exempt from tax to the distributees.

(f) STOCK DIVIDENDS.—

(1) GENERAL RULE.—A distribution made by a corporation to its shareholders in its stock or in rights to acquire its stock shall not be treated as a dividend to the extent that it does not constitute income to the shareholder within the meaning of the Sixteenth Amendment to the Constitution.

(2) ELECTION OF SHAREHOLDERS AS TO MEDIUM OF PAYMENT.—Whenever a distribution by a corporation is, at the election of any of the shareholders (whether exercised before or after the declaration thereof), payable either (A) in its stock or in rights to acquire its stock, of a class which if distributed without election would be exempt from tax under paragraph (1), or (B) in money or any other property (including its stock or in rights to acquire its stock, of a class which if distributed without election would not be exempt from tax under paragraph (1)), then the distribution shall constitute a taxable dividend in the hands of all shareholders, regardless of the medium in which paid.

(g) REDEMPTION OF STOCK.—If a corporation cancels or redeems its stock (whether or not such stock was issued as a stock dividend) at such time and in such manner as to make the distribution and cancellation or redemption in whole or in part essentially equivalent to the distribution of a taxable dividend, the amount so distributed in redemption or cancellation of the stock, to the extent that it represents a distribution of earnings or profits accumulated after February 28, 1913, shall be treated as a taxable dividend.

(h) EFFECT ON EARNINGS AND PROFITS OF DISTRIBUTIONS OF STOCK.—The distribution (whether before January 1, 1939, or on or after such date) to a distributee by or on behalf of a corporation of its stock or securities, of stock or securities in another corporation, or of property or money, shall not be considered a distribution of earnings or profits of any corporation—

(1) if no gain to such distributee from the receipt of such stock or securities, property or money, was recognized by law, or

(2) if the distribution was not subject to tax in the hands of such distributee because it did not constitute income to him within the meaning of the Sixteenth Amendment to the Constitution or because exempt to him under section 115 (f) of the Revenue Act of 1934, 48 Stat. 712, or a corresponding provision of a prior Revenue Act.

As used in this subsection the term "stock or securities" includes rights to acquire stock or securities.

(i) DEFINITION OF PARTIAL LIQUIDATION.—As used in this section the term "amounts distributed in partial liquidation" means a distribution by a corporation in complete cancellation or redemption of a part of its stock, or one of a series of distributions in complete cancellation or redemption of all or a portion of its stock.

(j) VALUATION OF DIVIDEND.—If the whole or any part of a dividend is paid to a shareholder in any medium other than money the property received other than money shall be included in gross income at its fair market value at the time as of which it becomes income to the shareholder.

(k) CONSENT DISTRIBUTIONS.—

For taxability as dividends of amounts agreed to be included in gross income by shareholders' consents, see section 28.

SEC. 116. EXCLUSIONS FROM GROSS INCOME.

In addition to the items specified in section 22 (b), the following items shall not be included in gross income and shall be exempt from taxation under this chapter:

(a) EARNED INCOME FROM SOURCES WITHOUT UNITED STATES.—In the case of an individual citizen of the United States, a bona fide nonresident of the United States for more than six months during the taxable year, amounts received from sources without the United States (except amounts paid by the United States or any agency thereof) if such amounts would constitute earned income as defined in section 25 (a) if received from sources within the United States; but such individual shall not be allowed as a deduction from his gross income any deductions properly allocable to or chargeable against amounts excluded from gross income under this subsection.

(b) TEACHERS IN ALASKA AND HAWAII.—In the case of an individual employed by Alaska or Hawaii or any political subdivision thereof as a teacher in any educational institution, the compensation received as such. This subsection shall not exempt compensation paid directly or indirectly by the Government of the United States.

(c) INCOME OF FOREIGN GOVERNMENTS.—The income of foreign governments received from investments in the United States in stocks, bonds, or other domestic securities, owned by such foreign governments, or from interest on deposits in banks in the United States of moneys belonging to such foreign governments, or from any other source within the United States.

(d) INCOME OF STATES, MUNICIPALITIES, ETC.—Income derived from any public utility or the exercise of any essential governmental function and accruing to any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, or income accruing to the government of any possession of the United States, or any political subdivision thereof.

Whenever any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, prior to September 8, 1916, entered in good faith into a contract with any person, the object and purpose of which is to acquire, construct, operate, or maintain a public utility—

(1) If by the terms of such contract the tax imposed by this chapter is to be paid out of the proceeds from the operation of such public utility, prior to any division of such proceeds between the person and the State, Territory, political subdivision, or the District of Columbia, and if, but for the imposition of the tax imposed by this chapter, a part of such proceeds for the taxable year would accrue directly to or for the use of such State, Territory, political subdivision, or the District of Columbia, then a tax upon the net income from the operation of such public utility shall be levied, assessed, collected, and paid in the manner and at the rates prescribed in this chapter, but there shall be refunded to such State, Territory, political subdivision, or the District of Columbia (under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary) an amount which bears the same relation to the amount of the tax as the amount which (but for the imposition of the tax imposed by this chapter) would have accrued directly to or for the use of such State, Territory, political subdivision, or the District of Columbia, bears to the amount of the net income from the operation of such public utility for such taxable year.

(2) If by the terms of such contract no part of the proceeds from the operation of the public utility for the taxable year would, irrespective of the tax imposed by this chapter, accrue directly to or for the use of such State, Territory, political subdivision, or the District of Columbia, then the tax upon the net income of such person from the operation of such public utility shall be levied, assessed, collected, and paid in the manner and at the rates prescribed in this chapter.

(e) BRIDGES TO BE ACQUIRED BY STATE OR POLITICAL SUBDIVISION.—Whenever any State or political subdivision thereof, in pursuance of a contract to which it is not a party entered into before May 29, 1928, is to acquire a bridge—

(1) If by the terms of such contract the tax imposed by this chapter is to be paid out of the proceeds from the operation of such bridge prior to any division of such proceeds, and if, but for the imposition of the tax imposed by this chapter, a part of such proceeds for the taxable year would accrue directly to or for the use of or would be applied for the benefit of such State or political subdivision, then a tax upon the net income from the operation of such bridge shall be levied, assessed, collected, and paid in the manner and at the rates prescribed in this chapter, but there shall be refunded to such State or political subdivision (under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary) an amount which bears the same relation to the amount of the tax as the amount which (but for the imposition of the tax imposed by this chapter) would have accrued directly to or for the use of or would be applied for the benefit of such State or political subdivision, bears to the amount of the net income from the operation of such bridge for such taxable year. No such refund shall be made unless the entire amount of the refund is to be applied in part payment for the acquisition of such bridge.

(2) If by the terms of such contract no part of the proceeds from the operation of the bridge for the taxable year would, irrespective of the tax imposed by this chapter, accrue directly to or for the use of or be applied for the benefit of such State or political subdivision, then the tax upon the net income from the operation of such bridge shall be levied, assessed, collected, and paid in the manner and at the rates prescribed in this chapter.

(f) DIVIDEND FROM "CHINA TRADE ACT" CORPORATION.—In the case of a person, amounts distributed as dividends to or for his benefit by a corporation organized under the China Trade Act, 1922, 42 Stat. 849 (U. S. C., Title 15, c. 4), if, at the time of such distribution, he is a resident of China, and the equitable right to the income of the shares of stock of the corporation is in good faith vested in him.

(g) SHIPOWNERS' PROTECTION AND INDEMNITY ASSOCIATIONS.—The receipts of shipowners' mutual protection and indemnity associations not organized for profit, and no part of the net earnings of which inures to the benefit of any private shareholder; but such corporations shall be subject as other persons to the tax upon their net income from interest, dividends, and rents.

(h) COMPENSATION OF EMPLOYEES OF FOREIGN GOVERNMENTS.—

(1) RULE FOR EXCLUSION.—Wages, fees, or salary of an employee of a foreign government (including a consular or other officer, or a nondiplomatic representative) received as compensation for official services to such government—

(A) If such employee is not a citizen of the United States; and

(B) If the services are of a character similar to those performed by employees of the Government of the United States in foreign countries; and

(C) If the foreign government whose employee is claiming exemption grants an equivalent exemption to employees of the Government of the United States performing similar services in such foreign country.

(2) CERTIFICATE BY SECRETARY OF STATE.—The Secretary of State shall certify to the Secretary of the Treasury the names of the foreign countries which grant an equivalent exemption to the employees of the Government of the United States performing services in such foreign countries, and the character of the services performed by employees of the Government of the United States in foreign countries.

(i) TREASURY BILLS.—

For exemption from taxation of gain derived from the sale or other disposition of Treasury Bills, issued after June 17, 1930, under the second Liberty bond act, as amended, see Act of June 17, 1930, c. 512, 46 Stat. 775 (U. S. C., Title 31, § 754).

SEC. 117. CAPITAL GAINS AND LOSSES.

(a) DEFINITIONS.—As used in this chapter—

(1) CAPITAL ASSETS.—The term "capital assets" means property held by the taxpayer (whether or not connected with his trade or business), but does not include stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business, or property, used in the trade or business, of a character which is subject to the allowance for depreciation provided in section 23 (l);

(2) SHORT-TERM CAPITAL GAIN.—The term "short-term capital gain" means gain from the sale or exchange of a capital asset held for not more than 18 months, if and to the extent such gain is taken into account in computing net income;

(3) SHORT-TERM CAPITAL LOSS.—The term "short-term capital loss" means loss from the sale or exchange of a capital asset held for not more than 18 months, if and to the extent such loss is taken into account in computing net income;

(4) LONG-TERM CAPITAL GAIN.—The term "long-term capital gain" means gain from the sale or exchange of a capital asset held for more than 18 months, if and to the extent such gain is taken into account in computing net income;

(5) LONG-TERM CAPITAL LOSS.—The term "long-term capital loss" means loss from the sale or exchange of a capital asset held for more than 18 months, if and to the extent such loss is taken into account in computing net income;

(6) NET SHORT-TERM CAPITAL GAIN.—The term "net short-term capital gain" means the excess of short-term capital gains for the taxable year over the sum of (A) short-term capital losses for the taxable year, plus (B) the net short-term capital loss of the preceding taxable year (if beginning after December 31, 1937), to the extent brought forward to the taxable year under subsection (e);

(7) NET SHORT-TERM CAPITAL LOSS.—The term "net short-term capital loss" means the excess of short-term capital losses for the taxable year over the short-term capital gains for such year;

(8) NET LONG-TERM CAPITAL GAIN.—The term "net long-term capital gain" means the excess of long-term capital gains for the taxable year over the long-term capital losses for such year;

(9) NET LONG-TERM CAPITAL LOSS.—The term "net long-term capital loss" means the excess of long-term capital losses for the taxable year over the long-term capital gains for such year.

(b) PERCENTAGE TAKEN INTO ACCOUNT.—In the case of a taxpayer, other than a corporation, only the following percentages of the gain or loss recognized upon the sale or exchange of a capital asset shall be taken into account in computing net income:

100 per centum if the capital asset has been held for not more than 18 months;

66⅔ per centum if the capital asset has been held for more than 18 months but not for more than 24 months;

50 per centum if the capital asset has been held for more than 24 months.

(c) ALTERNATIVE TAXES.—

(1) IN CASE OF NET LONG-TERM CAPITAL GAIN.—If for any taxable year a taxpayer (other than a corporation) derives a net long-term capital gain, there shall be levied, collected, and paid, in lieu of the tax imposed by sections 11 and 12, a tax determined as follows, if and only if such tax is less than the tax imposed by such sections:

A partial tax shall first be computed upon the net income reduced by the amount of the net long-term capital gain, at the rates and in the manner as if this subsection had not been enacted, and the total tax shall be the partial tax plus 30 per centum of the net long-term capital gain.

(2) IN CASE OF NET LONG-TERM CAPITAL LOSS.—If for any taxable year a taxpayer (other than a corporation) sustains a net long-term capital loss, there shall be levied, collected, and paid, in lieu of the tax imposed by sections 11 and 12, a tax determined as follows, if and only if such tax is greater than the tax imposed by such sections:

A partial tax shall first be computed upon the net income increased by the amount of the net long-term capital loss, at the rates and in the manner as if this subsection had not been enacted, and the total tax shall be the partial tax minus 30 per centum of the net long-term capital loss.

(d) LIMITATION ON CAPITAL LOSSES.—

(1) CORPORATIONS.—In the case of a corporation, losses from sales or exchanges of capital assets shall be allowed only to the extent of $2,000 plus the gains from such sales or exchanges. If a bank or trust company incorporated under the laws of the United States (including laws relating to the District of Columbia) or of any State or Territory, a substantial part of whose business is the receipt of deposits, sells any bond, debenture, note, or certificate or other evidence of indebtedness issued by any corporation (including one issued by a government or political subdivision thereof), with interest coupons or in registered form, any loss resulting from such sale (except such portion of the loss as does not exceed the amount, if any, by which the adjusted basis of such instrument exceeds the par or face value thereof) shall not be subject to the foregoing limitation and shall not be included in determining the applicability of such limitation to other losses.

(2) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, short-term capital losses shall be allowed only to the extent of short-term capital gains.

(e) NET SHORT-TERM CAPITAL LOSS CARRY-OVER.—If any taxpayer (other than a corporation) sustains in any taxable year beginning after December 31, 1937, a net short-term capital loss, such loss (in an amount not in excess of the net income for such year) shall be treated in the succeeding taxable year as a short-term capital loss, except that it shall not be included in computing the net short-term capital loss for such year.

(f) RETIREMENT OF BONDS, ETC.—For the purposes of this chapter, amounts received by the holder upon the retirement of bonds, debentures, notes, or certificates or other evidences of indebtedness issued by any corporation (including those issued by a government or political subdivision thereof), with interest coupons or in registered form, shall be considered as amounts received in exchange therefor.

(g) GAINS AND LOSSES FROM SHORT SALES, ETC.—For the purpose of this chapter—

(1) gains or losses from short sales of property shall be considered as gains or losses from sales or exchanges of capital assets; and

(2) gains or losses attributable to the failure to exercise privileges or options to buy or sell property shall be considered as short-term capital gains or losses.

(h) DETERMINATION OF PERIOD FOR WHICH HELD.—For the purpose of this section—

(1) In determining the period for which the taxpayer has held property received on an exchange there shall be included the period for which he held the property exchanged, if under the provisions of section 113, the property received has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as the property exchanged.

(2) In determining the period for which the taxpayer has held property however acquired there shall be included the period for which such property was held by any other person, if under the provisions of section 113, such property has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as it would have in the hands of such other person.

(3) In determining the period for which the taxpayer has held stock or securities received upon a distribution where no gain was recognized to the distributee under the provisions of section 112 (g) of the Revenue Act of 1928, 45 Stat. 818, or the Revenue Act of 1932, 48 Stat. 705, or under the provisions of section 371 (c) of the Revenue Act of 1938 or this chapter, there shall be included the

period for which he held the stock or securities in the distributing corporation prior to the receipt of the stock or securities upon such distribution.

(4) In determining the period for which the taxpayer has held stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under section 118 of this chapter or section 118 of the Revenue Act of 1928, 45 Stat. 826, or the Revenue Act of 1932, 47 Stat. 208, or the Revenue Act of 1934, 48 Stat. 715, or the Revenue Act of 1936, 49 Stat. 1692, or the Revenue Act of 1938, 52 Stat. 503, relating to wash sales) of the loss from the sale or other disposition of substantially identical stock or securities, there shall be included the period for which he held the stock or securities the loss from the sale or other disposition of which was not deductible.

SEC. 118. LOSS FROM WASH SALES OF STOCK OR SECURITIES.

(a) In the case of any loss claimed to have been sustained from any sale or other disposition of shares of stock or securities where it appears that, within a period beginning 30 days before the date of such sale or disposition and ending 30 days after such date, the taxpayer has acquired (by purchase or by an exchange upon which the entire amount of gain or loss was recognized by law), or has entered into a contract or option so to acquire, substantially identical stock or securities, then no deduction for the loss shall be allowed under section 23 (e) (2); nor shall such deduction be allowed under section 23 (f) unless the claim is made by a corporation, a dealer in stocks or securities, and with respect to a transaction made in the ordinary course of its business.

(b) If the amount of stock or securities acquired (or covered by the contract or option to acquire) is less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the loss from the sale or other disposition of which is not deductible shall be determined under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

(c) If the amount of stock or securities acquired (or covered by the contract or option to acquire) is not less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility of the loss shall be determined under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

SEC. 119. INCOME FROM SOURCES WITHIN UNITED STATES.

(a) GROSS INCOME FROM SOURCES IN UNITED STATES.—The following items of gross income shall be treated as income from sources within the United States:

(1) INTEREST.—Interest from the United States, any Territory, any political subdivision of a Territory, or the District of Columbia, and interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise, not including—

(A) interest on deposits with persons carrying on the banking business paid to persons not engaged in business within the United States and not having an office or place of business therein, or

(B) interest received from a resident alien individual, a resident foreign corporation, or a domestic corporation, when it is shown to the satisfaction of the Commissioner that less than 20 per centum of the gross income of such resident payor or domestic corporation has been derived from sources within the United States, as determined under the provisions of this section, for the three-year period ending with the close of the taxable year of such payor preceding the payment of such interest, or for such part of such period as may be applicable, or

(C) income derived by a foreign central bank of issue from bankers' acceptances;

(2) DIVIDENDS.—The amount received as dividends—

(A) from a domestic corporation other than a corporation entitled to the benefits of section 251, and other than a corporation less than 20 per centum of whose gross income is shown to the satisfaction of the Commissioner to have been derived from sources within the United States, as determined under the provisions of this section, for the three-year period ending with the close of the taxable year of such corporation preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence), or

(B) from a foreign corporation unless less than 50 per centum of the gross income of such foreign corporation for the three-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence) was derived from sources within the United States as determined under the provisions of this section; but only in an amount which bears the same ratio to such dividends as the gross income of the corporation for such period derived from sources within the United States bears to its gross income from all sources; but dividends from a foreign corporation shall, for the purposes of section 131 (relating to foreign tax credit), be treated as income from sources without the United States;

(3) PERSONAL SERVICES.—Compensation for labor or personal services performed in the United States, but in the case of a nonresident alien individual temporarily present in the United States for a period or periods not exceeding a total of ninety days during the taxable year, compensation received by such an individual (if such compensation does not exceed $3,000 in the aggregate) for labor or services performed as an employee of or under a contract with a nonresident alien, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, shall not be deemed to be income from sources within the United States;

(4) RENTALS AND ROYALTIES.—Rentals or royalties from property located in the United States or from any interest in such property, including rentals or royalties for the use of or for the privilege of using in the United States, patents, copyrights, secret processes and formulas, good will, trade-marks, trade brands, franchises, and other like property; and

(5) SALE OF REAL PROPERTY.—Gains, profits, and income from the sale of real property located in the United States.

(6) SALE OF PERSONAL PROPERTY.—

For gains, profits, and income from the sale of personal property, see subsection (e).

(b) NET INCOME FROM SOURCES IN UNITED STATES.—From the items of gross income specified in subsection (a) of this section there shall be deducted the expenses, losses, and other deductions properly apportioned or allocated thereto and a ratable part of any expenses, losses, or other deductions which can not definitely be allocated to some item or class of gross income. The remainder, if any, shall be included in full as net income from sources within the United States.

(c) GROSS INCOME FROM SOURCES WITHOUT UNITED STATES.—The following items of gross income shall be treated as income from sources without the United States:

(1) Interest other than that derived from sources within the United States as provided in subsection (a) (1) of this section;

(2) Dividends other than those derived from sources within the United States as provided in subsection (a) (2) of this section;

(3) Compensation for labor or personal services performed without the United States;

(4) Rentals or royalties from property located without the United States or from any interest in such property, including rentals or royalties for the use of or for the privilege of using without the United States, patents, copyrights, secret processes and formulas, good will, trade-marks, trade brands, franchises, and other like properties; and

(5) Gains, profits, and income from the sale of real property located without the United States.

(d) NET INCOME FROM SOURCES WITHOUT UNITED STATES.—From the items of gross income specified in subsection (c) of this section there shall be deducted the expenses, losses, and other deductions properly apportioned or allocated thereto, and a ratable part of any expenses, losses, or other deductions which can not definitely be allocated to some item or class of gross income. The remainder, if any, shall be treated in full as net income from sources without the United States.

(e) INCOME FROM SOURCES PARTLY WITHIN AND PARTLY WITHOUT UNITED STATES.—Items of gross income, expenses, losses and deductions, other than those specified in subsections (a) and (c) of this section, shall be allocated or apportioned to sources within or without the United States, under rules and regulations prescribed by the Commissioner with the approval of the Secretary. Where items of gross income are separately allocated to sources within the United States, there shall be deducted (for the purpose of computing the net income therefrom) the expenses, losses, and other deductions properly apportioned or allocated thereto and a ratable part of other expenses, losses or other deductions which can not definitely be allocated to some item or class of gross income. The remainder, if any, shall be included in full as net income from sources within the United States. In the case of gross income derived from sources partly within and partly without the United States, the net income may first be computed by deducting the expenses, losses, or other deductions apportioned or allocated thereto and a ratable part of any expenses, losses, or other deductions which can not definitely be allocated to some items or class of gross income; and the portion of such net income attributable to sources within the United States may be determined by processes or formulas of general apportionment prescribed by the Commissioner with the approval of the Secretary. Gains, profits, and income from—

(1) transportation or other services rendered partly within and partly without the United States, or

(2) from the sale of personal property produced (in whole or in part) by the taxpayer within and sold without the United States, or produced (in whole or in part) by the taxpayer without and sold within the United States,

shall be treated as derived partly from sources within and partly from sources without the United States. Gains, profits and income derived from the purchase of personal property within and its sale without the United States or from the purchase of personal property without and its sale within the United States, shall be treated as derived entirely from sources within the country in which sold, except that gains, profits, and income derived from the purchase of personal property within a possession of the United States and its sale within the United States shall be treated as derived partly from sources within and partly from sources without the United States.

(f) DEFINITIONS.—As used in this section the words "sale" or "sold" include "exchange" or "exchanged"; and the word "produced" includes "created", "fabricated", "manufactured", "extracted", "processed", "cured", or "aged".

SEC. 120. UNLIMITED DEDUCTION FOR CHARITABLE AND OTHER CONTRIBUTIONS.

In the case of an individual if in the taxable year and in each of the ten preceding taxable years the amount of the contributions or gifts described in section 23 (o) (or corresponding provisions of prior revenue Acts) plus the amount of income, war-profits, or excess-profits taxes paid during such year in respect of preceding taxable years, exceeds 90 per centum of the taxpayer's net income for each such year, as computed without the benefit of the applicable subsection, then the 15 per centum limit imposed by section 23 (o) shall not be applicable.

SEC. 121. DEDUCTION OF DIVIDENDS PAID ON CERTAIN PREFERRED STOCK OF CERTAIN CORPORATIONS.

In computing the net income of any national banking association, or of any bank or trust company organized under the laws of any State, Territory, possession of the United States, or the Canal Zone, or of any other banking corporation engaged in the business of industrial banking and under the supervision of a State banking department or of the Comptroller of the Currency, or of any incorporated domestic insurance company, there shall be allowed as a deduction from gross income, in addition to deductions otherwise provided for in this chapter, any dividend (not including any distribution in liquidation) paid, within the taxable year, to the United States or to any instrumentality thereof exempt from Federal income taxes, on the preferred stock of the corporation owned by the United States or such instrumentality. The amount allowable as a deduction under this section shall be deducted from the basic surtax credit otherwise computed under section 27 (b).

Supplement C—Credits Against Tax

[Supplementary to Subchapter B, Part III]

SEC. 131. TAXES OF FOREIGN COUNTRIES AND POSSESSIONS OF UNITED STATES.

(a) ALLOWANCE OF CREDIT.—If the taxpayer signifies in his return his desire to have the benefits of this section, the tax imposed by this chapter shall be credited with:

(1) CITIZEN AND DOMESTIC CORPORATION.—In the case of a citizen of the United States and of a domestic corporation, the amount of any income, war-profits, and excess-profits taxes paid or accrued during the taxable year to any foreign country or to any possession of the United States; and

(2) RESIDENT OF UNITED STATES.—In the case of a resident of the United States, the amount of any such taxes paid or accrued during the taxable year to any possession of the United States; and

(3) ALIEN RESIDENT OF UNITED STATES.—In the case of an alien resident of the United States, the amount of any such taxes paid or accrued during the taxable year to any foreign country, if the foreign country of which such alien resident is a citizen or subject, in imposing such taxes, allows a similar credit to citizens of the United States residing in such country; and

(4) PARTNERSHIPS AND ESTATES.—In the case of any such individual who is a member of a partnership or a beneficiary of an estate or trust, his proportionate share of such taxes of the partnership or the estate or trust paid or accrued during the taxable year to a foreign country or to any possession of the United States, as the case may be.

(b) LIMIT ON CREDIT.—The amount of the credit taken under this section shall be subject to each of the following limitations:

(1) The amount of the credit in respect of the tax paid or accrued to any country shall not exceed the same proportion of the

tax against which such credit is taken, which the taxpayer's net income from sources within such country bears to his entire net income for the same taxable year; and

(2) The total amount of the credit shall not exceed the same proportion of the tax against which such credit is taken, which the taxpayer's net income from sources without the United States bears to his entire net income for the same taxable year.

(c) ADJUSTMENTS ON PAYMENT OF ACCRUED TAXES.—If accrued taxes when paid differ from the amounts claimed as credits by the taxpayer, or if any tax paid is refunded in whole or in part, the taxpayer shall notify the Commissioner, who shall redetermine the amount of the tax for the year or years affected, and the amount of tax due upon such redetermination, if any, shall be paid by the taxpayer upon notice and demand by the collector, or the amount of tax overpaid, if any, shall be credited or refunded to the taxpayer in accordance with the provisions of section 322. In the case of such a tax accrued but not paid, the Commissioner as a condition precedent to the allowance of this credit may require the taxpayer to give a bond with sureties satisfactory to and to be approved by the Commissioner in such sum as the Commissioner may require, conditioned upon the payment by the taxpayer of any amount of tax found due upon any such redetermination; and the bond herein prescribed shall contain such further conditions as the Commissioner may require.

(d) YEAR IN WHICH CREDIT TAKEN.—The credits provided for in this section may, at the option of the taxpayer and irrespective of the method of accounting employed in keeping his books, be taken in the year in which the taxes of the foreign country or the possession of the United States accrued, subject, however, to the conditions prescribed in subsection (c) of this section. If the taxpayer elects to take such credits in the year in which the taxes of the foreign country or the possession of the United States accrued, the credits for all subsequent years shall be taken upon the same basis, and no portion of any such taxes shall be allowed as a deduction in the same or any succeeding year.

(e) PROOF OF CREDITS.—The credits provided in this section shall be allowed only if the taxpayer establishes to the satisfaction of the Commissioner (1) the total amount of income derived from sources without the United States, determined as provided in section 119, (2) the amount of income derived from each country, the tax paid or accrued to which is claimed as a credit under this section, such amount to be determined under rules and regulations prescribed by the Commissioner with the approval of the Secretary, and (3) all other information necessary for the verification and computation of such credits.

(f) TAXES OF FOREIGN SUBSIDIARY.—For the purposes of this section a domestic corporation which owns a majority of the voting stock of a foreign corporation from which it receives dividends in any taxable year shall be deemed to have paid the same proportion of any income, war-profits, or excess-profits taxes paid by such foreign corporation to any foreign country or to any possession of the United States, upon or with respect to the accumulated profits of such foreign corporation from which such dividends were paid, which the amount of such dividends bears to the amount of such accumulated profits: *Provided*, That the amount of tax deemed to have been paid under this subsection shall in no case exceed the same proportion of the tax against which credit is taken which the amount of such dividends bears to the amount of the entire net income of the domestic corporation in which such dividends are included. The term "accumulated profits" when used in this subsection in reference to a foreign corporation, means the amount of its gains, profits, or income in excess of the income, war-profits,

and excess-profits taxes imposed upon or with respect to such profits or income; and the Commissioner with the approval of the Secretary shall have full power to determine from the accumulated profits of what year or years such dividends were paid; treating dividends paid in the first sixty days of any year as having been paid from the accumulated profits of the preceding year or years (unless to his satisfaction shown otherwise), and in other respects treating dividends as having been paid from the most recently accumulated gains, profits, or earnings. In the case of a foreign corporation, the income, war-profits, and excess-profits taxes of which are determined on the basis of an accounting period of less than one year, the word "year" as used in this subsection shall be construed to mean such accounting period.

(g) CORPORATIONS TREATED AS FOREIGN.—For the purposes of this section the following corporations shall be treated as foreign corporations:

(1) A corporation entitled to the benefits of section 251, by reason of receiving a large percentage of its gross income from sources within a possession of the United States;

(2) A corporation organized under the China Trade Act, 1922, 42 Stat. 849 (U. S. C., Title 15, c. 4), and entitled to the credit provided for in section 262.

Supplement D—Returns and Payment of Tax

[Supplementary to Subchapter B, Part V]

SEC. 141. CONSOLIDATED RETURNS OF RAILROAD CORPORATIONS.

(a) PRIVILEGE TO FILE CONSOLIDATED RETURNS.—An affiliated group of corporations shall, subject to the provisions of this section, have the privilege of making a consolidated return for the taxable year in lieu of separate returns. The making of a consolidated return shall be upon the condition that all the corporations which have been members of the affiliated group at any time during the taxable year for which the return is made consent to all the regulations under subsection (b) (or, in case such regulations are not prescribed prior to the making of the return, then the regulations prescribed under section 141 (b) of the Revenue Act of 1936, 49 Stat. 1698, insofar as not inconsistent with this chapter) prescribed prior to the making of such return; and the making of a consolidated return shall be considered as such consent. In the case of a corporation which is a member of the affiliated group for a fractional part of the year the consolidated return shall include the income of such corporation for such part of the year as it is a member of the affiliated group.

(b) REGULATIONS.—The Commissioner, with the approval of the Secretary, shall prescribe such regulations as he may deem necessary in order that the tax liability of any affiliated group of corporations making a consolidated return and of each corporation in the group, both during and after the period of affiliation, may be determined, computed, assessed, collected, and adjusted in such manner as clearly to reflect the income and to prevent avoidance of tax liability.

(c) COMPUTATION AND PAYMENT OF TAX.—In any case in which a consolidated return is made the tax shall be determined, computed, assessed, collected, and adjusted in accordance with the regulations under subsection (b) (or, in case such regulations are not prescribed prior to the making of the return, then the regulations prescribed under section 141 (b) of the Revenue Act of 1936 insofar as not inconsistent with this chapter) prescribed prior to the date on which such return is made.

(d) DEFINITION OF "AFFILIATED GROUP".—As used in this section an "affiliated group" means one or more chains of corporations connected through stock ownership with a common parent corporation if—

(1) At least 95 per centum of the stock of each of the corporations (except the common parent corporation) is owned directly by one or more of the other corporations; and

(2) The common parent corporation owns directly at least 95 per centum of the stock of at least one of the other corporations; and

(3) Each of the corporations is either (A) a corporation whose principal business is that of a common carrier by railroad or (B) a corporation the assets of which consist principally of stock in such corporations and which does not itself operate a business other than that of a common carrier by railroad. For the purpose of determining whether the principal business of a corporation is that of a common carrier by railroad, if a common carrier by railroad has leased its railroad properties and such properties are operated as such by another common carrier by railroad, the business of receiving rents for such railroad properties shall be considered as the business of a common carrier by railroad. As used in this paragraph, the term "railroad" includes a street, suburban, or interurban electric railway, or a street or suburban trackless trolley system of transportation, or a street or suburban bus system of transportation operated as part of a street or suburban electric railway or trackless trolley system. As used in this subsection (except in paragraph (3)) the term "stock" does not include nonvoting stock which is limited and preferred as to dividends.

(e) FOREIGN CORPORATIONS.—A foreign corporation shall not be deemed to be affiliated with any other corporation within the meaning of this section.

(f) CHINA TRADE ACT CORPORATIONS.—A corporation organized under the China Trade Act, 1922, 42 Stat. 849 (U. S. C., Title 15, c. 4), shall not be deemed to be affiliated with any other corporation within the meaning of this section.

(g) CORPORATIONS DERIVING INCOME FROM POSSESSIONS OF UNITED STATES.—For the purposes of this section a corporation entitled to the benefits of section 251, by reason of receiving a large percentage of its income from possessions of the United States, shall be treated as a foreign corporation.

(h) SUBSIDIARY FORMED TO COMPLY WITH FOREIGN LAW.—In the case of a domestic corporation owning or controlling, directly or indirectly, 100 per centum of the capital stock (exclusive of directors' qualifying shares) of a corporation organized under the laws of a contiguous foreign country and maintained solely for the purpose of complying with the laws of such country as to title and operation of property, such foreign corporation may, at the option of the domestic corporation, be treated for the purpose of this chapter as a domestic corporation.

(i) SUSPENSION OF RUNNING OF STATUTE OF LIMITATIONS.—If a notice under section 272 (a) in respect of a deficiency for any taxable year is mailed to a corporation, the suspension of the running of the statute of limitations, provided in section 277, shall apply in the case of corporations with which such corporation made a consolidated return for such taxable year.

(j) RECEIVERSHIP CASES.—If the common parent corporation of an affiliated group making a consolidated return would, if filing a separate return, be entitled to the benefits of section 13 (e), the affiliated group shall be entitled to the benefits of such subsection. In all

other cases the affiliated group making a consolidated return shall not be entitled to the benefits of such subsection, regardless of the fact that one or more of the corporations in the group are in bankruptcy or in receivership.

(k) ALLOCATION OF INCOME AND DEDUCTIONS.—

For allocation of income and deductions of related trades or businesses, see section 45.

SEC. 142. FIDUCIARY RETURNS.

(a) REQUIREMENT OF RETURN.—Every fiduciary (except a receiver appointed by authority of law in possession of part only of the property of an individual) shall make under oath a return for any of the following individuals, estates, or trusts for which he acts, stating specifically the items of gross income thereof and the deductions and credits allowed under this chapter and such other information for the purpose of carrying out the provisions of this chapter as the Commissioner with the approval of the Secretary may by regulations prescribe—

(1) Every individual having a net income for the taxable year of $1,000 or over, if single, or if married and not living with husband or wife;

(2) Every individual having a net income for the taxable year of $2,500 or over, if married and living with husband or wife;

(3) Every individual having a gross income for the taxable year of $5,000 or over, regardless of the amount of his net income;

(4) Every estate the net income of which for the taxable year is $1,000 or over;

(5) Every trust the net income of which for the taxable year is $100 or over;

(6) Every estate or trust the gross income of which for the taxable year is $5,000 or over, regardless of the amount of the net income; and

(7) Every estate or trust of which any beneficiary is a nonresident alien.

(b) JOINT FIDUCIARIES.—Under such regulations as the Commissioner with the approval of the Secretary may prescribe a return made by one of two or more joint fiduciaries and filed in the office of the collector of the district where such fiduciary resides shall be sufficient compliance with the above requirement. Such fiduciary shall make oath (1) that he has sufficient knowledge of the affairs of the individual, estate, or trust for which the return is made, to enable him to make the return, and (2) that the return is, to the best of his knowledge and belief, true and correct.

(c) LAW APPLICABLE TO FIDUCIARIES.—Any fiduciary required to make a return under this chapter shall be subject to all the provisions of law which apply to individuals.

SEC. 143. WITHHOLDING OF TAX AT SOURCE.

(a) TAX-FREE COVENANT BONDS.—

(1) REQUIREMENT OF WITHHOLDING.—In any case where bonds, mortgages, or deeds of trust, or other similar obligations of a corporation, issued before January 1, 1934, contain a contract or provision by which the obligor agrees to pay any portion of the tax imposed by this chapter upon the obligee, or to reimburse the obligee for any portion of the tax, or to pay the interest without deduction for any tax which the obligor may be required or permitted to pay thereon, or to retain therefrom under any law of the United States, the obligor shall deduct and withhold a tax equal to 2 per centum of the interest upon such bonds, mortgages, deeds of trust, or other obligations, whether such interest is payable annually or at shorter or longer periods, if payable to an individual, a partnership, or a foreign corporation not engaged in trade or business within the United States and not having any

office or place of business therein: *Provided*, That if the liability assumed by the obligor does not exceed 2 per centum of the interest, then the deduction and withholding shall be at the following rates: (A) 10 per centum in the case of a nonresident alien individual (except that such rate shall be reduced, in the case of a resident of a contiguous country, to such rate, not less than 5 per centum, as may be provided by treaty with such country), or of any partnership not engaged in trade or business within the United States and not having any office or place of business therein and composed in whole or in part of nonresident aliens, (B) in the case of such a foreign corporation, 15 per centum, and (C) 2 per centum in the case of other individuals and partnerships: *Provided further*, That if the owners of such obligations are not known to the withholding agent the Commissioner may authorize such deduction and withholding to be at the rate of 2 per centum, or, if the liability assumed by the obligor does not exceed 2 per centum of the interest, then at the rate of 10 per centum.

(2) BENEFIT OF CREDITS AGAINST NET INCOME.—Such deduction and withholding shall not be required in the case of a citizen or resident entitled to receive such interest, if he files with the withholding agent on or before February 1 a signed notice in writing claiming the benefit of the credits provided in section 25 (b); nor in the case of a nonresident alien individual if so provided for in regulations prescribed by the Commissioner under section 215.

(3) INCOME OF OBLIGOR AND OBLIGEE.—The obligor shall not be allowed a deduction for the payment of the tax imposed by this chapter, or any other tax paid pursuant to the tax-free covenant clause, nor shall such tax be included in the gross income of the obligee.

(b) NONRESIDENT ALIENS.—All persons, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the United States, having the control, receipt, custody, disposal, or payment of interest (except interest on deposits with persons carrying on the banking business paid to persons not engaged in business in the United States and not having an office or place of business therein), dividends, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income (but only to the extent that any of the above items constitutes gross income from sources within the United States), of any nonresident alien individual, or of any partnership not engaged in trade or business within the United States and not having any office or place of business therein and composed in whole or in part of nonresident aliens, shall (except in the cases provided for in subsection (a) of this section and except as otherwise provided in regulations prescribed by the Commissioner under section 215) deduct and withhold from such annual or periodical gains, profits, and income a tax equal to 10 per centum thereof, except that such rate shall be reduced, in the case of a nonresident alien individual a resident of a contiguous country, to such rate (not less than 5 per centum) as may be provided by treaty with such country: *Provided*, That no such deduction or withholding shall be required in the case of dividends paid by a foreign corporation unless (1) such corporation is engaged in trade or business within the United States or has an office or place of business therein, and (2) more than 85 per centum of the gross income of such corporation for the three-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence) was derived from sources within the United States as determined under the provisions of section 119: *Provided further*, That the Commissioner may authorize such tax to be deducted and withheld from the interest upon any securities

the owners of which are not known to the withholding agent. Under regulations prescribed by the Commissioner, with the approval of the Secretary, there may be exempted from such deduction and withholding the compensation for personal services of nonresident alien individuals who enter and leave the United States at frequent intervals.

(c) RETURN AND PAYMENT.—Every person required to deduct and withhold any tax under this section shall make return thereof on or before March 15 of each year and shall on or before June 15, in lieu of the time prescribed in section 56, pay the tax to the official of the United States Government authorized to receive it. Every such person is hereby made liable for such tax and is hereby indemnified against the claims and demands of any person for the amount of any payments made in accordance with the provisions of this section.

(d) INCOME OF RECIPIENT.—Income upon which any tax is required to be withheld at the source under this section shall be included in the return of the recipient of such income, but any amount of tax so withheld shall be credited against the amount of income tax as computed in such return.

(e) TAX PAID BY RECIPIENT.—If any tax required under this section to be deducted and withheld is paid by the recipient of the income, it shall not be re-collected from the withholding agent; nor in cases in which the tax is so paid shall any penalty be imposed upon or collected from the recipient of the income or the withholding agent for failure to return or pay the same, unless such failure was fraudulent and for the purpose of evading payment.

(f) REFUNDS AND CREDITS.—Where there has been an overpayment of tax under this section any refund or credit made under the provisions of section 322 shall be made to the withholding agent unless the amount of such tax was actually withheld by the withholding agent.

(g) CROSS REFERENCE.—

For definition of "withholding agent", see section 3797 (a) (16).

SEC. 144. PAYMENT OF CORPORATION INCOME TAX AT SOURCE.

In the case of foreign corporations subject to taxation under this chapter not engaged in trade or business within the United States and not having any office or place of business therein, there shall be deducted and withheld at the source in the same manner and upon the same items of income as is provided in section 143 a tax equal to 15 per centum thereof, except that in the case of dividends the rate shall be 10 per centum, and except that in the case of corporations organized under the laws of a contiguous country such rate of 10 per centum with respect to dividends shall be reduced to such rate (not less than 5 per centum) as may be provided by treaty with such country; and such tax shall be returned and paid in the same manner and subject to the same conditions as provided in that section: *Provided*, That in the case of interest described in subsection (a) of that section (relating to tax-free covenant bonds) the deduction and withholding shall be at the rate specified in such subsection.

SEC. 145. PENALTIES.

(a) FAILURE TO FILE RETURNS, SUBMIT INFORMATION, OR PAY TAX.—Any person required under this chapter to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this chapter, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned

for not more than one year, or both, together with the costs of prosecution.

(b) FAILURE TO COLLECT AND PAY OVER TAX, OR ATTEMPT TO DEFEAT OR EVADE TAX.—Any person required under this chapter to collect, account for, and pay over any tax imposed by this chapter, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this chapter or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(c) PERSON DEFINED.—The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(d) CROSS REFERENCE.—

For penalties for failure to file information returns with respect to foreign personal holding companies and foreign corporations, see section 340.

SEC. 146. CLOSING BY COMMISSIONER OF TAXABLE YEAR.

(a) TAX IN JEOPARDY.—

(1) DEPARTURE OF TAXPAYER OR REMOVAL OF PROPERTY FROM UNITED STATES.—If the Commissioner finds that a taxpayer designs quickly to depart from the United States or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect the tax for the taxable year then last past or the taxable year then current unless such proceedings be brought without delay, the Commissioner shall declare the taxable period for such taxpayer immediately terminated and shall cause notice of such finding and declaration to be given the taxpayer, together with a demand for immediate payment of the tax for the taxable period so declared terminated and of the tax for the preceding taxable year or so much of such tax as is unpaid, whether or not the time otherwise allowed by law for filing return and paying the tax has expired; and such taxes shall thereupon become immediately due and payable. In any proceeding in court brought to enforce payment of taxes made due and payable by virtue of the provisions of this section the finding of the Commissioner, made as herein provided, whether made after notice to the taxpayer or not, shall be for all purposes presumptive evidence of the taxpayer's design.

(2) CORPORATION IN LIQUIDATION.—If the Commissioner finds that the collection of the tax of a corporation for the current or last preceding taxable year will be jeopardized by the distribution of all or a portion of the assets of such corporation in the liquidation of the whole or any part of its capital stock, the Commissioner shall declare the taxable period for such taxpayer immediately terminated and shall cause notice of such finding and declaration to be given the taxpayer, together with a demand for immediate payment of the tax for the taxable period so declared terminated and of the tax for the last preceding taxable year or so much of such tax as is unpaid, whether or not the time otherwise allowed by law for filing return and paying the tax has expired; and such taxes shall thereupon become immediately due and payable.

(b) SECURITY FOR PAYMENT.—A taxpayer who is not in default in making any return or paying income, war-profits, or excess-profits tax under any Act of Congress may furnish to the United States, under regulations to be prescribed by the Commissioner, with the approval of the Secretary, security approved by the Commissioner

that he will duly make the return next thereafter required to be filed and pay the tax next thereafter required to be paid. The Commissioner may approve and accept in like manner security for return and payment of taxes made due and payable by virtue of the provisions of this section, provided the taxpayer has paid in full all other income, war-profits, or excess-profits taxes due from him under any Act of Congress.

(c) SAME—EXEMPTION FROM SECTION.—If security is approved and accepted pursuant to the provisions of this section and such further or other security with respect to the tax or taxes covered thereby is given as the Commissioner shall from time to time find necessary and require, payment of such taxes shall not be enforced by any proceedings under the provisions of this section prior to the expiration of the time otherwise allowed for paying such respective taxes.

(d) CITIZENS.—In the case of a citizen of the United States or of a possession of the United States about to depart from the United States the Commissioner may, at his discretion, waive any or all of the requirements placed on the taxpayer by this section.

(e) DEPARTURE OF ALIEN.—No alien shall depart from the United States unless he first procures from the collector or agent in charge a certificate that he has complied with all the obligations imposed upon him by the income, war-profits, and excess-profits tax laws.

(f) ADDITION TO TAX.—If a taxpayer violates or attempts to violate this section there shall, in addition to all other penalties, be added as part of the tax 25 per centum of the total amount of the tax or deficiency in the tax, together with interest at the rate of 6 per centum per annum from the time the tax became due.

SEC. 147. INFORMATION AT SOURCE.

(a) PAYMENTS OF $1,000 OR MORE.—All persons, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, and employers, making payment to another person, of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments described in section 148 (a) or 149), of $1,000 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Commissioner, under such regulations and in such form and manner and to such extent as may be prescribed by him with the approval of the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment.

(b) RETURNS REGARDLESS OF AMOUNT OF PAYMENT.—Such returns may be required, regardless of amounts, (1) in the case of payments of interest upon bonds, mortgages, deeds of trust, or other similar obligations of corporations, and (2) in the case of collections of items (not payable in the United States) of interest upon the bonds of foreign countries and interest upon the bonds of and dividends from foreign corporations by persons undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange.

(c) RECIPIENT TO FURNISH NAME AND ADDRESS.—When necessary to make effective the provisions of this section the name and address of the recipient of income shall be furnished upon demand of the person paying the income.

(d) OBLIGATIONS OF UNITED STATES.—The provisions of this section shall not apply to the payment of interest on obligations of the United States.

SEC. 148. INFORMATION BY CORPORATIONS.

(a) DIVIDEND PAYMENTS.—Every corporation shall, when required by the Commissioner, render a correct return, duly verified under oath, of its payments of dividends, stating the name and address of each shareholder, the number of shares owned by him, and the amount of dividends paid to him.

(b) PROFITS DECLARED AS DIVIDENDS.—Every corporation shall, when required by the Commissioner, furnish him a statement of such facts as will enable him to determine the portion of the earnings or profits of the corporation (including gains, profits, and income not taxed) accumulated during such periods as the Commissioner may specify, which have been distributed or ordered to be distributed, respectively, to its shareholders during such taxable years as the Commissioner may specify.

(c) ACCUMULATED EARNINGS AND PROFITS.—When requested by the Commissioner, or any collector, every corporation shall forward to him a correct statement of accumulated earnings and profits and the names and addresses of the individuals or shareholders who would be entitled to the same if divided or distributed, and of the amounts that would be payable to each.

(d) CONTEMPLATED DISSOLUTION OR LIQUIDATION.—Every corporation shall, within thirty days after the adoption by the corporation of a resolution or plan for the dissolution of the corporation or for the liquidation of the whole or any part of its capital stock, render a correct return to the Commissioner, verified under oath, setting forth the terms of such resolution or plan and such other information as the Commissioner shall, with the approval of the Secretary, by regulations prescribe.

(e) DISTRIBUTIONS IN LIQUIDATION.—Every corporation shall, when required by the Commissioner, render a correct return, duly verified under oath, of its distributions in liquidation, stating the name and address of each shareholder, the number and class of shares owned by him, and the amount paid to him or, if the distribution is in property other than money, the fair market value (as of the date the distribution is made) of the property distributed to him.

(f) COMPENSATION OF OFFICERS AND EMPLOYEES.—Under regulations prescribed by the Commissioner with the approval of the Secretary, every corporation subject to taxation under this chapter shall, in its return, submit a list of the names of all officers and employees of such corporation and the respective amounts paid to them during the taxable year of the corporation by the corporation as salary, commission, bonus, or other compensation for personal services rendered, if the aggregate amount so paid to the individual is in excess of $75,000.

The Secretary shall compile from the returns made a list containing the names of, and the amounts paid to, each such officer and employee and the name of the paying corporation, and shall make such list available to the public.

SEC. 149. RETURNS OF BROKERS.

Every person doing business as a broker shall, when required by the Commissioner, render a correct return duly verified under oath, under such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe, showing the names of customers for whom such person has transacted any business, with such details as to the profits, losses, or other information which the Commissioner may require, as to each of such customers, as will enable the Commissioner to determine whether all income tax due on profits or gains of such customers has been paid.

SEC. 150. COLLECTION OF FOREIGN ITEMS.

All persons undertaking as a matter of business or for profit the collection of foreign payments of interest or dividends by means of

coupons, checks, or bills of exchange shall obtain a license from the Commissioner and shall be subject to such regulations enabling the Government to obtain the information required under this chapter as the Commissioner, with the approval of the Secretary, shall prescribe; and whoever knowingly undertakes to collect such payments without having obtained a license therefor, or without complying with such regulations, shall be guilty of a misdemeanor and shall be fined not more than $5,000 or imprisoned for not more than one year, or both.

SEC. 151. FOREIGN PERSONAL HOLDING COMPANIES.

For information returns by officers, directors, and large shareholders, with respect to foreign personal holding companies, see sections 338, 339, and 340.

For information returns by attorneys, accountants, and so forth, as to formation, and so forth, of foreign corporations, see section 3604.

Supplement E—Estates and Trusts

SEC. 161. IMPOSITION OF TAX.

(a) APPLICATION OF TAX.—The taxes imposed by this chapter upon individuals shall apply to the income of estates or of any kind of property held in trust, including—

(1) Income accumulated in trust for the benefit of unborn or unascertained persons or persons with contingent interests, and income accumulated or held for future distribution under the terms of the will or trust;

(2) Income which is to be distributed currently by the fiduciary to the beneficiaries, and income collected by a guardian of an infant which is to be held or distributed as the court may direct;

(3) Income received by estates of deceased persons during the period of administration or settlement of the estate; and

(4) Income which, in the discretion of the fiduciary, may be either distributed to the beneficiaries or accumulated.

(b) COMPUTATION AND PAYMENT.—The tax shall be computed upon the net income of the estate or trust, and shall be paid by the fiduciary, except as provided in section 166 (relating to revocable trusts) and section 167 (relating to income for benefit of the grantor).

(c) CROSS REFERENCE.—

For return made by beneficiary, see section 142.

SEC. 162. NET INCOME.

The net income of the estate or trust shall be computed in the same manner and on the same basis as in the case of an individual, except that—

(a) There shall be allowed as a deduction (in lieu of the deduction for charitable, etc., contributions authorized by section 23 (o)) any part of the gross income, without limitation, which pursuant to the terms of the will or deed creating the trust, is during the taxable year paid or permanently set aside for the purposes and in the manner specified in section 23 (o), or is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the establishment, acquisition, maintenance or operation of a public cemetery not operated for profit;

(b) There shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year which is to be distributed currently by the fiduciary to the beneficiaries, and the amount of the income collected by a guardian of an infant which is to be held or distributed as the court may direct, but the amount so allowed as a deduction shall be included in computing the net income of the beneficiaries whether distributed to them or not. Any amount al-

lowed as a deduction under this paragraph shall not be allowed as a deduction under subsection (c) of this section in the same or any succeeding taxable year;

(c) In the case of income received by estates of deceased persons during the period of administration or settlement of the estate, and in the case of income which, in the discretion of the fiduciary, may be either distributed to the beneficiary or accumulated, there shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year, which is properly paid or credited during such year to any legatee, heir, or beneficiary, but the amount so allowed as a deduction shall be included in computing the net income of the legatee, heir, or beneficiary.

SEC. 163. CREDITS AGAINST NET INCOME.

(a) CREDITS OF ESTATE OR TRUST.—

(1) For the purpose of the normal tax and the surtax an estate shall be allowed the same personal exemption as is allowed to a single person under section 25 (b) (1), and a trust shall be allowed (in lieu of the personal exemption under section 25 (b) (1)) a credit of $100 against net income.

(2) If no part of the income of the estate or trust is included in computing the net income of any legatee, heir, or beneficiary, then the estate or trust shall be allowed the same credits against net income for interest as are allowed by section 25 (a).

(b) CREDITS OF BENEFICIARY.—If any part of the income of an estate or trust is included in computing the net income of any legatee, heir, or beneficiary, such legatee, heir, or beneficiary shall, for the purpose of the normal tax, be allowed as credits against net income, in addition to the credits allowed to him under section 25, his proportionate share of such amounts of interest specified in section 25 (a) as are, under this Supplement, required to be included in computing his net income. Any remaining portion of such amounts specified in section 25 (a) shall, for the purpose of the normal tax, be allowed as credits to the estate or trust.

SEC. 164. DIFFERENT TAXABLE YEARS.

If the taxable year of a beneficiary is different from that of the estate or trust, the amount which he is required, under section 162 (b), to include in computing his net income, shall be based upon the income of the estate or trust for any taxable year of the estate or trust (whether beginning on, before, or after January 1, 1939) ending within or with his taxable year.

SEC. 165. EMPLOYEES' TRUSTS.

A trust forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of some or all of his employees—

(1) if contributions are made to the trust by such employer, or employees, or both, for the purpose of distributing to such employees the earnings and principal of the fund accumulated by the trust in accordance with such plan, and

(2) if under the trust instrument it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees under the trust, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, purposes other than for the exclusive benefit of his employees,

shall not be taxable under section 161, but the amount actually distributed or made available to any distributee shall be taxable to him in the year in which so distributed or made available to the extent that it exceeds the amounts paid in by him. Such distributees shall for the purpose of the normal tax be allowed as credits against net income such part of the amount so distributed or made available as represents the items of interest specified in section 25 (a).

SEC. 166. REVOCABLE TRUSTS.

Where at any time the power to revest in the grantor title to any part of the corpus of the trust is vested—

(1) in the grantor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of such part of the corpus or the income therefrom, or

(2) in any person not having a substantial adverse interest in the disposition of such part of the corpus or the income therefrom,

then the income of such part of the trust shall be included in computing the net income of the grantor.

SEC. 167. INCOME FOR BENEFIT OF GRANTOR.

(a) Where any part of the income of a trust—

(1) is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be, held or accumulated for future distribution to the grantor; or

(2) may, in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income, be distributed to the grantor; or

(3) is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be, applied to the payment of premiums upon policies of insurance on the life of the grantor (except policies of insurance irrevocably payable for the purposes and in the manner specified in section 23 (o), relating to the so-called "charitable contribution" deduction);

then such part of the income of the trust shall be included in computing the net income of the grantor.

(b) As used in this section the term "in the discretion of the grantor" means "in the discretion of the grantor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of the part of the income in question."

SEC. 168. TAXES OF FOREIGN COUNTRIES AND POSSESSIONS OF UNITED STATES.

The amount of income, war-profits, and excess-profits taxes imposed by foreign countries or possessions of the United States shall be allowed as credit against the tax of the beneficiary of an estate or trust to the extent provided in section 131.

SEC. 169. COMMON TRUST FUNDS.

(a) DEFINITIONS.—The term "common trust fund" means a fund maintained by a bank (as defined in section 104)—

(1) exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank in its capacity as a trustee, executor, administrator, or guardian; and

(2) in conformity with the rules and regulations, prevailing from time to time, of the Board of Governors of the Federal Reserve System pertaining to the collective investment of trust funds by national banks.

(b) TAXATION OF COMMON TRUST FUNDS.—A common trust fund shall not be subject to taxation under this chapter, subchapters A or B of chapter 2, or section 105 or 106 of the Revenue Act of 1935, 49 Stat. 1017, 1019, or chapter 6 and for the purposes of such chapters and subchapters shall not be considered a corporation.

(c) INCOME OF PARTICIPANTS IN FUND.—

(1) INCLUSIONS IN NET INCOME.—Each participant in the common trust fund in computing its net income shall include, whether or not distributed and whether or not distributable—

(A) As a part of its short-term capital gains or losses, its proportionate share of the net short-term capital gain or loss of the common trust fund;

(B) As a part of its long-term capital gains or losses, its proportionate share of the net long-term capital gain or loss of the common trust fund;

(C) Its proportionate share of the ordinary net income or the ordinary net loss of the common trust fund, computed as provided in subsection (d).

(2) CREDIT FOR PARTIALLY EXEMPT INTEREST.—The proportionate share of each participant in the amount of interest specified in section 25 (a) received by the common trust fund shall for the purposes of this Supplement be considered as having been received by such participant as such interest.

(d) COMPUTATION OF COMMON TRUST FUND INCOME.—The net income of the common trust fund shall be computed in the same manner and on the same basis as in the case of an individual, except that—

(1) There shall be segregated the short-term capital gains and losses and the long-term capital gains and losses, and the net short-term capital gain or loss and the net long-term capital gain or loss shall be computed;

(2) After excluding all items of either short-term or long-term capital gain or loss, there shall be computed—

(A) An ordinary net income which shall consist of the excess of the gross income over the deductions; or

(B) An ordinary net loss which shall consist of the excess of the deductions over the gross income;

(3) The so-called "charitable contribution" deduction allowed by section 23 (o) shall not be allowed.

(e) ADMISSION AND WITHDRAWAL.—No gain or loss shall be realized by the common trust fund by the admission or withdrawal of a participant. The withdrawal of any participating interest by a participant shall be treated as a sale or exchange of such interest by the participant.

(f) RETURNS BY BANK.—Every bank (as defined in section 104) maintaining a common trust fund shall make a return under oath for each taxable year, stating specifically, with respect to such fund, the items of gross income and the deductions allowed by this chapter, and shall include in the return the names and addresses of the participants who would be entitled to share in the net income if distributed and the amount of the proportionate share of each participant. The return shall be sworn to as in the case of a return filed by the bank under section 52.

(g) DIFFERENT TAXABLE YEARS OF COMMON TRUST FUND AND PARTICIPANT.—If the taxable year of the common trust fund is different from that of a participant, the inclusions with respect to the net income of the common trust fund, in computing the net income of the participant for its taxable year shall be based upon the net income of the common trust fund for any taxable year of the common trust fund (whether beginning on, before, or after January 1, 1939) ending within or with the taxable year of the participant.

Supplement F—Partnerships

SEC. 181. PARTNERSHIP NOT TAXABLE.

Individuals carrying on business in partnership shall be liable for income tax only in their individual capacity.

SEC. 182. TAX OF PARTNERS.

In computing the net income of each partner, he shall include, whether or not distribution is made to him—

(a) As a part of his short-term capital gains or losses, his distributive share of the net short-term capital gain or loss of the partnership.

(b) As a part of his long-term capital gains or losses, his distributive share of the net long-term capital gain or loss of the partnership.

(c) His distributive share of the ordinary net income or the ordinary net loss of the partnership, computed as provided in section 183 (b).

SEC. 183. COMPUTATION OF PARTNERSHIP INCOME.

(a) GENERAL RULE.—The net income of the partnership shall be computed in the same manner and on the same basis as in the case of an individual, except as provided in subsections (b) and (c).

(b) SEGREGATION OF ITEMS.—

(1) CAPITAL GAINS AND LOSSES.—There shall be segregated the short-term capital gains and losses and the long-term capital gains and losses, and the net short-term capital gain or loss and the net long-term capital gain or loss shall be computed.

(2) ORDINARY NET INCOME OR LOSS.—After excluding all items of either short-term or long-term capital gain or loss, there shall be computed—

(A) An ordinary net income which shall consist of the excess of the gross income over the deductions; or

(B) An ordinary net loss which shall consist of the excess of the deductions over the gross income.

(c) CHARITABLE CONTRIBUTIONS.—In computing the net income of the partnership the so-called "charitable contribution" deduction allowed by section 23 (o) shall not be allowed; but each partner shall be considered as having made payment, within his taxable year, of his distributive portion of any contribution or gift, payment of which was made by the partnership within its taxable year, of the character which would be allowed to the partnership as a deduction under such section if this subsection had not been enacted.

SEC. 184. CREDITS AGAINST NET INCOME.

The partner shall, for the purpose of the normal tax, be allowed as a credit against his net income, in addition to the credits allowed to him under section 25, his proportionate share of such amounts (not in excess of the net income of the partnership) of interest specified in section 25 (a) as are received by the partnership.

SEC. 185. EARNED INCOME.

In the case of the members of a partnership the proper part of each share of the net income which consists of earned income shall be determined under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary and shall be separately shown in the return of the partnership.

SEC. 186. TAXES OF FOREIGN COUNTRIES AND POSSESSIONS OF UNITED STATES.

The amount of income, war-profits, and excess-profits taxes imposed by foreign countries or possessions of the United States shall be allowed as a credit against the tax of the member of a partnership to the extent provided in section 131.

SEC. 187. PARTNERSHIP RETURNS.

Every partnership shall make a return for each taxable year, stating specifically the items of its gross income and the deductions allowed by this chapter and such other information for the purpose of carrying out the provisions of this chapter as the Commissioner with the approval of the Secretary may by regulations prescribe, and shall include in the return the names and addresses of the individuals who would be entitled to share in the net income if distributed and the amount of the distributive share of each individual. The return shall be sworn to by any one of the partners.

SEC. 188. DIFFERENT TAXABLE YEARS OF PARTNER AND PARTNERSHIP.

If the taxable year of a partner is different from that of the partnership, the inclusions with respect to the net income of the partnership, in computing the net income of the partner for his taxable year, shall be based upon the net income of the partnership for any taxable year of the partnership (whether beginning on, before, or after January 1, 1939) ending within or with the taxable year of the partner.

Supplement G—Insurance Companies

SEC. 201. TAX ON LIFE INSURANCE COMPANIES.

(a) DEFINITION.—When used in this chapter the term "life insurance company" means an insurance company engaged in the business of issuing life insurance and annuity contracts (including contracts of combined life, health, and accident insurance), the reserve funds of which held for the fulfillment of such contracts comprise more than 50 per centum of its total reserve funds.

(b) IMPOSITION OF TAX.—

(1) IN GENERAL.—In lieu of the tax imposed by sections 13 and 14, there shall be levied, collected, and paid for each taxable year upon the special class net income of every life insurance company a tax of 16½ per centum of the amount thereof.

(2) SPECIAL CLASS NET INCOME OF FOREIGN LIFE INSURANCE COMPANIES.—In the case of a foreign life insurance company, the special class net income shall be an amount which bears the same ratio to the special class net income, computed without regard to this paragraph, as the reserve funds required by law and held by it at the end of the taxable year upon business transacted within the United States bear to the reserve funds held by it at the end of the taxable year upon all business transacted.

(3) NO UNITED STATES INSURANCE BUSINESS.—Foreign life insurance companies not carrying on an insurance business within the United States and holding no reserve funds upon business transacted within the United States, shall not be taxable under this section but shall be taxable as other foreign corporations.

SEC. 202. GROSS INCOME OF LIFE INSURANCE COMPANIES.

(a) GROSS INCOME DEFINED.—

(1) IN GENERAL.—In the case of a life insurance company the term "gross income" means the gross amount of income received during the taxable year from interest, dividends, and rents.

(2) CROSS REFERENCE.—

For inclusion in computation of tax of amount specified in shareholder's consent, see section 28.

(b) RESERVE FUNDS REQUIRED BY LAW, DEFINED.—The term "reserve funds required by law" includes, in the case of assessment insurance, sums actually deposited by any company or association with State or Territorial officers pursuant to law as guaranty or reserve funds, and any funds maintained under the charter or articles of incorporation of the company or association exclusively for the payment of claims arising under certificates of membership or policies issued upon the assessment plan and not subject to any other use.

SEC. 203. NET INCOME OF LIFE INSURANCE COMPANIES.

(a) GENERAL RULE.—In the case of a life insurance company the term "net income" means the gross income less—

(1) TAX-FREE INTEREST.—The amount of interest received during the taxable year which under section 22 (b) (4) is excluded from gross income;

(2) RESERVE FUNDS.—An amount equal to 4 per centum of the mean of the reserve funds required by law and held at the beginning and end of the taxable year, except that in the case of any such reserve fund which is computed at a lower interest assumption rate, the rate of 3¾ per centum shall be substituted for 4 per centum. Life insurance companies issuing policies covering life, health, and accident insurance combined in one policy issued on the weekly premium payment plan, continuing for life and not subject to cancellation, shall be allowed, in addition to the above, a deduction of 3¾ per centum of the mean of such reserve funds (not required by law) held at the beginning and end of the taxable year, as the Commissioner finds to be necessary for the protection of the holders of such policies only;

(3) RESERVE FOR DIVIDENDS.—An amount equal to 2 per centum of any sums held at the end of the taxable year as a reserve for dividends (other than dividends payable during the year following the taxable year) the payment of which is deferred for a period of not less than five years from the date of the policy contract;

(4) INVESTMENT EXPENSES.—Investment expenses paid during the taxable year: *Provided*, That if any general expenses are in part assigned to or included in the investment expenses, the total deduction under this paragraph shall not exceed one-fourth of 1 per centum of the book value of the mean of the invested assets held at the beginning and end of the taxable year;

(5) REAL ESTATE EXPENSES.—Taxes and other expenses paid during the taxable year exclusively upon or with respect to the real estate owned by the company, not including taxes assessed against local benefits of a kind tending to increase the value of the property assessed, and not including any amount paid out for new buildings, or for permanent improvements or betterments made to increase the value of any property. The deduction allowed by this paragraph shall be allowed in the case of taxes imposed upon a shareholder of a company upon his interest as shareholder, which are paid by the company without reimbursement from the shareholder, but in such cases no deduction shall be allowed the shareholder for the amount of such taxes;

(6) DEPRECIATION.—A reasonable allowance, as provided in section 23 (l), for the exhaustion, wear and tear of property, including a reasonable allowance for obsolescence; and

(7) INTEREST.—All interest paid within the taxable year on its indebtedness, except on indebtedness incurred or continued to purchase or carry obligations (other than obligations of the United States issued after September 24, 1917, and originally subscribed for by the taxpayer) the interest upon which is wholly exempt from taxation under this chapter.

(b) RENTAL VALUE OF REAL ESTATE.—The deduction under subsection (a) (5) or (6) of this section on account of any real estate owned and occupied in whole or in part by a life insurance company, shall be limited to an amount which bears the same ratio to such deduction (computed without regard to this subsection) as the rental value of the space not so occupied bears to the rental value of the entire property.

SEC. 204. INSURANCE COMPANIES OTHER THAN LIFE OR MUTUAL.

(a) IMPOSITION OF TAX.—

(1) IN GENERAL.—In lieu of the tax imposed by sections 13 and 14, there shall be levied, collected, and paid for each taxable year upon the special class net income of every insurance company (other than a life or mutual insurance company) a tax of 16½ per centum of the amount thereof.

(2) SPECIAL CLASS NET INCOME OF FOREIGN COMPANIES.—In the case of a foreign insurance company (other than a life or mutual in-

surance company), the special class net income shall be the net income from sources within the United States minus the sum of—

(A) INTEREST ON OBLIGATIONS OF THE UNITED STATES AND ITS INSTRUMENTALITIES.—The credit provided in section 26 (a).

(B) DIVIDENDS RECEIVED.—The credit provided in section 26 (b).

(3) NO UNITED STATES INSURANCE BUSINESS.—Foreign insurance companies not carrying on an insurance business within the United States shall not be taxable under this section but shall be taxable as other foreign corporations.

(b) DEFINITION OF INCOME, ETC.—In the case of an insurance company subject to the tax imposed by this section—

(1) GROSS INCOME.—"Gross income" means the sum of (A) the combined gross amount earned during the taxable year, from investment income and from underwriting income as provided in this subsection, computed on the basis of the underwriting and investment exhibit of the annual statement approved by the National Convention of Insurance Commissioners, and (B) gain during the taxable year from the sale or other disposition of property, and (C) all other items constituting gross income under section 22;

(2) NET INCOME.—"Net income" means the gross income as defined in paragraph (1) of this subsection less the deductions allowed by subsection (c) of this section;

(3) INVESTMENT INCOME.—"Investment income" means the gross amount of income earned during the taxable year from interest, dividends, and rents, computed as follows:

To all interest, dividends and rents received during the taxable year, add interest, dividends and rents due and accrued at the end of the taxable year, and deduct all interest, dividends and rents due and accrued at the end of the preceding taxable year;

(4) UNDERWRITING INCOME.—"Underwriting income" means the premiums earned on insurance contracts during the taxable year less losses incurred and expenses incurred;

(5) PREMIUMS EARNED.—"Premiums earned on insurance contracts during the taxable year" means an amount computed as follows:

From the amount of gross premiums written on insurance contracts during the taxable year, deduct return premiums and premiums paid for reinsurance. To the result so obtained add unearned premiums on outstanding business at the end of the preceding taxable year and deduct unearned premiums on outstanding business at the end of the taxable year;

(6) LOSSES INCURRED.—"Losses incurred" means losses incurred during the taxable year on insurance contracts, computed as follows:

To losses paid during the taxable year, add salvage and reinsurance recoverable outstanding at the end of the preceding taxable year, and deduct salvage and reinsurance recoverable outstanding at the end of the taxable year. To the result so obtained add all unpaid losses outstanding at the end of the taxable year and deduct unpaid losses outstanding at the end of the preceding taxable year;

(7) EXPENSES INCURRED.—"Expenses incurred" means all expenses shown on the annual statement approved by the National Convention of Insurance Commissioners, and shall be computed as follows:

To all expenses paid during the taxable year add expenses unpaid at the end of the taxable year and deduct expenses unpaid at the end of the preceding taxable year. For the purpose of computing the net income subject to the tax imposed by this section there shall be deducted from expenses incurred as defined

in this paragraph all expenses incurred which are not allowed as deductions by subsection (c) of this section.

(c) DEDUCTIONS ALLOWED.—In computing the net income of an insurance company subject to the tax imposed by this section there shall be allowed as deductions:

(1) All ordinary and necessary expenses incurred, as provided in section 23 (a);

(2) All interest as provided in section 23 (b);

(3) Taxes as provided in section 23 (c);

(4) Losses incurred as defined in subsection (b) (6) of this section;

(5) Subject to the limitation contained in section 117 (d), losses sustained during the taxable year from the sale or other disposition of property;

(6) Bad debts in the nature of agency balances and bills receivable ascertained to be worthless and charged off within the taxable year;

(7) The amount of interest earned during the taxable year which under section 22 (b) (4) is excluded from gross income;

(8) A reasonable allowance for the exhaustion, wear and tear of property, as provided in section 23 (l);

(9) Charitable, and so forth, contributions, as provided in section 23 (q);

(10) Deductions (other than those specified in this subsection) as provided in section 23, but not in excess of the amount of the gross income included under subsection (b) (1) (C) of this section.

(d) DEDUCTIONS OF FOREIGN CORPORATIONS.—In the case of a foreign corporation the deductions allowed in this section shall be allowed to the extent provided in Supplement I in the case of a foreign corporation engaged in trade or business within the United States or having an office or place of business therein.

(e) DOUBLE DEDUCTIONS.—Nothing in this section shall be construed to permit the same item to be twice deducted.

SEC. 205. TAXES OF FOREIGN COUNTRIES AND POSSESSIONS OF UNITED STATES.

The amount of income, war-profits, and excess-profits taxes imposed by foreign countries or possessions of the United States shall be allowed as a credit against the tax of a domestic insurance company subject to the tax imposed by section 201, 204, or 207, to the extent provided in the case of a domestic corporation in section 131, and in the case of the tax imposed by section 201 or 204 "net income" as used in section 131 means the net income as defined in this Supplement.

SEC. 206. COMPUTATION OF GROSS INCOME.

The gross income of insurance companies subject to the tax imposed by section 201 or 204 shall not be determined in the manner provided in section 119.

SEC. 207. MUTUAL INSURANCE COMPANIES OTHER THAN LIFE.

(a) IMPOSITION OF TAX.—

(1) IN GENERAL.—There shall be levied, collected, and paid for each taxable year upon the special class net income of every mutual insurance company (other than a life insurance company) a tax equal to 16½ per centum thereof.

(2) FOREIGN CORPORATIONS.—The tax imposed by paragraph (1) shall apply to foreign corporations as well as domestic corporations; but foreign insurance companies not carrying on an insurance business within the United States shall be taxable as other foreign corporations.

(b) GROSS INCOME.—Mutual marine-insurance companies shall include in gross income the gross premiums collected and received by them less amounts paid for reinsurance.

(c) DEDUCTIONS.—In addition to the deductions allowed to corporations by section 23 the following deductions to insurance companies shall also be allowed, unless otherwise allowed—

(1) MUTUAL INSURANCE COMPANIES OTHER THAN LIFE INSURANCE.—In the case of mutual insurance companies other than life insurance companies—

(A) the net addition required by law to be made within the taxable year to reserve funds (including in the case of assessment insurance companies the actual deposit of sums with State or Territorial officers pursuant to law as additions to guarantee or reserve funds); and

(B) the sums other than dividends paid within the taxable year on policy and annuity contracts.

(2) MUTUAL MARINE INSURANCE COMPANIES.—In the case of mutual marine insurance companies, in addition to the deductions allowed in paragraph (1) of this subsection, unless otherwise allowed, amounts repaid to policyholders on account of premiums previously paid by them, and interest paid upon such amounts between the ascertainment and the payment thereof;

(3) MUTUAL INSURANCE COMPANIES OTHER THAN LIFE AND MARINE.—In the case of mutual insurance companies (including interinsurers and reciprocal underwriters, but not including mutual life or mutual marine insurance companies) requiring their members to make premium deposits to provide for losses and expenses, the amount of premium deposits returned to their policyholders and the amount of premium deposits retained for the payment of losses, expenses, and reinsurance reserves.

Supplement H—Nonresident Alien Individuals

SEC. 211. TAX ON NONRESIDENT ALIEN INDIVIDUALS.

(a) NO UNITED STATES BUSINESS OR OFFICE.—

(1) GENERAL RULE.—

(A) IMPOSITION OF TAX.—There shall be levied, collected, and paid for each taxable year, in lieu of the tax imposed by sections 11 and 12, upon the amount received, by every nonresident alien individual not engaged in trade or business within the United States and not having an office or place of business therein, from sources within the United States as interest (except interest on deposits with persons carrying on the banking business), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income, a tax of 10 per centum of such amount, except that such rate shall be reduced, in the case of a resident of a contiguous country, to such rate (not less than 5 per centum) as may be provided by treaty with such country.

(B) CROSS REFERENCE.—

For inclusion in computation of tax of amount specified in shareholder's consent, see section 28.

(2) AGGREGATE MORE THAN $21,600.—The tax imposed by paragraph (1) shall not apply to any individual if the aggregate amount received during the taxable year from the sources therein specified is more than $21,600.

(3) RESIDENTS OF CONTIGUOUS COUNTRIES.—Despite the provisions of paragraph (2), the provisions of paragraph (1) shall apply to a resident of a contiguous country so long as there is in effect a treaty with such country (ratified prior to August 26, 1937) under which the rate of tax under section 211 (a) of the Revenue Act of 1936, 49 Stat. 1714, prior to its amendment by section 501 (a) of the Revenue Act of 1937, 50 Stat. 830, was reduced.

(b) UNITED STATES BUSINESS OR OFFICE.—A nonresident alien individual engaged in trade or business in the United States or having an office or place of business therein shall be taxable without regard to the provisions of subsection (a). As used in this section, section 119, section 143, section 144, and section 231, the phrase "engaged in trade or business within the United States" includes the performance of personal services within the United States at any time within the taxable year, but does not include the performance of personal services for a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, by a nonresident alien individual temporarily present in the United States for a period or periods not exceeding a total of ninety days during the taxable year and whose compensation for such services does not exceed in the aggregate $3,000. Such phrase does not include the effecting of transactions in the United States in stocks, securities, or commodities through a resident broker, commission agent, or custodian.

(c) NO UNITED STATES BUSINESS OR OFFICE AND GROSS INCOME OF MORE THAN $21,600.—A nonresident alien individual not engaged in trade or business within the United States and not having an office or place of business therein who has a gross income for any taxable year of more than $21,600 from the sources specified in subsection (a) (1), shall be taxable without regard to the provisions of subsection (a) (1), except that—

(1) The gross income shall include only income from the sources specified in subsection (a) (1);

(2) The deductions (other than the so-called "charitable deduction" provided in section 213 (c)) shall be allowed only if and to the extent that they are properly allocable to the gross income from the sources specified in subsection (a) (1);

(3) The aggregate of the normal and surtax under sections 11 and 12 shall, in no case, be less than 10 per centum of the gross income from the sources specified in subsection (a) (1); and

(4) This subsection shall not apply to a resident of a contiguous country so long as there is in effect a treaty with such country (ratified prior to August 26, 1937) under which the rate of tax under section 211 (a) of the Revenue Act of 1936, prior to its amendment by section 501 (a) of the Revenue Act of 1937, was reduced.

SEC. 212. GROSS INCOME.

(a) GENERAL RULE.—In the case of a nonresident alien individual gross income includes only the gross income from sources within the United States.

(b) SHIPS UNDER FOREIGN FLAG.—The income of a nonresident alien individual which consists exclusively of earnings derived from the operation of a ship or ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States shall not be included in gross income and shall be exempt from taxation under this chapter.

SEC. 213. DEDUCTIONS.

(a) GENERAL RULE.—In the case of a nonresident alien individual the deductions shall be allowed only if and to the extent that they are connected with income from sources within the United States; and the proper apportionment and allocation of the deductions with respect to sources of income within and without the United States shall be determined as provided in section 119, under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

(b) LOSSES.—

(1) The deduction, for losses not connected with the trade or business if incurred in transactions entered into for profit, allowed by section 23 (e) (2) shall be allowed whether or not connected with income from sources within the United States, but only if the profit, if such transaction had resulted in a profit, would be taxable under this chapter.

(2) The deduction for losses of property not connected with the trade or business if arising from certain casualties or theft, allowed by section 23 (e) (3), shall be allowed whether or not connected with income from sources within the United States, but only if the loss is of property within the United States.

(c) CHARITABLE, ETC., CONTRIBUTIONS.—The so-called "charitable contribution" deduction allowed by section 23 (o) shall be allowed whether or not connected with income from sources within the United States, but only as to contributions or gifts made to domestic corporations, or to community chests, funds, or foundations, created in the United States, or to the vocational rehabilitation fund.

SEC. 214. CREDITS AGAINST NET INCOME.

In the case of a nonresident alien individual the personal exemption allowed by section 25 (b) (1) of this chapter shall be only $1,000. The credit for dependents allowed by section 25 (b) (2) shall not be allowed in the case of a nonresident alien individual unless he is a resident of a contiguous country.

SEC. 215. ALLOWANCE OF DEDUCTIONS AND CREDITS.

(a) RETURN TO CONTAIN INFORMATION.—A nonresident alien individual shall receive the benefit of the deductions and credits allowed to him in this chapter only by filing or causing to be filed with the collector a true and accurate return of his total income received from all sources in the United States, in the manner prescribed in this chapter; including therein all the information which the Commissioner may deem necessary for the calculation of such deductions and credits.

(b) TAX WITHHELD AT SOURCE.—The benefit of the personal exemption and credit for dependents may, in the discretion of the Commissioner and under regulations prescribed by him with the approval of the Secretary, be received by a nonresident alien individual entitled thereto, by filing a claim therefor with the withholding agent.

SEC. 216. CREDITS AGAINST TAX.

A nonresident alien individual shall not be allowed the credits against the tax for taxes of foreign countries and possessions of the United States allowed by section 131.

SEC. 217. RETURNS.

(a) REQUIREMENT.—In the case of a nonresident alien individual the return, in lieu of the time prescribed in section 53 (a) (1), shall be made on or before the fifteenth day of the sixth month following the close of the fiscal year, or, if the return is made on the basis of the calendar year, then on or before the fifteenth day of June.

(b) EXEMPTION FROM REQUIREMENT.—Subject to such conditions, limitations, and exceptions and under such regulations as may be prescribed by the Commissioner, with the approval of the Secretary, nonresident alien individuals subject to the tax imposed by section 211 (a) may be exempted from the requirement of filing returns of such tax.

SEC. 218. PAYMENT OF TAX.

(a) TIME OF PAYMENT.—In the case of a nonresident alien individual the total amount of tax imposed by this chapter shall be paid, in lieu of the time prescribed in section 56 (a), on the fifteenth day

of June following the close of the calendar year, or, if the return should be made on the basis of a fiscal year, then on the fifteenth day of the sixth month following the close of the fiscal year.

(b) WITHHOLDING AT SOURCE.—

For withholding at source of tax on income of nonresident aliens, see section 143.

SEC. 219. PARTNERSHIPS.

For the purpose of this chapter, a nonresident alien individual shall be considered as being engaged in a trade or business within the United States if the partnership of which he is a member is so engaged and as having an office or place of business within the United States if the partnership of which he is a member has such an office or place of business.

Supplement I—Foreign Corporations

SEC. 231. TAX ON FOREIGN CORPORATIONS.

(a) NONRESIDENT CORPORATIONS.—

(1) IMPOSITION OF TAX.—There shall be levied, collected, and paid for each taxable year, in lieu of the tax imposed by sections 13 and 14, upon the amount received by every foreign corporation not engaged in trade or business within the United States and not having an office or place of business therein, from sources within the United States as interest (except interest on deposits with persons carrying on the banking business), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income, a tax of 15 per centum of such amount, except that in the case of dividends the rate shall be 10 per centum, and except that in the case of corporations organized under the laws of a contiguous country such rate of 10 per centum with respect to dividends shall be reduced to such rate (not less than 5 per centum) as may be provided by treaty with such country.

(2) CROSS REFERENCE.—

For inclusion in computation of tax of amount specified in shareholder's consent, see section 28.

(b) RESIDENT CORPORATIONS.—A foreign corporation engaged in trade or business within the United States or having an office or place of business therein shall be taxable as provided in section 14 (e) (1).

(c) GROSS INCOME.—In the case of a foreign corporation gross income includes only the gross income from sources within the United States.

(d) SHIPS UNDER FOREIGN FLAG.—The income of a foreign corporation, which consists exclusively of earnings derived from the operation of a ship or ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States, shall not be included in gross income and shall be exempt from taxation under this chapter.

SEC. 232. DEDUCTIONS.

(a) IN GENERAL.—In the case of a foreign corporation the deductions shall be allowed only if and to the extent that they are connected with income from sources within the United States; and the proper apportionment and allocation of the deductions with respect to sources within and without the United States shall be determined as provided in section 119, under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

(b) CHARITABLE, AND SO FORTH, CONTRIBUTIONS.—The so-called "charitable contribution" deduction allowed by section 23 (q) shall be allowed whether or not connected with income from sources within the United States.

SEC. 233. ALLOWANCE OF DEDUCTIONS AND CREDITS.

A foreign corporation shall receive the benefit of the deductions and credits allowed to it in this chapter only by filing or causing to be filed with the collector a true and accurate return of its total income received from all sources in the United States, in the manner prescribed in this chapter; including therein all the information which the Commissioner may deem necessary for the calculation of such deductions and credits.

SEC. 234. CREDITS AGAINST TAX.

Foreign corporations shall not be allowed the credits against the tax for taxes of foreign countries and possessions of the United States allowed by section 131.

SEC. 235. RETURNS.

(a) TIME OF FILING.—In the case of a foreign corporation not having any office or place of business in the United States the return, in lieu of the time prescribed in section 53 (a) (1), shall be made on or before the fifteenth day of the sixth month following the close of the fiscal year, or, if the return is made on the basis of the calendar year then on or before the fifteenth day of June. If any foreign corporation has no office or place of business in the United States but has an agent in the United States, the return shall be made by the agent.

(b) EXEMPTION FROM REQUIREMENT.—Subject to such conditions, limitations, and exceptions and under such regulations as may be prescribed by the Commissioner, with the approval of the Secretary, corporations subject to the tax imposed by section 231 (a) may be exempted from the requirement of filing returns of such tax.

SEC. 236. PAYMENT OF TAX.

(a) TIME OF PAYMENT.—In the case of a foreign corporation not having any office or place of business in the United States the total amount of tax imposed by this chapter shall be paid, in lieu of the time prescribed in section 56 (a), on the fifteenth day of June following the close of the calendar year, or, if the return should be made on the basis of a fiscal year, then on the fifteenth day of the sixth month following the close of the fiscal year.

(b) WITHHOLDING AT SOURCE.—

For withholding at source of tax on income of foreign corporations, see section 144.

SEC. 237. FOREIGN INSURANCE COMPANIES.

For special provisions relating to foreign insurance companies, see Supplement G.

SEC. 238. AFFILIATION.

A foreign corporation shall not be deemed to be affiliated with any other corporation within the meaning of section 141.

Supplement J—Possessions of the United States

SEC. 251. INCOME FROM SOURCES WITHIN POSSESSIONS OF UNITED STATES.

(a) GENERAL RULE.—In the case of citizens of the United States or domestic corporations, satisfying the following conditions, gross income means only gross income from sources within the United States—

(1) If 80 per centum or more of the gross income of such citizen or domestic corporation (computed without the benefit of this section), for the three-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within a possession of the United States; and

(2) If, in the case of such corporation, 50 per centum or more of its gross income (computed without the benefit of this section) for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States; or

(3) If, in case of such citizen, 50 per centum or more of his gross income (computed without the benefit of this section) for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States either on his own account or as an employee or agent of another.

(b) AMOUNTS RECEIVED IN UNITED STATES.—Notwithstanding the provisions of subsection (a) there shall be included in gross income all amounts received by such citizens or corporations within the United States, whether derived from sources within or without the United States.

(c) TAX IN CASE OF CORPORATIONS.—

(1) SECTION IMPOSING TAX.—A domestic corporation entitled to the benefits of this section shall be taxable as provided in section 14 (d).

(2) CROSS REFERENCE.—

For inclusion in computation of tax of amount specified in shareholder's consent, see section 28.

(d) DEFINITION.—As used in this section the term "possession of the United States" does not include the Virgin Islands of the United States.

(e) DEDUCTIONS.—

(1) Citizens of the United States entitled to the benefits of this section shall have the same deductions as are allowed by Supplement H in the case of a nonresident alien individual engaged in trade or business within the United States or having an office or place of business therein.

(2) Domestic corporations entitled to the benefits of this section shall have the same deductions as are allowed by Supplement I in the case of a foreign corporation engaged in trade or business within the United States or having an office or place of business therein.

(f) CREDITS AGAINST NET INCOME.—A citizen of the United States entitled to the benefits of this section shall be allowed a personal exemption of only $1,000 and shall not be allowed the credit for dependents provided in section 25 (b) (2).

(g) ALLOWANCE OF DEDUCTIONS AND CREDITS.—Citizens of the United States and domestic corporations entitled to the benefits of this section shall receive the benefit of the deductions and credits allowed to them in this chapter only by filing or causing to be filed with the collector a true and accurate return of their total income received from all sources in the United States, in the manner prescribed in this chapter; including therein all the information which the Commissioner may deem necessary for the calculation of such deductions and credits.

(h) CREDITS AGAINST TAX.—Persons entitled to the benefits of this section shall not be allowed the credits against the tax for taxes of foreign countries and possessions of the United States allowed by section 131.

(i) AFFILIATION.—A corporation entitled to the benefits of this section shall not be deemed to be affiliated with any other corporation within the meaning of section 141.

SEC. 252. CITIZENS OF POSSESSIONS OF UNITED STATES.

(a) Any individual who is a citizen of any possession of the United States (but not otherwise a citizen of the United States) and who is not a resident of the United States, shall be subject to taxation under this chapter only as to income derived from sources within the United

States, and in such case the tax shall be computed and paid in the same manner and subject to the same conditions as in the case of other persons who are taxable only as to income derived from such sources.

(b) Nothing in this section shall be construed to alter or amend the provisions of the Act entitled "An Act making appropriations for the naval service for the fiscal year ending June 30, 1922, and for other purposes", approved July 12, 1921, c. 44, 42 Stat. 123 (U. S. C., Title 48, § 1397), relating to the imposition of income taxes in the Virgin Islands of the United States.

Supplement K—China Trade Act Corporations

SEC. 261. TAXATION IN GENERAL.

(a) IMPOSITION OF TAX.—

A corporation organized under the China Trade Act, 1922, 42 Stat. 849 (U. S. C., Title 15, c. 4), shall be taxable as provided in section 14 (d).

(b) CROSS REFERENCE.—

For inclusion in computation of tax of amount specified in shareholder's consent, see section 28.

SEC. 262. CREDIT AGAINST NET INCOME.

(a) ALLOWANCE OF CREDIT.—For the purpose only of the taxes imposed by sections 14 and 600 of this title and section 106 of the Revenue Act of 1935 there shall be allowed, in the case of a corporation organized under the China Trade Act, 1922, in addition to the credits against net income otherwise allowed such corporation, a credit against the net income of an amount equal to the proportion of the net income derived from sources within China (determined in a similar manner to that provided in section 119) which the par value of the shares of stock of the corporation owned on the last day of the taxable year by (1) persons resident in China, the United States, or possessions of the United States, and (2) individual citizens of the United States or China wherever resident, bears to the par value of the whole number of shares of stock of the corporation outstanding on such date: *Provided*, That in no case shall the diminution, by reason of such credit, of the tax imposed by such section 14 (computed without regard to this section) exceed the amount of the special dividend certified under subsection (b) of this section; and in no case shall the diminution, by reason of such credit, of the tax imposed by such section 106 or 600 (computed without regard to this section) exceed the amount by which such special dividend exceeds the diminution permitted by this section in the tax imposed by such section 14.

(b) SPECIAL DIVIDEND.—Such credit shall not be allowed unless the Secretary of Commerce has certified to the Commissioner—

(1) The amount which, during the year ending on the date fixed by law for filing the return, the corporation has distributed as a special dividend to or for the benefit of such persons as on the last day of the taxable year were resident in China, the United States, or possessions of the United States, or were individual citizens of the United States or China, and owned shares of stock of the corporation;

(2) That such special dividend was in addition to all other amounts, payable or to be payable to such persons or for their benefit, by reason of their interest in the corporation; and

(3) That such distribution has been made to or for the benefit of such persons in proportion to the par value of the shares of stock of the corporation owned by each; except that if the corporation has more than one class of stock, the certificates shall contain a statement that the articles of incorporation provide a method for the apportionment of such special dividend among

such persons, and that the amount certified has been distributed in accordance with the method so provided.

(c) OWNERSHIP OF STOCK.—For the purposes of this section shares of stock of a corporation shall be considered to be owned by the person in whom the equitable right to the income from such shares is in good faith vested.

(d) DEFINITION OF CHINA.—As used in this section the term "China" shall have the same meaning as when used in the China Trade Act, 1922.

SEC. 263. CREDITS AGAINST THE TAX.

A corporation organized under the China Trade Act, 1922, shall not be allowed the credits against the tax for taxes of foreign countries and possessions of the United States allowed by section 131.

SEC. 264. AFFILIATION.

A corporation organized under the China Trade Act, 1922, shall not be deemed to be affiliated with any other corporation within the meaning of section 141.

SEC. 265. INCOME OF SHAREHOLDERS.

For exclusion of dividends from gross income, see section 116.

Supplement L—Assessment and Collection of Deficiencies

SEC. 271. DEFINITION OF DEFICIENCY.

As used in this chapter in respect of a tax imposed by this chapter "deficiency" means—

(a) The amount by which the tax imposed by this chapter exceeds the amount shown as the tax by the taxpayer upon his return; but the amount so shown on the return shall first be increased by the amounts previously assessed (or collected without assessment) as a deficiency, and decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax; or

(b) If no amount is shown as the tax by the taxpayer upon his return, or if no return is made by the taxpayer, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed, or collected without assessment, shall first be decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax.

SEC. 272. PROCEDURE IN GENERAL.

(a) (1) PETITION TO BOARD OF TAX APPEALS.—If in the case of any taxpayer, the Commissioner determines that there is a deficiency in respect of the tax imposed by this chapter, the Commissioner is authorized to send notice of such deficiency to the taxpayer by registered mail. Within ninety days after such notice is mailed (not counting Sunday or a legal holiday in the District of Columbia as the ninetieth day), the taxpayer may file a petition with the Board of Tax Appeals for a redetermination of the deficiency. No assessment of a deficiency in respect of the tax imposed by this chapter and no distraint or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the taxpayer, nor until the expiration of such ninety-day period, nor, if a petition has been filed with the Board, until the decision of the Board has become final. Notwithstanding the provisions of section 3653 (a) the making of such assessment or the beginning of such proceeding or distraint during the time such prohibition is in force may be enjoined by a proceeding in the proper court. In the case of a joint return filed by husband and wife such notice of deficiency may be a single joint notice, except that if the Commissioner has been notified by either spouse that separate residences have been established, then, in lieu

of the single joint notice, duplicate originals of the joint notice must be sent by registered mail to each spouse at his last known address.

(2) CROSS REFERENCES.—

For exceptions to the restrictions imposed by this subsection, see—
Subsection (d) of this section, relating to waivers by the taxpayer;
Subsection (f) of this section, relating to notifications of mathematical errors appearing upon the face of the return;
Section 273, relating to jeopardy assessments;
Section 274, relating to bankruptcy and receiverships; and
Section 1145, relating to assessment or collection of the amount of the deficiency determined by the Board pending court review.

(b) COLLECTION OF DEFICIENCY FOUND BY BOARD.—If the taxpayer files a petition with the Board, the entire amount redetermined as the deficiency by the decision of the Board which has become final shall be assessed and shall be paid upon notice and demand from the collector. No part of the amount determined as a deficiency by the Commissioner but disallowed as such by the decision of the Board which has become final shall be assessed or be collected by distraint or by proceeding in court with or without assessment.

(c) FAILURE TO FILE PETITION.—If the taxpayer does not file a petition with the Board within the time prescribed in subsection (a) of this section, the deficiency, notice of which has been mailed to the taxpayer, shall be assessed, and shall be paid upon notice and demand from the collector.

(d) WAIVER OF RESTRICTIONS.—The taxpayer shall at any time have the right, by a signed notice in writing filed with the Commissioner, to waive the restrictions provided in subsection (a) of this section on the assessment and collection of the whole or any part of the deficiency.

(e) INCREASE OF DEFICIENCY AFTER NOTICE MAILED.—The Board shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the taxpayer, and to determine whether any penalty, additional amount or addition to the tax should be assessed—if claim therefor is asserted by the Commissioner at or before the hearing or a rehearing.

(f) FURTHER DEFICIENCY LETTERS RESTRICTED.—If the Commissioner has mailed to the taxpayer notice of a deficiency as provided in subsection (a) of this section, and the taxpayer files a petition with the Board within the time prescribed in such subsection, the Commissioner shall have no right to determine any additional deficiency in respect of the same taxable year, except in the case of fraud, and except as provided in subsection (e) of this section, relating to assertion of greater deficiencies before the Board, or in section 273 (c), relating to the making of jeopardy assessments. If the taxpayer is notified that, on account of a mathematical error appearing upon the face of the return, an amount of tax in excess of that shown upon the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical error, such notice shall not be considered (for the purposes of this subsection, or of subsection (a) of this section, prohibiting assessment and collection until notice of deficiency has been mailed, or of section 322 (c), prohibiting credits or refunds after petition to the Board of Tax Appeals) as a notice of a deficiency, and the taxpayer shall have no right to file a petition with the Board based on such notice, nor shall such assessment or collection be prohibited by the provisions of subsection (a) of this section.

(g) JURISDICTION OVER OTHER TAXABLE YEARS.—The Board in redetermining a deficiency in respect of any taxable year shall consider such facts with relation to the taxes for other taxable years as may be necessary correctly to redetermine the amount of such de-

ficiency, but in so doing shall have no jurisdiction to determine whether or not the tax for any other taxable year has been overpaid or underpaid.

(h) FINAL DECISIONS OF BOARD.—For the purposes of this chapter the date on which a decision of the Board becomes final shall be determined according to the provisions of section 1140.

(i) PRORATING OF DEFICIENCY TO INSTALLMENTS.—If the taxpayer has elected to pay the tax in installments and a deficiency has been assessed, the deficiency shall be prorated to the four installments. Except as provided in section 273 (relating to jeopardy assessments), that part of the deficiency so prorated to any installment the date for payment of which has not arrived, shall be collected at the same time as and as part of such installment. That part of the deficiency so prorated to any installment the date for payment of which has arrived, shall be paid upon notice and demand from the collector.

(j) EXTENSION OF TIME FOR PAYMENT OF DEFICIENCIES.—Where it is shown to the satisfaction of the Commissioner that the payment of a deficiency upon the date prescribed for the payment thereof will result in undue hardship to the taxpayer the Commissioner, under regulations prescribed by the Commissioner, with the approval of the Secretary, may grant an extension for the payment of such deficiency for a period not in excess of eighteen months, and, in exceptional cases, for a further period not in excess of twelve months. If an extension is granted, the Commissioner may require the taxpayer to furnish a bond in such amount, not exceeding double the amount of the deficiency, and with such sureties, as the Commissioner deems necessary, conditioned upon the payment of the deficiency in accordance with the terms of the extension. No extension shall be granted if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(k) ADDRESS FOR NOTICE OF DEFICIENCY.—In the absence of notice to the Commissioner under section 312 (a) of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by this chapter, if mailed to the taxpayer at his last known address, shall be sufficient for the purposes of this chapter even if such taxpayer is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

SEC. 273. JEOPARDY ASSESSMENTS.

(a) AUTHORITY FOR MAKING.—If the Commissioner believes that the assessment or collection of a deficiency will be jeopardized by delay, he shall immediately assess such deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) and notice and demand shall be made by the collector for the payment thereof.

(b) DEFICIENCY LETTERS.—If the jeopardy assessment is made before any notice in respect of the tax to which the jeopardy assessment relates has been mailed under section 272 (a), then the Commissioner shall mail a notice under such subsection within sixty days after the making of the assessment.

(c) AMOUNT ASSESSABLE BEFORE DECISION OF BOARD.—The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the taxpayer, despite the provisions of section 272 (f) prohibiting the determination of additional deficiencies, and whether or not the taxpayer has theretofore filed a petition with the Board of Tax Appeals. The Commissioner may, at any time before the decision of the Board is rendered, abate such assessment, or any unpaid portion thereof, to the extent that he believes the assessment to be excessive in amount. The Commissioner shall notify the Board of the amount of such assessment, or abatement, if the petition is filed with the Board before the making

of the assessment or is subsequently filed, and the Board shall have jurisdiction to redetermine the entire amount of the deficiency and of all amounts assessed at the same time in connection therewith.

(d) AMOUNT ASSESSABLE AFTER DECISION OF BOARD.—If the jeopardy assessment is made after the decision of the Board is rendered such assessment may be made only in respect of the deficiency determined by the Board in its decision.

(e) EXPIRATION OF RIGHT TO ASSESS.—A jeopardy assessment may not be made after the decision of the Board has become final or after the taxpayer has filed a petition for review of the decision of the Board.

(f) BOND TO STAY COLLECTION.—When a jeopardy assessment has been made the taxpayer, within 10 days after notice and demand from the collector for the payment of the amount of the assessment, may obtain a stay of collection of the whole or any part of the amount of the assessment by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of so much of the amount, the collection of which is stayed by the bond, as is not abated by a decision of the Board which has become final, together with interest thereon as provided in section 297. If any portion of the jeopardy assessment is abated by the Commissioner before the decision of the Board is rendered, the bond shall, at the request of the taxpayer, be proportionately reduced.

(g) SAME—FURTHER CONDITIONS.—If the bond is given before the taxpayer has filed his petition with the Board under section 272 (a), the bond shall contain a further condition that if a petition is not filed within the period provided in such subsection, then the amount the collection of which is stayed by the bond will be paid on notice and demand at any time after the expiration of such period, together with interest thereon at the rate of 6 per centum per annum from the date of the jeopardy notice and demand to the date of notice and demand under this subsection.

(h) WAIVER OF STAY.—Upon the filing of the bond the collection of so much of the amount assessed as is covered by the bond shall be stayed. The taxpayer shall have the right to waive such stay at any time in respect of the whole or any part of the amount covered by the bond, and if as a result of such waiver any part of the amount covered by the bond is paid, then the bond shall, at the request of the taxpayer, be proportionately reduced. If the Board determines that the amount assessed is greater than the amount which should have been assessed, then when the decision of the Board is rendered the bond shall, at the request of the taxpayer, be proportionately reduced.

(i) COLLECTION OF UNPAID AMOUNTS.—When the petition has been filed with the Board and when the amount which should have been assessed has been determined by a decision of the Board which has become final, then any unpaid portion, the collection of which has been stayed by the bond, shall be collected as part of the tax upon notice and demand from the collector, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be credited or refunded to the taxpayer as provided in section 322, without the filing of claim therefor. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the collector.

(j) CLAIMS IN ABATEMENT.—No claim in abatement shall be filed in respect of any assessment in respect of any tax imposed by this chapter.

SEC. 274. BANKRUPTCY AND RECEIVERSHIPS.

(a) IMMEDIATE ASSESSMENT.—Upon the adjudication of bankruptcy of any taxpayer in any bankruptcy proceeding or the appointment of a receiver for any taxpayer in any receivership proceeding before any court of the United States or of any State or Territory or of the District of Columbia, any deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) determined by the Commissioner in respect of a tax imposed by this chapter upon such taxpayer shall, despite the restrictions imposed by section 272 (a) upon assessments be immediately assessed if such deficiency has not theretofore been assessed in accordance with law. In such cases the trustee in bankruptcy or receiver shall give notice in writing to the Commissioner of the adjudication of bankruptcy or the appointment of the receiver, and the running of the statute of limitations on the making of assessments shall be suspended for the period from the date of adjudication in bankruptcy or the appointment of the receiver to a date 30 days after the date upon which the notice from the trustee or receiver is received by the Commissioner; but the suspension under this sentence shall in no case be for a period in excess of two years. Claims for the deficiency and such interest, additional amounts and additions to the tax may be presented, for adjudication in accordance with law, to the court before which the bankruptcy or receivership proceeding is pending, despite the pendency of proceedings for the redetermination of the deficiency in pursuance of a petition to the Board; but no petition for any such redetermination shall be filed with the Board after the adjudication of bankruptcy or the appointment of the receiver.

(b) UNPAID CLAIMS.—Any portion of the claim allowed in such bankruptcy or receivership proceeding which is unpaid shall be paid by the taxpayer upon notice and demand from the collector after the termination of such proceeding, and may be collected by distraint or proceeding in court within 6 years after termination of such proceeding. Extensions of time for such payment may be had in the same manner and subject to the same provisions and limitations as are provided in section 272 (j) and section 296 in the case of a deficiency in a tax imposed by this chapter.

SEC. 275. PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION.

Except as provided in section 276—

(a) GENERAL RULE.—The amount of income taxes imposed by this chapter shall be assessed within three years after the return was filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period.

(b) REQUEST FOR PROMPT ASSESSMENT.—In the case of income received during the lifetime of a decedent, or by his estate during the period of administration, or by a corporation, the tax shall be assessed, and any proceeding in court without assessment for the collection of such tax shall be begun, within eighteen months after written request therefor (filed after the return is made) by the executor, administrator, or other fiduciary representing the estate of such decedent, or by the corporation, but not after the expiration of three years after the return was filed. This subsection shall not apply in the case of a corporation unless—

(1) Such written request notifies the Commissioner that the corporation contemplates dissolution at or before the expiration of such 18 months' period; and

(2) The dissolution is in good faith begun before the expiration of such 18 months' period; and

(3) The dissolution is completed.

(c) OMISSION FROM GROSS INCOME.—If the taxpayer omits from gross income an amount properly includible therein which is in excess

of 25 per centum of the amount of gross income stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 5 years after the return was filed.

(d) SHAREHOLDERS OF FOREIGN PERSONAL HOLDING COMPANIES.—If the taxpayer omits from gross income an amount properly includible therein under section 337 (b) (relating to the inclusion in the gross income of United States shareholders of their distributive shares of the undistributed Supplement P net income of a foreign personal holding company) the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within seven years after the return was filed.

(e) DISTRIBUTIONS IN LIQUIDATION TO SHAREHOLDERS.—If the taxpayer omits from gross income an amount properly includible therein under section 115 (c) as an amount distributed in liquidation of a corporation, other than a foreign personal holding company, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within four years after the return was filed.

(f) For the purposes of subsections (a), (b), (c), (d), and (e), a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

(g) CORPORATION AND SHAREHOLDER.—If a corporation makes no return of the tax imposed by this chapter, but each of the shareholders includes in his return his distributive share of the net income of the corporation, then the tax of the corporation shall be assessed within four years after the last date on which any such shareholder's return was filed.

SEC. 276. SAME—EXCEPTIONS.

(a) FALSE RETURN OR NO RETURN.—In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(b) WAIVER.—Where before the expiration of the time prescribed in section 275 for the assessment of the tax, both the Commissioner and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(c) COLLECTION AFTER ASSESSMENT.—Where the assessment of any income tax imposed by this chapter has been made within the period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court, but only if begun (1) within six years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the taxpayer before the expiration of such six-year period. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

SEC. 277. SUSPENSION OF RUNNING OF STATUTE.

The running of the statute of limitations provided in section 275 or 276 on the making of assessments and the beginning of distraint or a proceeding in court for collection, in respect of any deficiency, shall (after the mailing of a notice under section 272 (a)) be suspended for the period during which the Commissioner is prohibited from making the assessment or beginning distraint or a proceeding in court (and in any event, if a proceeding in respect of the deficiency is placed on the docket of the Board, until the decision of the Board becomes final), and for sixty days thereafter.

Supplement M—Interest and Additions to the Tax

SEC. 291. FAILURE TO FILE RETURN.

In case of any failure to make and file return required by this chapter, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the tax: 5 per centum if the failure is for not more than thirty days with an additional 5 per centum for each additional thirty days or fraction thereof during which such failure continues, not exceeding 25 per centum in the aggregate. The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax. The amount added to the tax under this section shall be in lieu of the 25 per centum addition to the tax provided in section 3612 (d) (1).

SEC. 292. INTEREST ON DEFICIENCIES.

Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the collector, and shall be collected as a part of the tax, at the rate of 6 per centum per annum from the date prescribed for the payment of the tax (or, if the tax is paid in installments, from the date prescribed for the payment of the first installment) to the date the deficiency is assessed, or, in the case of a waiver under section 272 (d), to the thirtieth day after the filing of such waiver or to the date the deficiency is assessed whichever is the earlier.

SEC. 293. ADDITIONS TO THE TAX IN CASE OF DEFICIENCY.

(a) NEGLIGENCE.—If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, 5 per centum of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected, and paid in the same manner as if it were a deficiency, except that the provisions of section 272 (i), relating to the prorating of a deficiency, and of section 292, relating to interest on deficiencies, shall not be applicable.

(b) FRAUD.—If any part of any deficiency is due to fraud with intent to evade tax, then 50 per centum of the total amount of the deficiency (in addition to such deficiency) shall be so assessed, collected, and paid, in lieu of the 50 per centum addition to the tax provided in section 3612 (d) (2).

SEC. 294. ADDITIONS TO THE TAX IN CASE OF NONPAYMENT.

(a) TAX SHOWN ON RETURN.—

(1) GENERAL RULE.—Where the amount determined by the taxpayer as the tax imposed by this chapter, or any installment thereof, or any part of such amount or installment, is not paid on or before the date prescribed for its payment, there shall be collected as a part of the tax, interest upon such unpaid amount at the rate of 6 per centum per annum from the date prescribed for its payment until it is paid.

(2) IF EXTENSION GRANTED.—Where an extension of time for payment of the amount so determined as the tax by the taxpayer, or any installment thereof, has been granted, and the amount the time for payment of which has been extended, and the interest thereon determined under section 295, is not paid in full prior to the expiration of the period of the extension, then, in lieu of the interest provided for in paragraph (1) of this subsection, interest at the rate of 6 per centum per annum shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid.

(b) DEFICIENCY.—Where a deficiency, or any interest or additional amounts assessed in connection therewith under section 292, or under section 293, or any addition to the tax in case of delinquency provided for in section 291, is not paid in full within ten days from the date of notice and demand from the collector, there shall be collected as part of the tax, interest upon the unpaid amount at the rate of 6 per centum per annum from the date of such notice and demand until it is paid. If any part of a deficiency prorated to any unpaid installment under section 272 (i) is not paid in full on or before the date prescribed for the payment of such installment, there shall be collected as part of the tax interest upon the unpaid amount at the rate of 6 per centum per annum from such date until it is paid.

(c) FILING OF JEOPARDY BOND.—If a bond is filed, as provided in section 273, the provisions of subsection (b) of this section shall not apply to the amount covered by the bond.

SEC. 295. TIME EXTENDED FOR PAYMENT OF TAX SHOWN ON RETURN.

If the time for payment of the amount determined as the tax by the taxpayer, or any installment thereof, is extended under the authority of section 56 (c), there shall be collected as a part of such amount, interest thereon at the rate of 6 per centum per annum from the date when such payment should have been made if no extension had been granted, until the expiration of the period of the extension.

SEC. 296. TIME EXTENDED FOR PAYMENT OF DEFICIENCY.

If the time for the payment of any part of a deficiency is extended, there shall be collected, as a part of the tax, interest on the part of the deficiency the time for payment of which is so extended, at the rate of 6 per centum per annum for the period of the extension, and no other interest shall be collected on such part of the deficiency for such period. If the part of the deficiency the time for payment of which is so extended is not paid in accordance with the terms of the extension, there shall be collected, as a part of the tax, interest on such unpaid amount at the rate of 6 per centum per annum for the period from the time fixed by the terms of the extension for its payment until it is paid, and no other interest shall be collected on such unpaid amount for such period.

SEC. 297. INTEREST IN CASE OF JEOPARDY ASSESSMENTS.

In the case of the amount collected under section 273 (i) there shall be collected at the same time as such amount, and as a part of the tax, interest at the rate of 6 per centum per annum upon such amount from the date of the jeopardy notice and demand to the date of notice and demand under section 273 (i), or, in the case of the amount collected in excess of the amount of the jeopardy assessment, interest as provided in section 292. If the amount included in the notice and demand from the collector under section 273 (i) is not paid in full within ten days after such notice and demand, then there shall be collected, as part of the tax, interest upon the unpaid amount at the rate of 6 per centum per annum from the date of such notice and demand until it is paid.

SEC. 298. BANKRUPTCY AND RECEIVERSHIPS.

If the unpaid portion of the claim allowed in a bankruptcy or receivership proceeding, as provided in section 274, is not paid in full within ten days from the date of notice and demand from the collector, then there shall be collected as a part of such amount interest upon the unpaid portion thereof at the rate of 6 per centum per annum from the date of such notice and demand until payment.

SEC. 299. REMOVAL OF PROPERTY OR DEPARTURE FROM UNITED STATES.

For additions to tax in case of leaving the United States or concealing property in such manner as to hinder collection of the tax, see section 146.

Supplement N—Claims against Transferees and Fiduciaries

SEC. 311. TRANSFERRED ASSETS.

(a) METHOD OF COLLECTION.—The amounts of the following liabilities shall, except as hereinafter in this section provided, be assessed, collected, and paid in the same manner and subject to the same provisions and limitations as in the case of a deficiency in a tax imposed by this chapter (including the provisions in case of delinquency in payment after notice and demand, the provisions authorizing distraint and proceedings in court for collection, and the provisions prohibiting claims and suits for refunds):

(1) TRANSFEREES.—The liability, at law or in equity, of a transferee of property of a taxpayer, in respect of the tax (including interest, additional amounts, and additions to the tax provided by law) imposed upon the taxpayer by this chapter.

(2) FIDUCIARIES.—The liability of a fiduciary under section 3467 of the Revised Statutes, as amended, (U. S. C., Title 31, § 192) in respect of the payment of any such tax from the estate of the taxpayer.

Any such liability may be either as to the amount of tax shown on the return or as to any deficiency in tax.

(b) PERIOD OF LIMITATION.—The period of limitation for assessment of any such liability of a transferee or fiduciary shall be as follows:

(1) In the case of the liability of an initial transferee of the property of the taxpayer,—within one year after the expiration of the period of limitation for assessment against the taxpayer;

(2) In the case of the liability of a transferee of a transferee of the property of the taxpayer,—within one year after the expiration of the period of limitation for assessment against the preceding transferee, but only if within three years after the expiration of the period of limitation for assessment against the taxpayer;—

except that if before the expiration of the period of limitation for the assessment of the liability of the transferee, a court proceeding for the collection of the tax or liability in respect thereof has been begun against the taxpayer or last preceding transferee, respectively,—then the period of limitation for assessment of the liability of the transferee shall expire one year after the return of execution in the court proceeding.

(3) In the case of the liability of a fiduciary,—not later than one year after the liability arises or not later than the expiration of the period for collection of the tax in respect of which such liability arises, whichever is the later;

(4) Where before the expiration of the time prescribed in paragraph (1), (2), or (3) for the assessment of the liability, both the Commissioner and the transferee or fiduciary have consented in writing to its assessment after such time, the liability may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(c) PERIOD FOR ASSESSMENT AGAINST TAXPAYER.—For the purposes of this section, if the taxpayer is deceased, or in the case of a corporation, has terminated its existence, the period of limitation for assessment against the taxpayer shall be the period that would be in effect had death or termination of existence not occurred.

(d) SUSPENSION OF RUNNING OF STATUTE OF LIMITATIONS.—The running of the statute of limitations upon the assessment of the liability of a transferee or fiduciary shall, after the mailing to the transferee or fiduciary of the notice provided for in section 272 (a), be suspended for the period during which the Commissioner is prohibited from making the assessment in respect of the liability of the

transferee or fiduciary (and in any event, if a proceeding in respect of the liability is placed on the docket of the Board, until the decision of the Board becomes final), and for sixty days thereafter.

(e) ADDRESS FOR NOTICE OF LIABILITY.—In the absence of notice to the Commissioner under section 312 (b) of the existence of a fiduciary relationship, notice of liability enforceable under this section in respect of a tax imposed by this chapter, if mailed to the person subject to the liability at his last known address, shall be sufficient for the purposes of this chapter even if such person is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

(f) DEFINITION OF "TRANSFEREE".—As used in this section, the term "transferee" includes heir, legatee, devisee, and distributee.

SEC. 312. NOTICE OF FIDUCIARY RELATIONSHIP.

(a) FIDUCIARY OF TAXPAYER.—Upon notice to the Commissioner that any person is acting in a fiduciary capacity such fiduciary shall assume the powers, rights, duties, and privileges of the taxpayer in respect of a tax imposed by this chapter (except as otherwise specifically provided and except that the tax shall be collected from the estate of the taxpayer), until notice is given that the fiduciary capacity has terminated.

(b) FIDUCIARY OF TRANSFEREE.—Upon notice to the Commissioner that any person is acting in a fiduciary capacity for a person subject to the liability specified in section 311, the fiduciary shall assume, on behalf of such person, the powers, rights, duties, and privileges of such person under such section (except that the liability shall be collected from the estate of such person), until notice is given that the fiduciary capacity has terminated.

(c) MANNER OF NOTICE.—Notice under subsection (a) or (b) shall be given in accordance with regulations prescribed by the Commissioner with the approval of the Secretary.

SEC. 313. CROSS REFERENCE.

For prohibition of suits to restrain enforcement of liability of transferee or fiduciary, see section 3653 (b).

Supplement O—Overpayments

SEC. 321. OVERPAYMENT OF INSTALLMENT.

If the taxpayer has paid as an installment of the tax more than the amount determined to be the correct amount of such installment, the overpayment shall be credited against the unpaid installments, if any. If the amount already paid, whether or not on the basis of installments, exceeds the amount determined to be the correct amount of the tax, the overpayment shall be credited or refunded as provided in section 322.

SEC. 322. REFUNDS AND CREDITS.

(a) AUTHORIZATION.—Where there has been an overpayment of any tax imposed by this chapter, the amount of such overpayment shall be credited against any income, war-profits, or excess-profits tax or installment thereof then due from the taxpayer, and any balance shall be refunded immediately to the taxpayer.

(b) LIMITATION ON ALLOWANCE.—

(1) PERIOD OF LIMITATION.—Unless a claim for credit or refund is filed by the taxpayer within three years from the time the return was filed by the taxpayer or within two years from the time the tax was paid, no credit or refund shall be allowed or made after the expiration of whichever of such periods expires the later. If no return is filed by the taxpayer, then no credit or refund shall be allowed or made after two years from the time the tax was paid, unless before the expiration of such period a claim therefor is filed by the taxpayer.

(2) LIMIT ON AMOUNT OF CREDIT OR REFUND.—The amount of the credit or refund shall not exceed the portion of the tax paid during the three years immediately preceding the filing of the claim, or, if no claim was filed, then during the three years immediately preceding the allowance of the credit or refund.

(c) EFFECT OF PETITION TO BOARD.—If the Commissioner has mailed to the taxpayer a notice of deficiency under section 272 (a) and if the taxpayer files a petition with the Board of Tax Appeals within the time prescribed in such subsection, no credit or refund in respect of the tax for the taxable year in respect of which the Commissioner has determined the deficiency shall be allowed or made and no suit by the taxpayer for the recovery of any part of such tax shall be instituted in any court except—

(1) As to overpayments determined by a decision of the Board which has become final; and

(2) As to any amount collected in excess of an amount computed in accordance with the decision of the Board which has become final; and

(3) As to any amount collected after the period of limitation upon the beginning of distraint or a proceeding in court for collection has expired; but in any such claim for credit or refund or in any such suit for refund the decision of the Board which has become final, as to whether such period has expired before the notice of deficiency was mailed, shall be conclusive.

(d) OVERPAYMENT FOUND BY BOARD.—If the Board finds that there is no deficiency and further finds that the taxpayer has made an overpayment of tax in respect of the taxable year in respect of which the Commissioner determined the deficiency, the Board shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Board has become final, be credited or refunded to the taxpayer. No such credit or refund shall be made of any portion of the tax unless the Board determines as part of its decision that such portion was paid (1) within three years before the filing of the claim or the filing of the petition, whichever is earlier, or (2) after the mailing of the notice of deficiency.

(e) TAX WITHHELD AT SOURCE.—

For refund or credit in case of excessive withholding at the source, see section 143 (f).

Supplement P—Foreign Personal Holding Companies

SEC. 331. DEFINITION OF FOREIGN PERSONAL HOLDING COMPANY.

(a) GENERAL RULE.—For the purposes of this chapter the term "foreign personal holding company" means any foreign corporation if—

(1) GROSS INCOME REQUIREMENT.—At least 60 per centum of its gross income (as defined in section 334 (a)) for the taxable year is foreign personal holding company income as defined in section 332; but if the corporation is a foreign personal holding company with respect to any taxable year ending after August 26, 1937, then, for each subsequent taxable year, the minimum percentage shall be 50 per centum in lieu of 60 per centum, until a taxable year during the whole of which the stock ownership required by paragraph (2) does not exist, or until the expiration of three consecutive taxable years in each of which less than 50 per centum of the gross income is foreign personal holding company income. For the purposes of this paragraph there shall be included in the gross income the amount includible therein as a dividend by reason of the application of section 334 (c) (2); and

(2) STOCK OWNERSHIP REQUIREMENT.—At any time during the taxable year more than 50 per centum in value of its outstanding

stock is owned, directly or indirectly, by or for not more than five individuals who are citizens or residents of the United States, hereinafter called "United States group".

(b) EXCEPTIONS.—The term "foreign personal holding company" does not include a corporation exempt from taxation under section 101.

SEC. 332. FOREIGN PERSONAL HOLDING COMPANY INCOME.

For the purposes of this chapter the term "foreign personal holding company income" means the portion, of the gross income determined for the purposes of section 331 (a) (1), which consists of:

(a) Dividends, interest, royalties, annuities.

(b) STOCK AND SECURITIES TRANSACTIONS.—Except in the case of regular dealers in stock or securities, gains from the sale or exchange of stock or securities.

(c) COMMODITIES TRANSACTIONS.—Gains from futures transactions in any commodity on or subject to the rules of a board of trade or commodity exchange. This subsection shall not apply to gains by a producer, processor, merchant, or handler of the commodity which arise out of bona fide hedging transactions reasonably necessary to the conduct of its business in the manner in which such business is customarily and usually conducted by others.

(d) ESTATES AND TRUSTS.—Amounts includible in computing the net income of the corporation under Supplement E; and gains from the sale or other disposition of any interest in an estate or trust.

(e) PERSONAL SERVICE CONTRACTS.—(1) Amounts received under a contract under which the corporation is to furnish personal services; if some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract; and (2) amounts received from the sale or other disposition of such a contract. This subsection shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 per centum or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services.

(f) USE OF CORPORATION PROPERTY BY SHAREHOLDER.—Amounts received as compensation (however designated and from whomsoever received) for the use of, or right to use, property of the corporation in any case where, at any time during the taxable year, 25 per centum or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for an individual entitled to the use of the property; whether such right is obtained directly from the corporation or by means of a sublease or other arrangement.

(g) RENTS.—Rents, unless constituting 50 per centum or more of the gross income. For the purposes of this subsection the term "rents" means compensation, however designated, for the use of, or right to use, property; but does not include amounts constituting foreign personal holding company income under subsection (f).

SEC. 333. STOCK OWNERSHIP.

(a) CONSTRUCTIVE OWNERSHIP.—For the purpose of determining whether a foreign corporation is a foreign personal holding company, insofar as such determination is based on stock ownership under section 331 (a) (2), section 332 (e), or section 332 (f)—

(1) STOCK NOT OWNED BY INDIVIDUAL.—Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries.

(2) FAMILY AND PARTNERSHIP OWNERSHIP.—An individual shall be considered as owning the stock owned, directly or indirectly, by or

for his family or by or for his partner. For the purposes of this paragraph the family of an individual includes only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(3) OPTIONS.—If any person has an option to acquire stock such stock shall be considered as owned by such person. For the purposes of this paragraph an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

(4) APPLICATION OF FAMILY-PARTNERSHIP AND OPTION RULES.—Paragraphs (2) and (3) shall be applied—

(A) For the purposes of the stock ownership requirement provided in section 331 (a) (2), if, but only if, the effect is to make the corporation a foreign personal holding company;

(B) For the purposes of section 332 (e) (relating to personal service contracts), or of section 332 (f) (relating to the use of property by shareholders), if, but only if, the effect is to make the amounts therein referred to includible under such subsection as foreign personal holding company income.

(5) CONSTRUCTIVE OWNERSHIP AS ACTUAL OWNERSHIP.—Stock constructively owned by a person by reason of the application of paragraph (1) or (3) shall, for the purpose of applying paragraph (1) or (2), be treated as actually owned by such person; but stock constructively owned by an individual by reason of the application of paragraph (2) shall not be treated as owned by him for the purpose of again applying such paragraph in order to make another the constructive owner of such stock.

(6) OPTION RULE IN LIEU OF FAMILY AND PARTNERSHIP RULE.—If stock may be considered as owned by an individual under either paragraph (2) or (3) it shall be considered as owned by him under paragraph (3).

(b) CONVERTIBLE SECURITIES.—Outstanding securities convertible into stock (whether or not convertible during the taxable year) shall be considered as outstanding stock—

(1) For the purpose of the stock ownership requirement provided in section 331 (a) (2), but only if the effect of the inclusion of all such securities is to make the corporation a foreign personal holding company;

(2) For the purpose of section 332 (e) (relating to personal service contracts), but only if the effect of the inclusion of all such securities is to make the amounts therein referred to includible under such subsection as foreign personal holding company income; and

(3) For the purpose of section 332 (f) (relating to the use of property by shareholders), but only if the effect of the inclusion of all such securities is to make the amounts therein referred to includible under such subsection as foreign personal holding company income.

The requirement in paragraphs (1), (2), and (3) that all convertible securities must be included if any are to be included shall be subject to the exception that, where some of the outstanding securities are convertible only after a later date than in the case of others, the class having the earlier conversion date may be included although the others are not included, but no convertible securities shall be included unless all outstanding securities having a prior conversion date are also included.

SEC. 334. GROSS INCOME OF FOREIGN PERSONAL HOLDING COMPANIES.

(a) GENERAL RULE.—As used in this Supplement with respect to a foreign corporation the term "gross income" means gross income computed (without regard to the provisions of Supplement I) as if the foreign corporation were a domestic corporation.

(b) ADDITIONS TO GROSS INCOME.—In the case of a foreign personal holding company (whether or not a United States group, as defined in section 331 (a) (2), existed with respect to such company on the last day of its taxable year) which was a shareholder in another foreign personal holding company on the day in the taxable year (whether beginning before, on, or after January 1, 1939) of the second company which was the last day on which a United States group existed with respect to the second company, there shall be included, as a dividend, in the gross income of the first company, for the taxable year in which or with which the taxable year of the second company ends, the amount the first company would have received as a dividend if on such last day there had been distributed by the second company, and received by the shareholders, an amount which bears the same ratio to the undistributed Supplement P net income of the second company for its taxable year as the portion of such taxable year up to and including such last day bears to the entire taxable year.

(c) APPLICATION OF SUBSECTION (b).—The rule provided in subsection (b)—

(1) shall be applied in the case of a foreign personal holding company for the purpose of determining its undistributed Supplement P net income which, or a part of which, is to be included in the gross income of its shareholders, whether United States shareholders or other foreign personal holding companies;

(2) shall be applied in the case of every foreign corporation with respect to which a United States group exists on some day of its taxable year, for the purpose of determining whether such corporation meets the gross income requirements of section 331 (a) (1).

SEC. 335. UNDISTRIBUTED SUPPLEMENT P NET INCOME.

For the purposes of this chapter the term "undistributed Supplement P net income" means the Supplement P net income (as defined in section 336) minus the amount of the basic surtax credit provided in section 27 (b) (computed without its reduction, under section 27 (b) (1), by the amount of the credit provided in section 26 (a), relating to interest on certain obligations of the United States and Government corporations).

SEC. 336. SUPPLEMENT P NET INCOME.

For the purposes of this chapter the term "Supplement P net income" means the net income with the following adjustments:

(a) ADDITIONAL DEDUCTIONS.—There shall be allowed as deductions—

(1) Federal income, war-profits, and excess-profits taxes paid or accrued during the taxable year to the extent not allowed as a deduction under section 23; but not including the tax imposed by section 102, section 500, or a section of a prior income-tax law corresponding to either of such sections.

(2) In lieu of the deduction allowed by section 23 (q), contributions or gifts payment of which is made within the taxable year to or for the use of donees described in section 23 (q) for the purposes therein specified, to an amount which does not exceed 15 per centum of the company's net income, computed without the benefit of this paragraph and section 23 (q), and without the deduction of the amount disallowed under subsection (b) of this section, and without the inclusion in gross income of the amounts includible therein as dividends by reason of the application of the provisions of section 334 (b) (relating to the inclusion in the gross income of a foreign personal holding company of its distributive share of the undistributed Supplement P net income of another foreign personal holding company in which it is a shareholder).

(b) DEDUCTIONS NOT ALLOWED.—

(1) TAXES AND PENSION TRUSTS.—The deductions provided in section 23 (d), relating to taxes of a shareholder paid by the corporation, and in section 23 (p), relating to pension trusts, shall not be allowed.

(2) EXPENSES AND DEPRECIATION.—The aggregate of the deductions allowed under section 23 (a), relating to expenses, and section 23 (l), relating to depreciation, which are allocable to the operation and maintenance of property owned or operated by the company, shall be allowed only in an amount equal to the rent or other compensation received for the use or right to use the property, unless it is established (under regulations prescribed by the Commissioner with the approval of the Secretary) to the satisfaction of the Commissioner:

(A) That the rent or other compensation received was the highest obtainable, or, if none was received, that none was obtainable;

(B) That the property was held in the course of a business carried on bona fide for profit; and

(C) Either that there was reasonable expectation that the operation of the property would result in a profit, or that the property was necessary to the conduct of the business.

SEC. 337. CORPORATION INCOME TAXED TO UNITED STATES SHAREHOLDERS.

(a) GENERAL RULE.—The undistributed Supplement P net income of a foreign personal holding company shall be included in the gross income of the citizens or residents of the United States, domestic corporations, domestic partnerships, and estates or trusts (other than estates or trusts the gross income of which under this chapter includes only income from sources within the United States), who are shareholders in such foreign personal holding company (hereinafter called "United States shareholders") in the manner and to the extent set forth in this Supplement.

(b) AMOUNT INCLUDED IN GROSS INCOME.—Each United States shareholder, who was a shareholder on the day in the taxable year of the company which was the last day on which a United States group (as defined in section 331 (a) (2)) existed with respect to the company, shall include in his gross income, as a dividend, for the taxable year in which or with which the taxable year of the company ends, the amount he would have received as a dividend if on such last day there had been distributed by the company, and received by the shareholders, an amount which bears the same ratio to the undistributed Supplement P net income of the company for the taxable year as the portion of such taxable year up to and including such last day bears to the entire taxable year.

(c) CREDIT FOR OBLIGATIONS OF UNITED STATES AND ITS INSTRUMENTALITIES.—Each United States shareholder shall be allowed a credit against net income, for the purpose of the tax imposed by section 11, 13, 14, 201, 204, 207, or 362, of his proportionate share of the interest specified in section 25 (a) (1) or (2) which is included in the gross income of the company otherwise than by the application of the provisions of section 334 (b) (relating to the inclusion in the gross income of a foreign personal holding company of its distributive share of the undistributed Supplement P net income of another foreign personal holding company in which it is a shareholder).

(d) INFORMATION IN RETURN.—Every United States shareholder who is required under subsection (b) to include in his gross income any amount with respect to the undistributed Supplement P net income of a foreign personal holding company and who, on the last day on which a United States group existed with respect to the company, owned 5 per centum or more in value of the outstanding stock of such company, shall set forth in his return in complete

detail the gross income, deductions and credits, net income, Supplement P net income, and undistributed Supplement P net income of such company.

(e) EFFECT ON CAPITAL ACCOUNT OF FOREIGN PERSONAL HOLDING COMPANY.—An amount which bears the same ratio to the undistributed Supplement P net income of the foreign personal holding company for its taxable year as the portion of such taxable year up to and including the last day on which a United States group existed with respect to the company bears to the entire taxable year, shall, for the purpose of determining the effect of distributions in subsequent taxable years by the corporation, be considered as paid-in surplus or as a contribution to capital and the accumulated earnings and profits as of the close of the taxable year shall be correspondingly reduced, if such amount or any portion thereof is required to be included as a dividend, directly or indirectly, in the gross income of United States shareholders.

(f) BASIS OF STOCK IN HANDS OF SHAREHOLDERS.—The amount required to be included in the gross income of a United States shareholder under subsection (b) shall, for the purpose of adjusting the basis of his stock with respect to which the distribution would have been made (if it had been made), be treated as having been reinvested by the shareholder as a contribution to the capital of the corporation; but only to the extent to which such amount is included in his gross income in his return, increased or decreased by any adjustment of such amount in the last determination of the shareholder's tax liability, made before the expiration of seven years after the date prescribed by law for filing the return.

(g) BASIS OF STOCK IN CASE OF DEATH.—

For basis of stock or securities in a foreign personal holding company acquired from a decedent, see section 113 (a) (5).

(h) LIQUIDATION.—

For amount of gain taken into account on liquidation of foreign personal holding company, see section 115 (c).

(i) PERIOD OF LIMITATION ON ASSESSMENT AND COLLECTION.—

For period of limitation on assessment and collection without assessment, in case of failure to include in gross income the amount properly includible therein under subsection (b), see section 275 (d).

SEC. 338. INFORMATION RETURNS BY OFFICERS AND DIRECTORS.

(a) MONTHLY RETURNS.—On the fifteenth day of each month each individual who on such day is an officer or a director of a foreign corporation which, with respect to its taxable year preceding the taxable year (whether beginning on, before, or after January 1, 1939) in which such month occurs, was a foreign personal holding company, shall file with the Commissioner a return setting forth with respect to the preceding calendar month the name and address of each shareholder, the class and number of shares held by each, together with any changes in stockholdings during such period, the name and address of any holder of securities convertible into stock of such corporation, and such other information with respect to the stock and securities of the corporation as the Commissioner with the approval of the Secretary shall by regulations prescribe as necessary for carrying out the provisions of this title. The Commissioner, with the approval of the Secretary, may by regulations prescribe, as the period with respect to which returns shall be filed, a longer period than a month. In such case the return shall be due on the fifteenth day of the succeeding period, and shall be filed by the individuals who on such day are officers and directors of the corporation.

(b) ANNUAL RETURNS.—On the sixtieth day after the close of the taxable year of a foreign personal holding company each individual who on such sixtieth day is an officer or director of the corporation shall file with the Commissioner a return setting forth—

(1) In complete detail the gross income, deductions and credits, net income, Supplement P net income, and undistributed Supplement P net income of such foreign personal holding company for such taxable year; and

(2) The same information with respect to such taxable year as is required in subsection (a); except that if all the required returns with respect to such year have been filed under subsection (a) no information under this paragraph need be set forth in the return filed under this subsection.

SEC. 339. INFORMATION RETURNS BY SHAREHOLDERS.

(a) MONTHLY RETURNS.—On the fifteenth day of each month each United States shareholder, by or for whom 50 per centum or more in value of the outstanding stock of a foreign corporation is owned directly or indirectly (including in the case of an individual, stock owned by the members of his family as defined in section 333 (a) (2)), if such foreign corporation with respect to its taxable year preceding the taxable year (whether beginning on, before, or after January 1, 1939) in which such month occurs was a foreign personal holding company, shall file with the Commissioner a return setting forth with respect to the preceding calendar month the name and address of each shareholder, the class and number of shares held by each, together with any changes in stockholdings during such period, the name and address of any holder of securities convertible into stock of such corporation, and such other information with respect to the stock and securities of the corporation as the Commissioner with the approval of the Secretary shall by regulations prescribe as necessary for carrying out the provisions of this title. The Commissioner, with the approval of the Secretary, may by regulations prescribe, as the period with respect to which returns shall be filed, a longer period than a month. In such case the return shall be due on the fifteenth day of the succeeding period, and shall be filed by the persons who on such day are United States shareholders.

(b) ANNUAL RETURNS.—On the sixtieth day after the close of the taxable year of a foreign personal holding company each United States shareholder by or for whom on such sixtieth day 50 per centum or more in value of the outstanding stock of such company is owned directly or indirectly (including in the case of an individual, stock owned by members of his family as defined in section 333 (a) (2)), shall file with the Commissioner a return setting forth the same information with respect to such taxable year as is required in subsection (a); except that if all the required returns with respect to such year have been filed under subsection (a) no return shall be required under this subsection.

SEC. 340. PENALTIES.

Any person required under section 338 or 339 to file a return, or to supply any information, who willfully fails to file such return, or supply such information, at the time or times required by law or regulations, shall, in lieu of the penalties provided in section 145 (a) for such offense, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $2,000, or imprisoned for not more than one year, or both.

Supplement Q—Mutual Investment Companies

SEC. 361. DEFINITION.

(a) IN GENERAL.—For the purposes of this chapter the term "mutual investment company" means any domestic corporation (whether chartered or created as an investment trust, or otherwise), other than a personal holding company as defined in section 501, if—

(1) It is organized for the purpose of, and substantially all its business consists of, holding, investing, or reinvesting in stock or securities; and

(2) At least 95 per centum of its gross income is derived from dividends, interest, and gains from sales or other disposition of stock or securities; and

(3) Less than 30 per centum of its gross income is derived from the sale or other disposition of stock or securities held for less than six months; and

(4) An amount not less than 90 per centum of its net income is distributed to its shareholders as taxable dividends during the taxable year; and

(5) Its shareholders are, upon reasonable notice, entitled to redemption of their stock for their proportionate interests in the corporation's properties, or the cash equivalent thereof less a discount not in excess of 3 per centum thereof.

(b) LIMITATIONS.—Despite the provisions of paragraph (1) a corporation shall not be considered as a mutual investment company if at any time during the taxable year—

(1) More than 5 per centum of the gross assets of the corporation, taken at cost, was invested in stock or securities, or both, of any one corporation, government, or political subdivision thereof, but this limitation shall not apply to investments in obligations of the United States or in obligations of any corporation organized under general Act of Congress if such corporation is an instrumentality of the United States; or

(2) It owned more than 10 per centum of the outstanding stock or securities, or both, of any one corporation; or

(3) It had any outstanding bonds or indebtedness in excess of 10 per centum of its gross assets taken at cost; or

(4) It fails to comply with any rule or regulation prescribed by the Commissioner, with the approval of the Secretary, for the purpose of ascertaining the actual ownership of its outstanding stock.

SEC. 362. TAX ON MUTUAL INVESTMENT COMPANIES.

(a) SUPPLEMENT Q NET INCOME.—For the purposes of this chapter the term "Supplement Q net income" means the adjusted net income minus the basic surtax credit computed under section 27 (b) without the application of paragraphs (2) and (3).

(b) IMPOSITION OF TAX.—There shall be levied, collected, and paid for each taxable year upon the Supplement Q net income of every mutual investment company a tax equal to 16½ per centum of the amount thereof.

Supplement R—Exchanges and Distributions in Obedience to Orders of Securities and Exchange Commission

SEC. 371. NONRECOGNITION OF GAIN OR LOSS.

(a) EXCHANGES OF STOCK OR SECURITIES ONLY.—No gain or loss shall be recognized to the transferor if stock or securities in a corporation which is a registered holding company or a majority-owned subsidiary company are transferred to such corporation or to an associate company thereof which is a registered holding company or a majority-owned subsidiary company solely in exchange for stock or securities (other than stock or securities which are nonexempt property), and the exchange is made by the transferee corporation in obedience to an order of the Securities and Exchange Commission.

(b) EXCHANGES OF PROPERTY FOR PROPERTY BY CORPORATIONS.—No gain or loss shall be recognized to a transferor corporation which is a registered holding company or an associate company of a registered holding company, if such corporation, in obedience to an order of the Securities and Exchange Commission transfers property solely in exchange for property (other than nonexempt property), and such order recites that such exchange by the transferor corporation is necessary or appropriate to the integration or simplification

of the holding company system of which the transferor corporation is a member.

(c) DISTRIBUTION OF STOCK OR SECURITIES ONLY.—If there is distributed, in obedience to an order of the Securities and Exchange Commission, to a shareholder in a corporation which is a registered holding company or a majority-owned subsidiary company, stock or securities (other than stock or securities which are nonexempt property), without the surrender by such shareholder of stock or securities in such corporation, no gain to the distributee from the receipt of the stock or securities so distributed shall be recognized.

(d) TRANSFERS WITHIN SYSTEM GROUP.—(1) No gain or loss shall be recognized to a corporation which is a member of a system group (A) if such corporation transfers property to another corporation which is a member of the same system group in exchange for other property, and the exchange by each corporation is made in obedience to an order of the Securities and Exchange Commission, or (B) if there is distributed to such corporation as a shareholder in a corporation which is a member of the same system group, property, without the surrender by such shareholder of stock or securities in the corporation making the distribution, and the distribution is made and received in obedience to an order of the Securities and Exchange Commission. If an exchange by or a distribution to a corporation with respect to which no gain or loss is recognized under any of the provisions of this paragraph may also be considered to be within the provisions of subsection (a), (b), or (c), then the provisions of this paragraph only shall apply.

(2) If the property received upon an exchange which is within any of the provisions of paragraph (1) of this subsection consists in whole or in part of stock or securities issued by the corporation from which such property was received, and if in obedience to an order of the Securities and Exchange Commission such stock or securities (other than stock which is not preferred as to both dividends and assets) are sold and the proceeds derived therefrom are applied in whole or in part in the retirement or cancellation of stock or of securities of the recipient corporation outstanding at the time of such exchange, no gain or loss shall be recognized to the recipient corporation upon the sale of the stock or securities with respect to which such order was made; except that if any part of the proceeds derived from the sale of such stock or securities is not so applied, or if the amount of such proceeds is in excess of the fair market value of such stock or securities at the time of such exchange, the gain, if any, shall be recognized, but in an amount not in excess of the proceeds which are not so applied, or in an amount not more than the amount by which the proceeds derived from such sale exceed such fair market value, whichever is the greater.

(e) EXCHANGES NOT SOLELY IN KIND.—(1) If an exchange (not within any of the provisions of subsection (d) would be within the provisions of subsection (a) or (b) if it were not for the fact that property received in exchange consists not only of property permitted by such subsection to be received without the recognition of gain or loss, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property, and the loss, if any, to the recipient shall not be recognized.

(2) If an exchange is within the provisions of paragraph (1) of this subsection and if it includes a distribution which has the effect of the distribution of a taxable dividend, then there shall be taxed as a dividend to each distributee such an amount of the gain recognized under such paragraph (1) as is not in excess of his ratable share of the undistributed earnings and profits of the corporation accumulated

after February 28, 1913. The remainder, if any, of the gain recognized under such paragraph (1) shall be taxed as a gain from the exchange of property.

(f) APPLICATION OF SECTION.—The provisions of this section shall not apply to an exchange or distribution unless (1) the order of the Securities and Exchange Commission in obedience to which such exchange or distribution was made recites that such exchange or distribution is necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935, 49 Stat. 820, (U. S. C., Sup. III, Title 15, § 79 (b)), (2) such order specifies and itemizes the stock and securities and other property which are ordered to be transferred and received upon such exchange or distribution, and (3) such exchange or distribution was made in obedience to such order and was completed within the time prescribed therefor in such order.

(g) NON-APPLICATION OF OTHER PROVISIONS.—If an exchange or distribution made in obedience to an order of the Securities and Exchange Commission is within any of the provisions of this section and may also be considered to be within any of the provisions of section 112 (other than the provisions of paragraph (8) of subsection (b)), then the provisions of this section only shall apply.

SEC. 372. BASIS FOR DETERMINING GAIN OR LOSS.

(a) EXCHANGES GENERALLY.—If the property was acquired upon an exchange subject to the provisions of section 371 (a), (b), or (e), the basis shall be the same as in the case of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognized upon such exchange under the law applicable to the year in which the exchange was made. If the property so acquired consisted in part of the type of property permitted by section 371 (a) or (b) to be received without the recognition of gain or loss, and in part of nonexempt property, the basis provided in this subsection shall be allocated between the properties (other than money) received, and for the purpose of the allocation there shall be assigned to such nonexempt property (other than money) an amount equivalent to its fair market value at the date of the exchange. This subsection shall not apply to property acquired by a corporation by the issuance of its stock or securities as the consideration in whole or in part for the transfer of the property to it.

(b) TRANSFERS TO CORPORATIONS.—If, in connection with a transfer subject to the provisions of section 371 (a), (b), or (e), the property was acquired by a corporation, either as paid-in surplus or as a contribution to capital, or in consideration for stock or securities issued by the corporation receiving the property (including cases where part of the consideration for the transfer of such property to the corporation consisted of property or money in addition to such stock or securities), then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made.

(c) DISTRIBUTIONS OF STOCK OR SECURITIES.—If the stock or securities were received in a distribution subject to the provisions of section 371 (c), then the basis in the case of the stock in respect of which the distribution was made shall be apportioned, under rules and regulations prescribed by the Commissioner with the approval of the Secretary, between such stock and the stock or securities distributed.

(d) TRANSFERS WITHIN SYSTEM GROUP.—If the property was acquired by a corporation which is a member of a system group upon a transfer or distribution described in section 371 (d) (1), then the basis shall be the same as it would be in the hands of the transferor; except that if such property is stock or securities issued by the cor-

poration from which such stock or securities were received and they were issued (1) as the sole consideration for the property transferred to such corporation, then the basis of such stock or securities shall be either (A) the same as in the case of the property transferred therefor, or (B) the fair market value of such stock or securities at the time of their receipt, whichever is the lower; or (2) as part consideration for the property transferred to such corporation, then the basis of such stock or securities shall be either (A) an amount which bears the same ratio to the basis of the property transferred as the fair market value of such stock or securities at the time of their receipt bears to the total fair market value of the entire consideration received, or (B) the fair market value of such stock or securities at the time of their receipt, whichever is the lower.

SEC. 373. DEFINITIONS.

As used in this supplement—

(a) The term "order of the Securities and Exchange Commission" means an order (1) issued after May 28, 1938, and prior to January 1, 1940, by the Securities and Exchange Commission to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935, 49 Stat. 820 (U. S. C., Supp. III, Title 15, § 79 (b)), or (2) issued by the Commission subsequent to December 31, 1939, in which it is expressly stated that an order of the character specified in clause (1) is amended or supplemented, and (3) which has become final in accordance with law.

(b) The terms "registered holding company", "holding-company system", and "associate company" shall have the meanings assigned to them by section 2 of the Public Utility Holding Company Act of 1935, 49 Stat. 804 (U. S. C., Supp. III, Title 15, § 79 (b), (c)).

(c) The term "majority-owned subsidiary company" of a registered holding company means a corporation, stock of which, representing in the aggregate more than 50 per centum of the total combined voting power of all classes of stock of such corporation entitled to vote (not including stock which is entitled to vote only upon default or nonpayment of dividends or other special circumstances) is owned wholly by such registered holding company, or partly by such registered holding company and partly by one or more majority-owned subsidiary companies thereof, or by one or more majority-owned subsidiary companies of such registered holding company.

(d) The term "system group" means one or more chains of corporations connected through stock ownership with a common parent corporation if—

(1) At least 90 per centum of each class of the stock (other than stock which is preferred as to both dividends and assets) of each of the corporations (except the common parent corporation) is owned directly by one or more of the other corporations; and

(2) The common parent corporation owns directly at least 90 per centum of each class of the stock (other than stock which is preferred as to both dividends and assets) of at least one of the other corporations; and

(3) Each of the corporations is either a registered holding company or a majority-owned subsidiary company.

(e) The term "nonexempt property" means—

(1) Any consideration in the form of a cancellation or assumption of debts or other liabilities (including a continuance of encumbrances subject to which the property was transferred);

(2) Short-term obligations (including notes, drafts, bills of exchange, and bankers' acceptances) having a maturity at the time of issuance of not exceeding twenty-four months, exclusive of days of grace;

(3) Securities issued or guaranteed as to principal or interest by a government or subdivision thereof (including those issued by a corporation which is an instrumentality of a government or subdivision thereof);

(4) Stock or securities which were acquired after February 28, 1938, unless such stock or securities (other than obligations described as nonexempt property in paragraph (2) or (3)) were acquired in obedience to an order of the Securities and Exchange Commission;

(5) Money, and the right to receive money not evidenced by a security other than an obligation described as nonexempt property in paragraph (2) or (3).

(f) The term "stock or securities" means shares of stock in any corporation, certificates of stock or interest in any corporation, notes, bonds, debentures, and evidences of indebtedness (including any evidence of an interest in or right to subscribe to or purchase any of the foregoing).

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CHAPTER 2—ADDITIONAL INCOME TAXES

SUBCHAPTER A—PERSONAL HOLDING COMPANIES

SEC. 500. SURTAX ON PERSONAL HOLDING COMPANIES.

There shall be levied, collected, and paid, for each taxable year beginning after December 31, 1938, upon the undistributed subchapter A net income of every personal holding company (in addition to the taxes imposed by chapter 1) a surtax equal to the sum of the following:

(1) 65 per centum of the amount thereof not in excess of $2,000; plus

(2) 75 per centum of the amount thereof in excess of $2,000.

SEC. 501. DEFINITION OF PERSONAL HOLDING COMPANY.

(a) GENERAL RULE.—For the purposes of this subchapter and chapter 1, the term "personal holding company" means any corporation if—

(1) GROSS INCOME REQUIREMENT.—At least 80 per centum of its gross income for the taxable year is personal holding company income as defined in section 502; but if the corporation is a per-

sonal holding company with respect to any taxable year beginning after December 31, 1936, then, for each subsequent taxable year, the minimum percentage shall be 70 per centum in lieu of 80 per centum, until a taxable year during the whole of the last half of which the stock ownership required by paragraph (2) does not exist, or until the expiration of three consecutive taxable years in each of which less than 70 per centum of the gross income is personal holding company income; and

(2) STOCK OWNERSHIP REQUIREMENT.—At any time during the last half of the taxable year more than 50 per centum in value of its outstanding stock is owned, directly or indirectly, by or for not more than five individuals.

(b) EXCEPTIONS.—The term "personal holding company" does not include a corporation exempt from taxation under section 101, a bank as defined in section 104, a life insurance company, a surety company, or a foreign personal holding company as defined in section 331, or a licensed personal finance company, under State supervision, at least 80 per centum of the gross income of which is lawful interest received from individuals each of whose indebtedness to such company did not at any time during the taxable year exceed $300 in principal amount, if such interest is not payable in advance or compounded and is computed only on unpaid balances.

(c) CORPORATIONS MAKING CONSOLIDATED RETURNS.—If the common parent corporation of an affiliated group of corporations making a consolidated return under the provisions of section 141 satisfies the stock ownership requirement provided in section 501 (a) (2), and the income of such affiliated group, determined as provided in section 141, satisfies the gross income requirement provided in section 501 (a) (1), such affiliated group shall be subject to the surtax imposed by this subchapter.

SEC. 502. PERSONAL HOLDING COMPANY INCOME.

For the purposes of this subchapter the term "personal holding company income" means the portion of the gross income which consists of:

(a) Dividends, interest (other than interest constituting rent as defined in subsection (g)), royalties (other than mineral, oil, or gas royalties), annuities.

(b) STOCK AND SECURITIES TRANSACTIONS.—Except in the case of regular dealers in stock or securities, gains from the sale or exchange of stock or securities.

(c) COMMODITIES TRANSACTIONS.—Gains from futures transactions in any commodity on or subject to the rules of a board of trade or commodity exchange. This subsection shall not apply to gains by a producer, processor, merchant, or handler of the commodity which arise out of bona fide hedging transactions reasonably necessary to the conduct of its business in the manner in which such business is customarily and usually conducted by others.

(d) ESTATES AND TRUSTS.—Amounts includible in computing the net income of the corporation under Supplement E of chapter 1; and gains from the sale or other disposition of any interest in an estate or trust.

(e) PERSONAL SERVICE CONTRACTS.—(1) Amounts received under a contract under which the corporation is to furnish personal services; if some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract; and (2) amounts received from the sale or other disposition of such a contract. This subsection shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 per centum or more in value of the outstanding stock of the

corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services.

(f) USE OF CORPORATION PROPERTY BY SHAREHOLDER.—Amounts received as compensation (however designated and from whomsoever received) for the use of, or right to use, property of the corporation in any case where, at any time during the taxable year, 25 per centum or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for an individual entitled to the use of the property; whether such right is obtained directly from the corporation or by means of a sublease or other arrangement.

(g) RENTS.—Rents, unless constituting 50 per centum or more of the gross income. For the purposes of this subsection the term "rents" means compensation, however designated, for the use of, or right to use, property, and the interest on debts owed to the corporation, to the extent such debts represent the price for which real property held primarily for sale to customers in the ordinary course of its trade or business was sold or exchanged by the corporation; but does not include amounts constituting personal holding company income under subsection (f).

(h) MINERAL, OIL, OR GAS ROYALTIES.—Mineral, oil, or gas royalties, unless (1) constituting 50 per centum or more of the gross income, and (2) the deductions allowable under section 23 (a) (relating to expenses) other than compensation for personal services rendered by shareholders, constitute 15 per centum or more of the gross income.

SEC. 503. STOCK OWNERSHIP.

(a) CONSTRUCTIVE OWNERSHIP.—For the purpose of determining whether a corporation is a personal holding company, insofar as such determination is based on stock ownership under section 501 (a) (2), section 502 (e), or section 502 (f)—

(1) STOCK NOT OWNED BY INDIVIDUAL.—Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries.

(2) FAMILY AND PARTNERSHIP OWNERSHIP.—An individual shall be considered as owning the stock owned, directly or indirectly, by or for his family or by or for his partner. For the purposes of this paragraph the family of an individual includes only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(3) OPTIONS.—If any person has an option to acquire stock such stock shall be considered as owned by such person. For the purposes of this paragraph an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

(4) APPLICATION OF FAMILY-PARTNERSHIP AND OPTION RULES.—Paragraphs (2) and (3) shall be applied—

(A) For the purposes of the stock ownership requirement provided in section 501 (a) (2), if, but only if, the effect is to make the corporation a personal holding company;

(B) For the purposes of section 502 (e) (relating to personal service contracts), or of section 502 (f) (relating to the use of property by shareholders), if, but only if, the effect is to make the amounts therein referred to includible under such subsection as personal holding company income.

(5) CONSTRUCTIVE OWNERSHIP AS ACTUAL OWNERSHIP.—Stock constructively owned by a person by reason of the application of paragraph (1) or (3) shall, for the purpose of applying paragraph (1) or (2), be treated as actually owned by such person; but stock con-

structively owned by an individual by reason of the application of paragraph (2) shall not be treated as owned by him for the purpose of again applying such paragraph in order to make another the constructive owner of such stock.

(6) OPTION RULE IN LIEU OF FAMILY AND PARTNERSHIP RULE.—If stock may be considered as owned by an individual under either paragraph (2) or (3) it shall be considered as owned by him under paragraph (3).

(b) CONVERTIBLE SECURITIES.—Outstanding securities convertible into stock (whether or not convertible during the taxable year) shall be considered as outstanding stock—

(1) For the purpose of the stock ownership requirement provided in section 501 (a) (2), but only if the effect of the inclusion of all such securities is to make the corporation a personal holding company;

(2) For the purpose of section 502 (e) (relating to personal service contracts), but only if the effect of the inclusion of all such securities is to make the amounts therein referred to includible under such subsection as personal holding company income; and

(3) For the purpose of section 502 (f) (relating to the use of property by shareholders), but only if the effect of the inclusion of all such securities is to make the amounts therein referred to includible under such subsection as personal holding company income.

The requirement in paragraphs (1), (2), and (3) that all convertible securities must be included if any are to be included shall be subject to the exception that, where some of the outstanding securities are convertible only after a later date than in the case of others, the class having the earlier conversion date may be included although the others are not included, but no convertible securities shall be included unless all outstanding securities having a prior conversion date are also included.

SEC. 504. UNDISTRIBUTED SUBCHAPTER A NET INCOME.

For the purposes of this subchapter the term "undistributed subchapter A net income" means the subchapter A net income (as defined in section 505) minus—

(a) The amount of the dividends paid credit provided in section 27 (a) without the benefit of paragraphs (3) and (4) thereof (computed without its reduction, under section 27 (b) (1), by the amount of the credit provided in section 26 (a), relating to interest on certain obligations of the United States and Government corporations); but, in the computation of the dividends paid credit for the purposes of this subchapter, the amount allowed under subsection (c) of this section in the computation of the tax under this subchapter for any preceding taxable year shall be considered as a dividend paid in such preceding taxable year and not in the year of distribution;

(b) Amounts used or irrevocably set aside to pay or to retire indebtedness of any kind incurred prior to January 1, 1934, if such amounts are reasonable with reference to the size and terms of such indebtedness.

(c) Dividends paid after the close of the taxable year and before the 15th day of the third month following the close of the taxable year, if claimed under this subsection in the return, but only to the extent to which such dividends are includible, for the purposes of chapter 1, in the computation of the basic surtax credit for the year of distribution; but the amount allowed under this subsection shall not exceed either:

(1) The accumulated earnings and profits as of the close of the taxable year; or

(2) The undistributed subchapter A net income for the taxable year computed without regard to this subsection; or

(3) 10 per centum of the sum of—

(A) The dividends paid during the taxable year (reduced by the amount allowed under this subsection in the computation of the tax under this subchapter for the taxable year preceding the taxable year); and

(B) The consent dividends credit for the taxable year.

SEC. 505. SUBCHAPTER A NET INCOME.

For the purposes of this subchapter the term "Subchapter A Net Income" means the net income with the following adjustments:

(a) ADDITIONAL DEDUCTIONS.—There shall be allowed as deductions—

(1) Federal income, war-profits, and excess-profits taxes paid or accrued during the taxable year to the extent not allowed as a deduction under section 23; but not including the tax imposed by section 102, section 500, or a section of a prior income-tax law corresponding to either of such sections.

(2) In lieu of the deduction allowed by section 23 (q), contributions or gifts, payment of which is made within the taxable year to or for the use of donees described in section 23 (q) for the purposes therein specified, to an amount which does not exceed 15 per centum of the taxpayer's net income, computed without the benefit of this paragraph and section 23 (q), and without the deduction of the amount disallowed under subsection (b) of this section.

(3) In the case of a corporation organized prior to January 1, 1936, to take over the assets and liabilities of the estate of a decedent, amounts paid in liquidation of any liability of the corporation based on the liability of the decedent to make contributions or gifts to or for the use of donees described in section 23 (o) for the purposes therein specified, to the extent such liability of the decedent existed prior to January 1, 1934. No deduction shall be allowed under paragraph (2) of this subsection for a taxable year for which a deduction is allowed under this paragraph.

(b) DEDUCTIONS NOT ALLOWED.—The aggregate of the deductions allowed under section 23 (a), relating to expenses, and section 23 (l), relating to depreciation, which are allocable to the operation and maintenance of property owned or operated by the corporation, shall be allowed only in an amount equal to the rent or other compensation received for the use of, or the right to use, the property, unless it is established (under regulations prescribed by the Commissioner with the approval of the Secretary) to the satisfaction of the Commissioner:

(1) That the rent or other compensation received was the highest obtainable, or, if none was received, that none was obtainable;

(2) That the property was held in the course of a business carried on bona fide for profit; and

(3) Either that there was reasonable expectation that the operation of the property would result in a profit, or that the property was necessary to the conduct of the business.

SEC. 506. DEFICIENCY DIVIDENDS—CREDITS AND REFUNDS.

(a) CREDIT AGAINST UNPAID DEFICIENCY.—If the amount of a deficiency with respect to the tax imposed by this subchapter for any taxable year has been established—

(1) by a decision of the Board of Tax Appeals which has become final; or

(2) by a closing agreement made under section 3760; or

(3) by a final judgment in a suit to which the United States is a party;

then a deficiency dividend credit shall be allowed against the amount of the deficiency so established and all interest, additional amounts, and additions to the tax provided by law not paid on or before the date when claim for a deficiency dividend credit is filed under sub-

section (d). The amount of such credit shall be 65 per centum of the amount of deficiency dividends, as defined in subsection (c), not in excess of $2,000, plus 75 per centum of the amount of such dividends in excess of $2,000; but such credit shall not exceed the portion of the deficiency so established which is not paid on or before the date of the closing agreement, or the date the decision of the Board or the judgment becomes final, as the case may be. Such credit shall be allowed as of the date the claim for deficiency dividend credit is filed.

(b) CREDIT OR REFUND OF DEFICIENCY PAID.—When the Commissioner has determined that there is a deficiency with respect to the tax imposed by this subchapter and the corporation has paid any portion of such asserted deficiency and it has been established—

(1) by a decision of the Board of Tax Appeals which has become final; or

(2) by a closing agreement made under section 3760; or

(3) by a final judgment in a suit against the United States for refund—

(A) if such suit is brought within six months after the corporation became entitled to bring suit, and

(B) if claim for refund was filed within six months after the payment of such amount;

that any portion of the amount so paid was the whole or a part of a deficiency at the time when paid, then there shall be credited or refunded to the corporation an amount equal to 65 per centum of the amount of deficiency dividends not in excess of $2,000, plus 75 per centum of the amount of such dividends in excess of $2,000, but such credit or refund shall not exceed the portion so paid by the corporation. Such credit or refund shall be made as provided in section 322 but without regard to subsection (b) or subsection (c) thereof. No interest shall be allowed on such credit or refund. No credit or refund shall be made under this subsection with respect to any amount of tax paid after the date of the closing agreement, or the date the decision of the Board or the judgment becomes final, as the case may be.

(c) DEFICIENCY DIVIDENDS.—

(1) DEFINITION.—For the purpose of this subchapter, the term "deficiency dividends" means the amount of the dividends paid, on or after the date of the closing agreement or on or after the date the decision of the Board or the judgment becomes final, as the case may be, and prior to filing claim under subsection (d), which are includible, for the purposes of chapter 1, in the computation of the basic surtax credit for the year of distribution. No dividends shall be considered as deficiency dividends for the purposes of allowance of credit under subsection (a) unless (under regulations prescribed by the Commissioner with the approval of the Secretary) the corporation files, within thirty days after the date of the closing agreement, or the date upon which the decision of the Board or judgment becomes final, as the case may be, notification (which specifies the amount of the credit intended to be claimed) of its intention to have the dividends so considered.

(2) EFFECT ON DIVIDENDS PAID CREDIT.—

(A) FOR TAXABLE YEAR IN WHICH PAID.—Deficiency dividends paid in any taxable year (to the extent of the portion thereof with respect to which the credit under subsection (a), or the credit or refund under subsection (b), or both, are allowed) shall be subtracted from the basic surtax credit for such year, but only for the purpose of computing the tax under this subchapter for such year and succeeding years.

(B) FOR PRIOR TAXABLE YEAR.—Deficiency dividends paid in any taxable year (to the extent of the portion thereof with respect to which the credit under subsection (a), or the credit

or refund under subsection (b), or both are allowed) shall not be allowed under section 504 (c) in the computation of the tax under this subchapter for any taxable year preceding the taxable year in which paid.

(d) CLAIM REQUIRED.—No deficiency dividends credit shall be allowed under subsection (a) and no credit or refund shall be made under subsection (b) unless (under regulations prescribed by the Commissioner with the approval of the Secretary) claim therefor is filed within sixty days after the date of the closing agreement, or the date upon which the decision of the Board or judgment becomes final, as the case may be.

(e) SUSPENSION OF STATUTE OF LIMITATIONS AND STAY OF COLLECTION.—

(1) SUSPENSION OF RUNNING OF STATUTE.—If the corporation files a notification, as provided in subsection (c), to have dividends considered as deficiency dividends, the running of the statute of limitations provided in section 275 or 276 on the making of assessments and the bringing of distraint or a proceeding in court for collection, in respect of the deficiency and all interest, additional amounts, and additions to the tax provided by law, shall be suspended for a period of two years after the date of the filing of such notification.

(2) STAY OF COLLECTION.—In the case of any deficiency with respect to the tax imposed by this subchapter established as provided in subsection (a)—

(A) The collection of the deficiency and all interest, additional amounts, and additions to the tax provided for by law shall, except in cases of jeopardy, be stayed until the expiration of thirty days after the date of the closing agreement, or the date upon which the decision of the Board or judgment becomes final, as the case may be.

(B) If notification has been filed, as provided in subsection (c), the collection of such part of the deficiency as is not in excess of either the credit allowable under subsection (a) or the amount which, in the notification, is specified as intended to be claimed as credit, shall, except in cases of jeopardy, be stayed until the expiration of sixty days after the date of the closing agreement, or the date upon which the decision of the Board or judgment becomes final, as the case may be.

(C) If claim for deficiency dividend credit is filed under subsection (d), the collection of such part of the deficiency as is not in excess of either the credit allowable under subsection (a) or the amount claimed, shall be stayed until the date the claim for credit is disallowed (in whole or in part), and if disallowed in part collection shall be made only of the part disallowed.

No distraint or proceeding in court shall be begun for the collection of an amount the collection of which is stayed under subparagraph (A), (B), or (C) during the period for which the collection of such amount is stayed.

(f) CREDIT OR REFUND DENIED IF FRAUD, ETC.—No deficiency dividend credit shall be allowed under subsection (a) and no credit or refund shall be made under subsection (b) if the closing agreement, decision of the Board, or judgment contains a finding that any part of the deficiency is due to fraud with intent to evade tax, or to failure to file the return under this subchapter within the time prescribed by law or prescribed by the Commissioner in pursuance of law, unless it is shown that such failure to file is due to reasonable cause and not due to willful neglect.

SEC. 507. MEANING OF TERMS USED.

The terms used in this subchapter shall have the same meaning as when used in chapter 1.

SEC. 508. ADMINISTRATIVE PROVISIONS.

All provisions of law (including penalties) applicable in respect of the taxes imposed by chapter 1, shall insofar as not inconsistent with this subchapter, be applicable in respect of the tax imposed by this subchapter, except that the provisions of section 131 shall not be applicable.

SEC. 509. IMPROPER ACCUMULATION OF SURPLUS.

For surtax on corporations which accumulate surplus to avoid surtax on shareholders, see section 102.

SEC. 510. FOREIGN PERSONAL HOLDING COMPANIES.

For provisions relating to foreign personal holding companies and their shareholders, see Supplement P of chapter 1.

SEC. 511. PUBLICITY OF RETURNS.

For provisions with respect to publicity of returns under this subchapter, see subsection (a) (2) of section 55.

SUBCHAPTER B—EXCESS-PROFITS TAX

SEC. 600. RATE OF TAX.

If any corporation is taxable under section 1200 with respect to any year ending June 30, there shall be imposed upon its net income for the income-tax taxable year ending after the close of such year, an excess-profits tax equal to the sum of the following:

6 per centum of such portion of its net income for such income-tax taxable year as is in excess of 10 per centum and not in excess of 15 per centum of the adjusted declared value;

12 per centum of such portion of its net income for such income-tax taxable year as is in excess of 15 per centum of the adjusted declared value.

SEC. 601. ADJUSTED DECLARED VALUE.

The adjusted declared value shall be determined as provided in section 1202 as of the close of the preceding income-tax taxable year (or as of the date of organization if it had no preceding income-tax taxable year). If the income-tax taxable year in respect of which the tax under section 600 is imposed is a period of less than 12 months, such adjusted declared value shall be reduced to an amount which bears the same ratio thereto as the number of months in the period bears to 12 months.

SEC. 602. NET INCOME.

For the purposes of this subchapter the net income shall be the same as the net income for income-tax purposes for the year in respect of which the tax under section 600 is imposed, computed without the deduction of the tax imposed by section 600, but with a credit against net income equal to the credit for dividends received provided in section 26 (b) of chapter 1.

SEC. 603. OTHER LAWS APPLICABLE.

All provisions of law (including penalties) applicable in respect of the taxes imposed by chapter 1, shall, insofar as not inconsistent with this subchapter, be applicable in respect of the tax imposed by section 600, except that the provisions of section 131 of that chapter shall not be applicable.

SEC. 604. PUBLICITY OF RETURNS.

For provisions with respect to publicity of returns under this subchapter, see subsection (a) (2) of section 55.

SUBCHAPTER C—EXCESS PROFITS ON NAVY CONTRACTS

SEC. 650. METHOD OF COLLECTION.

If the amount of profit required to be paid into the Treasury under section 3 of the Act of March 27, 1934, c. 95, 48 Stat. 505, as amended by the Act of June 25, 1936, c. 812, 49 Stat. 1926 (U. S. C., Supp. III, Title 34, § 496), with respect to contracts completed within income-tax taxable years beginning after December 31, 1938, is not voluntarily paid, the Secretary shall collect the same under the usual methods employed under the internal revenue laws to collect federal income taxes.

SEC. 651. LAWS APPLICABLE.

All provisions of law (including penalties) applicable with respect to the taxes imposed by Title I of the Revenue Act of 1934, 48 Stat. 683, and not inconsistent with section 3 of said act of March 27, 1934, shall be applicable with respect to the assessment, collection, or payment of excess profits to the Treasury as provided by section 650, and to refunds by the Treasury of overpayments of excess profits into the Treasury.

SUBCHAPTER D—UNJUST ENRICHMENT

SEC. 700. TAX ON NET INCOME FROM CERTAIN SOURCES.

(a) The following taxes shall be levied, collected, and paid for each taxable year (in addition to any other tax on net income), upon the net income of every person which arises from the sources specified below:

(1) A tax equal to 80 per centum of that portion of the net income from the sale of articles with respect to which a Federal excise tax was imposed on such person but not paid which is attributable to shifting to others to any extent the burden of such Federal excise tax and which does not exceed such person's net income for the entire taxable year from the sale of articles with respect to which such Federal excise tax was imposed.

(2) A tax equal to 80 per centum of the net income from reimbursement received by such person from his vendors of amounts representing Federal excise-tax burdens included in prices paid by such person to such vendors, to the extent that such net income does not exceed the amount of such Federal excise-tax burden which such person in turn shifted to his vendees.

(3) A tax equal to 80 per centum of the net income from refunds or credits to such person from the United States of Federal excise taxes erroneously or illegally collected with respect to any articles, to the extent that such net income does not exceed the amount of the burden of such Federal excise taxes with respect to such articles which such person shifted to others.

(b) The net income (specified in subsection (a) (1)) from the sale of articles with respect to which the Federal excise tax was not paid, and the net income specified in subsection (a) (2) or (3), shall not include the net income from the sale of any article, from reimbursement with respect to any article, or from refund or credit of Federal excise tax with respect to any article (1) if such article (or the articles processed therefrom) were not sold by the taxpayer on or before the date of the termination of the Federal excise tax; (2) if the taxpayer made a tax adjustment with respect to such article (or the articles processed therefrom) with his vendee; or (3) if under the terms of any statute the taxpayer would have been entitled to a refund from the United States of the Federal excise tax

with respect to the article otherwise than as an erroneous or illegal collection (assuming, in case the tax was not paid, that it had been paid).

(c) The net income from the sales specified in subsection (a) (1) shall be computed as follows:

(1) From the gross income from such sales there shall be deducted the allocable portion of the deductions from gross income for the taxable year which are allowable under the applicable Revenue Act; or

(2) If the taxpayer so elects by filing his return on such basis, the total net income for the taxable year from the sale of all articles with respect to which each Federal excise tax was imposed (computed by deducting from the gross income from such sales the allocable portion of the deductions from gross income which are allowable under the applicable Revenue Act, but without deduction of the amount of such Federal excise tax which was paid or of the amount of reimbursement to purchasers with respect to such Federal excise tax) shall be divided by the total quantity of such articles sold during the taxable year and the quotient shall be multiplied by the quantity of such articles involved in the sales specified in subsection (a) (1). Such quantities shall be expressed in terms of the unit on the basis of which the Federal excise tax was imposed.

For the purposes of this section the proper apportionment and allocation of deductions with respect to gross income shall be determined under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

(d) The net income from reimbursement or refunds specified in subsection (a) (2) or (3) shall be computed as follows: From the total payment or accrual (1) of reimbursement to the taxpayer from vendors for amounts representing Federal excise tax burdens included in prices paid by the taxpayer to such vendors or (2) of refunds or credits to the taxpayer of Federal excise taxes erroneously or illegally collected, there shall be deducted the expenses and fees reasonably incurred in obtaining such reimbursement or refunds.

(e) For the purposes of subsection (a) (1), (2), and (3), the extent to which the taxpayer shifted to others the burden of a Federal excise tax shall be presumed to be an amount computed as follows:

(1) From the selling price of the articles there shall be deducted the sum of (A) the cost of such articles plus (B) the average margin with respect to the quantity involved; or

(2) If the taxpayer so elects by filing his return on such basis, from the aggregate selling price of all articles with respect to which such Federal excise tax was imposed and which were sold by him during the taxable year (computed without deduction of reimbursement to purchasers with respect to such Federal excise tax) there shall be deducted the aggregate cost of such articles, and the difference shall be reduced to a margin per unit in terms of the basis on which the Federal excise tax was imposed. The excess of such margin per unit over the average margin (computed for the same unit) shall be multiplied by the number of such units represented by the articles with respect to which the computation is being made; but

(3) In no case shall the extent to which the taxpayer shifted to others the burden of the Federal excise tax with respect to the articles be deemed to exceed the amount of such tax with respect to such articles minus (A) the portion of the amount of the Federal excise tax (or of the reimbursement specified in subsection (a) (2)) with respect to the articles which is paid or credited by the taxpayer to any purchasers as specified in subsection (f) (3) and

minus (B) the amount of any increase in the tax under section 3400 for which the taxpayer under this section became liable as the result of the nonpayment or refund of the Federal excise tax with respect to the articles.

(f) As used in this section—

(1) The term "margin" means the difference between the selling price of articles and the cost thereof, and the term "average margin" means the average difference between the selling price and the cost of similar articles sold by the taxpayer during his six taxable years preceding the initial imposition of the Federal excise tax in question, except that if during any part of such six-year period the taxpayer was not in business, or if his records for any part of such period are so inadequate as not to furnish satisfactory data, the average margin of the taxpayer for such part of such period shall, when necessary for a fair comparison, be deemed to be the average margin, as determined by the Commissioner, of representative concerns engaged in a similar business and similarly circumstanced.

(2) The term "cost" means, in the case of articles manufactured or produced by the taxpayer, the cost to the taxpayer of materials entering into the articles; or, in the case of articles purchased by the taxpayer for resale, the price paid by him for such articles (reduced in both cases by the amount for which he is reimbursed by his vendor).

(3) The term "selling price" means selling price minus (A) amounts subsequently paid or credited to the purchaser on or before June 1, 1936, or thereafter in the bona fide settlement of a written agreement entered into on or before March 3, 1936, as reimbursement for the amount included in such price on account of a Federal excise tax; and minus (B) the allocable portion of any professional fees and expenses of litigation incurred in securing the refund or preventing the collection of the Federal excise tax, not to exceed 10 per centum of the amount of such tax.

(g) In determining costs, selling prices, and net income, the taxpayer shall, unless otherwise shown, be deemed to have sold articles in the order in which they were manufactured, produced, or acquired. Where the taxpayer's records do not adequately establish the quantity of a commodity taxable under the Agricultural Adjustment Act, 48 Stat. 31, as amended, entering into articles sold by him, such quantities shall be computed by the use of the conversion factors prescribed in regulations under such Act, as amended.

(h) If the taxpayer made any purchase or sale otherwise than through an arm's-length transaction, and at a price other than the fair market price, the Commissioner may determine the purchase or sale price to be that for which such purchases or sales were at that time made in the ordinary course of trade.

(i) Either the taxpayer or the Commissioner may rebut the presumption established by subsection (e) by proof of the actual extent to which the taxpayer shifted to others the burden of the Federal excise tax. Such proof may include, but shall not be limited to:

(1) Proof that the change or lack of change in the margin was due to changes in factors other than the tax. Such factors shall include any clearly shown change (A) in the type or grade of article or materials, or (B) in costs of production. If the taxpayer asserts that the burden of the tax was borne by him while the burden of any other increased cost was shifted to others, the Commissioner shall determine, from the respective effective dates of the tax and of the other increase in cost as compared with the date of the change in margin, and from the general experience of the industry, whether the tax or the increase in other cost was shifted to others. If the Commissioner deter-

mines that the change in margin was due in part to the tax and in part to the increase in other cost, he shall apportion the change in margin between them.

(2) Proof that the taxpayer modified contracts of sale, or adopted a new contract of sale, to reflect the initiation, termination, or change in amount of the Federal excise tax, or at any such time changed the sale price of the article (including the effect of a change in size, package, discount terms, or any other merchandising practice) by substantially the amount of the tax or change therein, or at any time billed the tax as a separate item to any vendee or indicated by any writing that the sale price included the amount of the tax, or contracted to refund any part of the sale price in the event of recovery of the tax or decision of its invalidity; but the taxpayer may establish that such acts were caused by factors other than the tax, or that they do not represent his practice during the period in which the articles in question were sold.

(j) As used in this section—

(1) The term "Federal excise tax" means a tax or exaction with respect to the sale, lease, manufacture, production, processing, ginning, importation, transportation, refining, recovery, or holding for sale or other disposition, of commodities or articles, provided for by any Federal statute, whether valid or invalid, if denominated a "tax" by such statute. A Federal excise tax shall be deemed to have been imposed with respect to an article if it was imposed with respect to (or with respect to the processing of) any commodity or other article, from which such article was processed.

(2) The term "date of the termination of the Federal excise tax" means, in the case of a Federal excise tax held invalid by a decision of the Supreme Court, the date of such decision.

(3) The term "refund or credit" does not include a refund or credit made in accordance with the provisions and limitations set forth in Title VII of the Revenue Act of 1936, 49 Stat. 1747, or in section 3443 (d).

(4) The term "tax adjustment" means a repayment or credit by the taxpayer to his vendee of an amount equal to the Federal excise tax with respect to an article (less reasonable expense to the vendor in connection with the nonpayment or recovery by him of the amount of such tax and in connection with the making of such repayment or credit) if such repayment or credit is made on or before June 1, 1936, or thereafter in the bona fide settlement of a written agreement entered into on or before March 3, 1936.

(5) The term "taxpayer" means a person subject to a tax imposed by this section.

(k) All references in this section to the purchase or sale (or to parties to the sale) of articles with respect to which a Federal excise tax was imposed shall be deemed to include the purchase or sale (or parties to the sale) of services with respect to which a Federal excise tax was imposed, and for the purposes of subsection (a) the extent to which the taxpayer shifted to others the burden of such Federal excise tax with respect to such services shall be presumed to be an amount computed as follows: From the selling price of the services there shall be deducted the average price received by the taxpayer for performing similar services during the six taxable years preceding the initial imposition of the Federal excise tax in question. The balance (to the extent that it does not exceed the amount of such Federal excise tax with respect to such services minus any payments or credits with respect to the services made to purchasers as specified in subsection (f) (3)) shall be the extent to which the taxpayer shifted the burden of such Federal excise tax to others. If during any part of such six-year period the taxpayer

was not in business, or if his records for any part of such period are so inadequate as not to furnish satisfactory data, the average price of the taxpayer for such part of such period shall, when necessary for a fair comparison, be deemed to be the average price, as determined by the Commissioner, of representative concerns engaged in a similar business and similarly circumstanced. The presumption established by this subsection may be rebutted by proof of the character described in subsection (i).

(l) The taxes imposed by subsection (a) shall be imposed on the net income from the sources specified therein, regardless of any loss arising from the other transactions of the taxpayer, and regardless of whether the taxpayer had a taxable net income (under the income-tax provisions of the applicable Revenue Act) for the taxable year as a whole; except that if such application of the tax imposed by subsection (a) is held invalid, the tax under subsection (a) shall apply to that portion of the taxpayer's entire net income for the taxable year which is attributable to the net income from the sources specified in such subsection.

SEC. 701. CREDIT FOR OTHER TAXES ON INCOME.

There shall be credited against the total amount of the taxes imposed by this subchapter an amount equivalent to the excess of—

(a) The amount of the other Federal income and excess-profits taxes payable by the taxpayer for the taxable year, over

(b) The amount of the other Federal income and excess-profits taxes which would have been payable by the taxpayer for the taxable year if his net income were decreased by the amount of net income taxable under this subchapter.

SEC. 702. ADMINISTRATIVE PROVISIONS.

(a) All provisions of law (including penalties) applicable with respect to taxes imposed by chapter 1, shall, insofar as not inconsistent with this subchapter, be applicable with respect to the taxes imposed by this subchapter, except that the provisions of sections 101, 131, 251, and 252 shall not be applicable.

(b) Every person (1) upon whom a Federal excise tax was imposed but not paid, or (2) who received any reimbursement specified in section 700 (a) (2), or (3) who received a refund or credit of Federal excise tax, shall make a return under this subchapter, which return shall contain such information and be made in such manner as the Commissioner, with the approval of the Secretary, shall prescribe.

(c) If the Commissioner finds that the payment, on the date prescribed for the payment thereof, of any part of the amount determined by the taxpayer as the tax under this subchapter, or of any deficiency with respect thereto, would impose undue hardship upon the taxpayer, the Commissioner may grant an extension for the payment of any such part for a period not in excess of three years. In such case the amount with respect to which the extension is granted shall be paid on or before the date of the expiration of the period of the extension, and the running of the statute of limitations for assessment and collection shall be suspended for the period of any such extension. If an extension is granted, the Commissioner may require the taxpayer to furnish a bond in such amount, not exceeding double the amount with respect to which the extension is granted, and with such sureties as the Commissioner deems necessary, conditioned upon the payment of the amount with respect to which the extension is granted in accordance with the terms of the extension. There shall be collected, as a part of any amount with respect to which an extension is granted, interest thereon at the rate of 6 per centum per annum from the expiration of six months after the due date thereof to the expiration of the period of the extension.

SEC. 703. TAXABLE YEARS TO WHICH SUBCHAPTER IS APPLICABLE.

The taxes imposed by this subchapter shall apply only with respect to taxable years ending during the calendar year 1939 and to subsequent taxable years.

SEC. 704. APPLICATION OF SUBCHAPTER TO POSSESSIONS.

With respect to the following income, the tax under this subchapter shall be in force in any possession of the United States (including the Philippine Islands); such tax shall (without regard to the residence or citizenship or place of organization of the taxpayer) be collected by the appropriate internal-revenue officers of such possession; and the proceeds thereof shall accrue to the general government of such possession: (a) Any income specified in subsection (a) (1) or (3) of section 700 if the Federal excise tax with respect to the articles in question accrued in such possession; and (b) any income specified in subsection (a) (2) of section 700 if the reimbursement specified therein relates to articles sold in such possession by the taxpayer under this subchapter and if the geographical scope of the Federal excise tax in question extended to such possession. Income taxable as provided in this section shall not be otherwise taxable under this subchapter. In applying section 700 to such income, the gross income and deductions shall be determined in accordance with the Federal Revenue Act applicable to the taxable year. In applying section 701 to such income, income taxes paid to such possession shall be deemed to be Federal income taxes.

SEC. 705. CLOSING AGREEMENTS.

Any person who is liable for the tax imposed by this subchapter and who has filed any claim or claims for refund of any amount paid or collected as tax under the Agricultural Adjustment Act, 48 Stat. 31, as amended, may apply to the Commissioner for an adjustment of such liability for tax in conjunction with such claim or claims for refund, and thereafter, the Commissioner, for such purposes, may, in his discretion, consider such liability and such claim or claims as one case and, in his discretion, may enter into a written agreement with such person for the settlement of such case by such payment by, or refund to, such person as may be specified in such agreement. Such agreement shall be a final settlement of the liability for tax and the claim or claims for refund covered by such agreement, except in case of fraud, malfeasance, or misrepresentation of a material fact. In the absence of fraud or mistake in mathematical calculation, any action taken or any consideration given by the Commissioner pursuant to this section shall not be subject to review by any court, or any administrative, or accounting officer, employee, or agent of the United States.

SEC. 706. PUBLICITY OF RETURNS.

For provisions with respect to publicity of returns under this subchapter, see subsection (a) (2) of section 55.

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CHAPTER 3—ESTATE TAX

SUBCHAPTER A—BASIC ESTATE TAX

Part I—Introductory Provisions

SEC. 800. APPLICATION OF SUBCHAPTER.

The provisions of this subchapter shall apply only to estates of decedents dying after the date of the enactment of this title. Estate taxes in the case of decedents dying on or prior to the date of the enactment of this title shall not be affected by the provisions of this subchapter, but shall remain subject to the applicable provisions of the Revenue Act of 1926 and prior revenue acts, except as such provisions are modified by legislation enacted subsequent to the Revenue Act of 1926.

SEC. 801. CLASSIFICATION OF PROVISIONS.

The provisions of this subchapter are herein classified and designated as—

Part I—Introductory provisions.
Part II—Citizens or residents of the United States.
Part III—Nonresidents not citizens of the United States.
Part IV—Supplemental provisions.

SEC. 802. APPLICATION OF PARTS.

Part II shall apply to the estates of citizens or residents of the United States and, except as otherwise provided, to the estates of nonresidents not citizens of the United States, subject to the exceptions and additional provisions contained in Part III. Part IV shall apply to the estates both of citizens or residents of the United States and nonresidents not citizens of the United States.

Part II—Estates of Citizens or Residents of the United States

Subpart I—Computation of Tax

SEC. 810. RATE OF TAX.

A tax equal to the sum of the following percentages of the value of the net estate (determined as provided in section 812) shall be imposed upon the transfer of the net estate of every decedent, citizen or resident of the United States, dying after the date of the enactment of this title.

1 per centum of the amount of the net estate not in excess of $50,000;

2 per centum of the amount by which the net estate exceeds $50,000 and does not exceed $100,000;

3 per centum of the amount by which the net estate exceeds $100,000 and does not exceed $200,000;

4 per centum of the amount by which the net estate exceeds $200,000 and does not exceed $400,000;

5 per centum of the amount by which the net estate exceeds $400,000 and does not exceed $600,000;

6 per centum of the amount by which the net estate exceeds $600,000 and does not exceed $800,000;

7 per centum of the amount by which the net estate exceeds $800,000 and does not exceed $1,000,000;

8 per centum of the amount by which the net estate exceeds $1,000,000 and does not exceed $1,500,000;

9 per centum of the amount by which the net estate exceeds $1,500,000 and does not exceed $2,000,000;

10 per centum of the amount by which the net estate exceeds $2,000,000 and does not exceed $2,500,000;

11 per centum of the amount by which the net estate exceeds $2,500,000 and does not exceed $3,000,000;

12 per centum of the amount by which the net estate exceeds $3,000,000 and does not exceed $3,500,000;

13 per centum of the amount by which the net estate exceeds $3,500,000 and does not exceed $4,000,000;

14 per centum of the amount by which the net estate exceeds $4,000,000 and does not exceed $5,000,000;

15 per centum of the amount by which the net estate exceeds $5,000,000 and does not exceed $6,000,000;

16 per centum of the amount by which the net estate exceeds $6,000,000 and does not exceed $7,000,000;

17 per centum of the amount by which the net estate exceeds $7,000,000 and does not exceed $8,000,000;

18 per centum of the amount by which the net estate exceeds $8,000,000 and does not exceed $9,000,000;

19 per centum of the amount by which the net estate exceeds $9,000,000 and does not exceed $10,000,000;

20 per centum of the amount by which the net estate exceeds $10,000,000.

SEC. 811. GROSS ESTATE.

The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated, except real property situated outside of the United States—

(a) Decedent's Interest.—To the extent of the interest therein of the decedent at the time of his death;

(b) Dower or Curtesy Interests.—To the extent of any interest therein of the surviving spouse, existing at the time of the decedent's death as dower, curtesy, or by virtue of a statute creating an estate in lieu of dower or curtesy;

(c) TRANSFERS IN CONTEMPLATION OF, OR TAKING EFFECT AT DEATH.—To the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, in contemplation of or intended to take effect in possession or enjoyment at or after his death, or of which he has at any time made a transfer, by trust or otherwise, under which he has retained for his life or for any period not ascertainable without reference to his death or for any period which does not in fact end before his death (1) the possession or enjoyment of, or the right to the income from, the property, or (2) the right, either alone or in conjunction with any person, to designate the persons who shall possess or enjoy the property or the income therefrom; except in case of a bona fide sale for an adequate and full consideration in money or money's worth. Any transfer of a material part of his property in the nature of a final disposition or distribution thereof, made by the decedent within two years prior to his death without such consideration, shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this subchapter;

(d) REVOCABLE TRANSFERS—

(1) TRANSFERS AFTER JUNE 22, 1936.—To the extent of any interest therein of which the decedent has at any time made a transfer (except in case of a bona-fide sale for an adequate and full consideration in money or money's worth), by trust or otherwise, where the enjoyment thereof was subject at the date of his death to any change through the exercise of a power (in whatever capacity exercisable) by the decedent alone or by the decedent in conjunction with any other person (without regard to when or from what source the decedent acquired such power), to alter, amend, revoke, or terminate, or where any such power is relinquished in contemplation of decedent's death;

(2) TRANSFERS ON OR PRIOR TO JUNE 22, 1936.—To the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, where the enjoyment thereof was subject at the date of his death to any change through the exercise of a power, either by the decedent alone or in conjunction with any person, to alter, amend, or revoke, or where the decedent relinquished any such power in contemplation of his death, except in case of a bona fide sale for an adequate and full consideration in money or money's worth. Except in the case of transfers made after June 22, 1936, no interest of the decedent of which he has made a transfer shall be included in the gross estate under paragraph (1) unless it is includible under this paragraph;

(3) DATE OF EXISTENCE OF POWER.—For the purposes of this subsection the power to alter, amend, or revoke shall be considered to exist on the date of the decedent's death even though the exercise of the power is subject to a precedent giving of notice or even though the alteration, amendment, or revocation takes effect only on the expiration of a stated period after the exercise of the power, whether or not on or before the date of the decedent's death notice has been given or the power has been exercised. In such cases proper adjustment shall be made representing the interests which would have been excluded from the power if the decedent had lived, and for such purpose if the notice has not been given or the power has not been exercised on or before the date of his death, such notice shall be considered to have been given, or the power exercised, on the date of his death.

(4) RELINQUISHMENT OF POWER IN CONTEMPLATION OF DEATH.—The relinquishment of any such power, not admitted or shown to have been in contemplation of the decedent's death, made within two years prior to his death without such a consideration and affecting the interest or interests (whether arising from one or more transfers or the creation of one or more trusts) of any one

beneficiary of a value or aggregate value, at the time of such death, in excess of $5,000, then, to the extent of such excess, such relinquishment or relinquishments shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this subchapter.

(e) JOINT INTERESTS.—To the extent of the interest therein held as joint tenants by the decedent and any other person, or as tenants by the entirety by the decedent and spouse, or deposited, with any person carrying on the banking business, in their joint names and payable to either or the survivor, except such part thereof as may be shown to have originally belonged to such other person and never to have been received or acquired by the latter from the decedent for less than an adequate and full consideration in money or money's worth: *Provided*, That where such property or any part thereof, or part of the consideration with which such property was acquired, is shown to have been at any time acquired by such other person from the decedent for less than an adequate and full consideration in money or money's worth, there shall be excepted only such part of the value of such property as is proportionate to the consideration furnished by such other person: *Provided further*, That where any property has been acquired by gift, bequest, devise, or inheritance, as a tenancy by the entirety by the decedent and spouse, then to the extent of one-half of the value thereof, or, where so acquired by the decedent and any other person as joint tenants and their interests are not otherwise specified or fixed by law, then to the extent of the value of a fractional part to be determined by dividing the value of the property by the number of joint tenants.

(f) PROPERTY PASSING UNDER GENERAL POWER OF APPOINTMENT.—To the extent of any property passing under a general power of appointment exercised by the decedent (1) by will, or (2) by deed executed in contemplation of or intended to take effect in possession or enjoyment at or after his death, or (3) by deed under which he has retained for his life or any period not ascertainable without reference to his death or for any period which does not in fact end before his death (A) the possession or enjoyment of, or the right to the income from, the property, or (B) the right, either alone or in conjunction with any person, to designate the persons who shall possess or enjoy the property or the income therefrom; except in case of a bona fide sale for an adequate and full consideration in money or money's worth; and

(g) PROCEEDS OF LIFE INSURANCE.—To the extent of the amount receivable by the executor as insurance under policies taken out by the decedent upon his own life; and to the extent of the excess over $40,000 of the amount receivable by all other beneficiaries as insurance under policies taken out by the decedent upon his own life.

(h) PRIOR INTERESTS.—Except as otherwise specifically provided therein, subsections (b), (c), (d), (e), (f), and (g) shall apply to the transfers, trusts, estates, interests, rights, powers, and relinquishment of powers, as severally enumerated and described therein, whether made, created, arising, existing, exercised, or relinquished before or after February 26, 1926.

(i) TRANSFERS FOR INSUFFICIENT CONSIDERATION.—If any one of the transfers, trusts, interests, rights, or powers, enumerated and described in subsections (c), (d), and (f) is made, created, exercised, or relinquished for a consideration in money or money's worth, but is not a bona fide sale for an adequate and full consideration in money or money's worth, there shall be included in the gross estate only the excess of the fair market value at the time of death of the property otherwise to be included on account of such transaction, over the value of the consideration received therefor by the decedent.

(j) OPTIONAL VALUATION.—If the executor so elects upon his return (if filed within the time prescribed by law or prescribed by the Com-

missioner in pursuance of law), the value of the gross estate shall be determined by valuing all the property included therein on the date of the decedent's death as of the date one year after the decedent's death, except that (1) property included in the gross estate on the date of death and, within one year after the decedent's death, distributed by the executor (or, in the case of property included in the gross estate under subsection (c), (d), or (f) of this section, distributed by the trustee under the instrument of transfer), or sold, exchanged, or otherwise disposed of, shall be included at its value as of the time of such distribution, sale, exchange, or other disposition, whichever first occurs, instead of its value as of the date one year after the decedent's death, and (2) any interest or estate which is affected by mere lapse of time shall be included at its value as of the time of death (instead of the later date) with adjustment for any difference in its value as of the later date not due to mere lapse of time. No deduction under this subchapter of any item shall be allowed if allowance for such item is in effect given by the valuation under this subsection. Wherever in any other subsection or section of this chapter, reference is made to the value of property at the time of the decedent's death, such reference shall be deemed to refer to the value of such property used in determining the value of the gross estate. In case of an election made by the executor under this subsection, then for the purposes of the deduction under section 812 (d) or section 861 (a) (3), any bequest, legacy, devise, or transfer enumerated therein shall be valued as of the date of decedent's death with adjustment for any difference in value (not due to mere lapse of time or the occurrence or nonoccurrence of a contingency) of the property as of the date one year after the decedent's death (substituting the date of sale or exchange in the case of property sold or exchanged during such one-year period).

(k) CROSS REFERENCE.—

For provision that relinquishment of marital estates shall not be deemed a consideration "in money or money's worth", see section 812 (b).

SEC. 812. NET ESTATE.

For the purpose of the tax the value of the net estate shall be determined, in the case of a citizen or resident of the United States by deducting from the value of the gross estate——

(a) EXEMPTION.—An exemption of $100,000;

(b) EXPENSES, LOSSES, INDEBTEDNESS, AND TAXES.—Such amounts—

(1) for funeral expenses,

(2) for administration expenses,

(3) for claims against the estate,

(4) for unpaid mortgages upon, or any indebtednes in respect to, property where the value of decedent's interest therein, undiminished by such mortgage or indebtedness, is included in the value of the gross estate, and

(5) reasonably required and actually expended for the support during the settlement of the estate of those dependent upon the decedent,

as are allowed by the laws of the jurisdiction, whether within or without the United States, under which the estate is being administered, but not including any income taxes upon income received after the death of the decedent, or property taxes not accrued before his death, or any estate, succession, legacy, or inheritance taxes. The deduction herein allowed in the case of claims against the estate, unpaid mortgages, or any indebtedness shall, when founded upon a promise or agreement, be limited to the extent that they were contracted bona fide and for an adequate and full consideration in money or money's worth. There shall also be deducted losses incurred during the settlement of estates arising from fires, storms, shipwrecks, or other casualties, or from theft, when such losses are not compensated for by insurance or

otherwise, and if at the time of the filing of the return such losses have not been claimed as a deduction for income tax purposes in an income tax return.

For the purposes of this subchapter, a relinquishment or promised relinquishment of dower, curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights in the decedent's property or estate, shall not be considered to any extent a consideration "in money or money's worth."

(c) PROPERTY PREVIOUSLY TAXED.—An amount equal to the value of any property (A) forming a part of the gross estate situated in the United States of any person who died within five years prior to the death of the decedent, or (B) transferred to the decedent by gift within five years prior to his death, where such property can be identified as having been received by the decedent from the donor by gift, or from such prior decedent by gift, bequest, devise, or inheritance, or which can be identified as having been acquired in exchange for property so received. This deduction shall be allowed only where a gift tax imposed under chapter 4, or an estate tax imposed under this subchapter, the Revenue Act of 1926, 44 Stat. 69, or any prior Act of Congress, was finally determined and paid by or on behalf of such donor, or the estate of such prior decedent, as the case may be, and only in the amount finally determined as the value of such property in determining the value of the gift, or the gross estate of such prior decedent, and only to the extent that the value of such property is included in the decedent's gross estate, and only if in determining the value of the net estate of the prior decedent no deduction was allowable under this paragraph in respect of the property or property given in exchange therefor.

Where a deduction was allowed of any mortgage or other lien in determining the gift tax, or the estate tax of the prior decedent, which was paid in whole or in part prior to the decedent's death, then the deduction allowable under this paragraph shall be reduced by the amount so paid. The deduction allowable under this subsection shall be reduced by an amount which bears the same ratio to the amounts allowed as deductions under subsections (a), (b) and (d) as the amount otherwise deductible under this subsection bears to the value of the decedent's gross estate. Where the property referred to in this subsection consists of two or more items the aggregate value of such items shall be used for the purpose of computing the deduction.

(d) TRANSFERS FOR PUBLIC, CHARITABLE, AND RELIGIOUS USES.—The amount of all bequests, legacies, devises, or transfers, to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or to or for the use of any corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, or to a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, but only if such contributions or gifts are to be used by such trustee or trustees, or by such fraternal society, order, or association, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals. If the tax imposed by section 810, or any estate, succession, legacy, or inheritance taxes, are, either by the terms of the will, by the law of the jurisdiction under which the estate is administered, or by the law of the jurisdiction imposing the particular tax, payable in whole or in part out of the bequests, legacies, or devises otherwise deductible under this paragraph, then the amount deductible under this paragraph shall be the amount of such be-

quests, legacies, or devises reduced by the amount of such taxes. The amount of the deduction under this subsection for any transfer shall not exceed the value of the transferred property required to be included in the gross estate.

SEC. 813. CREDITS AGAINST TAX.

(a) GIFT TAX.—

(1) REVENUE ACT OF 1924.—In case a tax has been imposed under section 319 of the Revenue Act of 1924, 43 Stat. 313, as amended by section 324 of the Revenue Act of 1926, 44 Stat. 86, upon any gift, and thereafter upon the death of the donor the amount thereof is required by any provision of this subchapter to be included in the gross estate of the decedent then there shall be credited against and applied in reduction of the estate tax, which would otherwise be chargeable against the estate of the decedent under the provisions of this subchapter, an amount equal to the tax paid with respect to such gift; and in the event the donor has in any year paid the tax imposed by said section 319 with respect to a gift or gifts which upon the death of the donor must be included in his gross estate and a gift or gifts not required to be so included, then the amount of the tax which shall be deemed to have been paid with respect to the gift or gifts required to be so included shall be that proportion of the entire tax paid on account of all such gifts which the amount of the gift or gifts required to be so included bears to the total amount of gifts in that year.

(2) REVENUE ACT OF 1932.—

(A) If a tax has been paid under chapter 4 on a gift, and thereafter upon the death of the donor any amount in respect of such gift is required to be included in the value of the gross estate of the decedent for the purposes of chapter 3, then there shall be credited against the tax imposed by section 810 the amount of the tax paid under chapter 4 with respect to so much of the property which constituted the gift as is included in the gross estate, except that the amount of such credit shall not exceed an amount which bears the same ratio to the tax imposed by section 810 as the value (at the time of the gift or at the time of the death, whichever is lower) of so much of the property which constituted the gift as is included in the gross estate, bears to the value of the entire gross estate.

(B) For the purposes of paragraph (A), the amount of tax paid for any year under chapter 4 with respect to any property shall be an amount which bears the same ratio to the total tax paid for such year as the value of such property bears to the total amount of net gifts (computed without deduction of the specific exemption) for such year.

(b) ESTATE, SUCCESSION, LEGACY, AND INHERITANCE TAXES.—The tax imposed by section 810 shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any State or Territory or the District of Columbia, in respect of any property included in the gross estate (not including any such taxes paid with respect to the estate of a person other than the decedent). The credit allowed by this subsection shall not exceed 80 per centum of the tax imposed by section 810 (after deducting from such tax the credits provided by section 813 (a) (2)), and shall include only such taxes as were actually paid and credit therefor claimed within four years after the filing of the return required by section 821 or 864, except that—

(1) If a petition for redetermination of a deficiency has been filed with the Board of Tax Appeals within the time prescribed in section 871, then within such four-year period or before the expiration of 60 days after the decision of the Board becomes final.

(2) If, under section 822 (a) (2) or section 871 (h), an extension of time has been granted for payment of the tax shown on the return, or of a deficiency, then within such four-year period or before the date of the expiration of the period of the extension. Refund based on the credit may (despite the provisions of sections 910 to 912, inclusive), be made if claim therefor is filed within the period above provided. Any such refund shall be made without interest.

SUBPART II—RETURNS AND PAYMENT OF TAX

SEC. 820. EXECUTOR'S NOTICE.

The executor, within two months after the decedent's death, or within a like period after qualifying as such, shall give written notice thereof to the collector.

SEC. 821. RETURNS.

(a) REQUIREMENT.—

(1) RETURNS BY EXECUTOR.—In all cases where the gross estate at the death of a citizen or resident exceeds the amount of the specific exemption provided in section 812 (a), the executor shall make a return under oath in duplicate, setting forth (1) the value of the gross estate of the decedent at the time of his death; (2) the deductions allowed under section 812; (3) the value of the net estate of the decedent as defined in section 812; and (4) the tax paid or payable thereon; or such part of such information as may at the time be ascertainable and such supplemental data as may be necessary to establish the correct tax.

(2) RETURNS BY BENEFICIARIES.—If the executor is unable to make a complete return as to any part of the gross estate of the decedent, he shall include in his return a description of such part and the name of every person holding a legal or beneficial interest therein, and upon notice from the collector such person shall in like manner make a return as to such part of the gross estate.

(3) CROSS REFERENCE.—

For provision requiring a return where the gross estate exceeds $40,000, see section 937.

(b) TIME FOR FILING.—The return required of the executor under subsection (a) shall be filed at such times and in such manner as may be required by regulations made pursuant to law.

(c) PLACE FOR FILING.—The return required of the executor under subsection (a) shall be filed with the collector of the district in which was the domicile of the decedent at the time of his death, or, if there was no such domicile in the United States, then the collector of the district in which is situated the part of the gross estate of the decedent in the United States, or, if such part of the gross estate is situated in more than one district, then the collector of internal revenue of such district as may be designated by the Commissioner.

(d) RECORDS, STATEMENTS, AND RETURNS.—Every person liable to any tax imposed by this subchapter, or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

(e) CROSS REFERENCES.—

For general provisions relating to returns, see the following—
Section 3603. Notice requiring records, statements, and special returns.
Section 3611. Returns executed by taxpayer.
Section 3612. Returns executed by Commissioner or collector.
Section 3614. Verification and making of returns by Commissioner.
Section 3615. Summons from collector to produce books and give testimony.
Section 3631. Restrictions on examination of taxpayers.
Section 3632. Authority to administer oaths, take testimony, and certify.
Section 3634. Extension of time for filing returns.

SEC. 822. PAYMENT OF TAX.

(a) TIME OF PAYMENT.—

(1) GENERAL RULE.—The tax imposed by this subchapter shall be due and payable fifteen months after the decedent's death.

(2) EXTENSION OF TIME.—Where the Commissioner finds that the payment on the due date of any part of the amount determined by the executor as the tax would impose undue hardship upon the estate, the Commissioner may extend the time for payment of any such part not to exceed ten years from the due date. In such case the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension, and the running of the statute of limitations for assessment and collection, as provided in section 874, shall be suspended for the period of any such extension. If an extension is granted, the Commissioner may, if he deems it necessary, require the executor to furnish security for the payment of the amount in respect of which the extension is granted in accordance with the terms of the extension.

(3) CROSS REFERENCE.—

For extension of time in case of future interests, see Supplement F.

(b) LIABILITY FOR PAYMENT.—The tax imposed by this subchapter shall be paid by the executor to the collector.

SEC. 823. DUPLICATE RECEIPTS.

The collector shall grant to the person paying the tax duplicate receipts, either of which shall be sufficient evidence of such payment, and shall entitle the executor to be credited and allowed the amount thereof by any court having jurisdiction to audit or settle his accounts.

SEC. 824. EXAMINATION OF RETURN AND DETERMINATION OF TAX.

As soon as practicable after the return is filed the Commissioner shall examine it and shall determine the correct amount of the tax.

SEC. 825. DISCHARGE OF EXECUTOR FROM PERSONAL LIABILITY.

(a) APPLICATION FOR DISCHARGE.—If the executor makes written application to the Commissioner for determination of the amount of the tax and discharge from personal liability therefor, the Commissioner (as soon as possible, and in any event within one year after the making of such application, or, if the application is made before the return is filed, then within one year after the return is filed, but not after the expiration of the period prescribed for the assessment of the tax in sections 874 and 875) shall notify the executor of the amount of the tax. The executor, upon payment of the amount of which he is notified, shall be discharged from personal liability for any deficiency in tax thereafter found to be due and shall be entitled to a receipt or writing showing such discharge.

(b) CROSS REFERENCE.—

For continuance of lien upon the gross estate after discharge of executor, see section 827 (c).

SEC. 826. COLLECTION OF UNPAID TAX.

(a) SALE OF PROPERTY.—If the tax herein imposed is not paid on or before the due date thereof the collector shall, upon instruction from the Commissioner, proceed to collect the tax under the provisions of general law; or appropriate proceedings may be commenced in any court of the United States having jurisdiction, in the name of the United States, to subject the property of the decedent to be sold under the judgment or decree of the court. From the proceeds of such sale the amount of the tax, together with the costs and expenses of every description to be allowed by the court, shall be first paid, and the balance shall be deposited according to the order of the court, to be paid under its direction to the person entitled thereto. This subsection in so far as it applies to the collection of a deficiency shall be subject to the provisions of sections 871 and 891.

(b) REIMBURSEMENT OUT OF ESTATE.—If the tax or any part thereof is paid by, or collected out of that part of the estate passing to or in the possession of, any person other than the executor in his capacity as such, such person shall be entitled to reimbursement out of any part of the estate still undistributed or by a just and equitable contribution by the persons whose interest in the estate of the decedent would have been reduced if the tax had been paid before the distribution of the estate or whose interest is subject to equal or prior liability for the payment of taxes, debts, or other charges against the estate, it being the purpose and intent of this subchapter that so far as is practicable and unless otherwise directed by the will of the decedent the tax shall be paid out of the estate before its distribution.

(c) LIABILITY OF LIFE INSURANCE BENEFICIARIES.—If any part of the gross estate consists of proceeds of policies of insurance upon the life of the decedent receivable by a beneficiary other than the executor, the executor shall be entitled to recover from such beneficiary such portion of the total tax paid as the proceeds, in excess of $40,000, of such policies bear to the net estate. If there is more than one such beneficiary the executor shall be entitled to recover from such beneficiaries in the same ratio.

SEC. 827. LIEN FOR TAX.

(a) UPON GROSS ESTATE.—Unless the tax is sooner paid in full, it shall be a lien for ten years upon the gross estate of the decedent, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of such lien. If the Commissioner is satisfied that the tax liability of an estate has been fully discharged or provided for, he may, under regulations prescribed by him with the approval of the Secretary, issue his certificate, releasing any or all property of such estate from the lien herein imposed.

(b) UPON PROPERTY OF TRANSFEREE.—If (1) except in the case of a bona fide sale for an adequate and full consideration in money or money's worth, the decedent makes a transfer, by trust or otherwise, of any property in contemplation of or intended to take effect in possession or enjoyment at or after his death, or makes a transfer, by trust or otherwise, under which he has retained for his life or for any period not ascertainable without reference to his death or for any period which does not in fact end before his death (A) the possession or enjoyment of, or the right to the income from, the property, or (B) the right, either alone or in conjunction with any person, to designate the persons who shall possess or enjoy the property or the income therefrom, or (2) if insurance passes under a contract executed by the decedent in favor of a specific beneficiary, and if in either case the tax in respect thereto is not paid when due, then the transferee, trustee, or beneficiary shall be personally liable for such tax, and such property, to the extent of the decedent's interest therein at the time of such transfer, or to the extent of such beneficiary's interest under such contract of insurance, shall be subject to a like lien equal to the amount of such tax. Any part of such property sold by such transferee or trustee to a bona fide purchaser for an adequate and full consideration in money or money's worth shall be divested of the lien and a like lien shall then attach to all the property of such transferee or trustee, except any part sold to a bona fide purchaser for an adequate and full consideration in money or money's worth.

(c) CONTINUANCE AFTER DISCHARGE OF EXECUTOR.—The provisions of section 825 shall not operate as a release of any part of the gross estate from the lien for any deficiency that may thereafter be determined to be due, unless the title to such part of the gross estate has passed to a bona fide purchaser for value, in which case such part

shall not be subject to a lien or to any claim or demand for any such deficiency, but the lien shall attach to the consideration received from such purchaser by the heirs, legatees, devisees, or distributees.

(d) CROSS REFERENCE.—

For authority of collector to release lien, see sections 3673 and 3674.

SEC. 828. CROSS REFERENCES.

For payment of tax in case of estates in China, see supplement E of Part IV.

For interest, additions to tax, and penalties, see Supplement B of Part IV.

For general provisions relating to assessment, collection, closing agreements, compromises, and refunds, see chapters 35, 36, and 37 of subtitle D.

SUBPART III—MISCELLANEOUS PROVISIONS

SEC. 840. OTHER LAWS APPLICABLE.

All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, shall be extended to and made a part of this subchapter.

SEC. 841. CROSS REFERENCES.

For authority of the Commissioner, with the approval of the Secretary, to prescribe and publish all needful rules and regulations for the enforcement of this subchapter, see section 3791.

For other administrative provisions of a general character, see subtitle D.

SUBPART IV—SPECIAL CLASSES OF RESIDENTS

SEC. 850. MISSIONARIES IN FOREIGN SERVICE.

Missionaries duly commissioned and serving under boards of foreign missions of the various religious denominations in the United States, dying while in the foreign missionary service of such boards, shall not, by reason merely of their intention to permanently remain in such foreign service, be deemed nonresidents of the United States, but shall be presumed to be residents of the State, the District of Columbia, or the Territories of Alaska or Hawaii wherein they respectively resided at the time of their commission and their departure for such foreign service.

SEC. 851. CITIZENS WITH ESTATES IN CHINA.

The term "resident" as used in this subchapter includes a citizen of the United States with respect to whose property any probate or administration proceedings are had in the United States Court for China.

Part III—Estates of Nonresidents Not Citizens of the United States

SEC. 860. RATE OF TAX.

A tax equal to the sum of the percentages set forth in section 810 of the value of the net estate (determined as provided in section 861) shall be imposed upon the transfer of the net estate of every decedent nonresident not a citizen of the United States dying after the date of the enactment of this title.

SEC. 861. NET ESTATE.

(a) DEDUCTIONS ALLOWED.—For the purpose of the tax the value of the net estate shall be determined, in the case of a nonresident not a citizen of the United States, by deducting from the value of that part of his gross estate (determined as provided in section 811), which at the time of his death is situated in the United States.—

(1) EXPENSES, LOSSES, INDEBTEDNESS, AND TAXES.—That proportion of the deductions specified in subsection (b) of section 812 which the value of such part bears to the value of his entire gross estate, wherever situated.

(2) PROPERTY PREVIOUSLY TAXED.—An amount equal to the value of any property (A) forming a part of the gross estate situated in the United States of any person who died within five years prior to the death of the decedent, or (B) transferred to the decedent by gift within five years prior to his death, where such property can be identified as having been received by the decedent from the donor by gift, or from such prior decedent by gift, bequest, devise, or inheritance, or which can be identified as having been acquired in exchange for property so received. This deduction shall be allowed only where a gift tax imposed under chapter 4, or an estate tax imposed under this subchapter, the Revenue Act of 1926, 44 Stat. 69, or any prior Act of Congress, was finally determined and paid by or on behalf of such donor, or the estate of such prior decedent, as the case may be, and only in the amount finally determined as the value of such property in determining the value of the gift, or the gross estate of such prior decedent, and only to the extent that the value of such property is included in that part of the decedent's gross estate which at the time of his death is situated in the United States, and only if in determining the value of the net estate of the prior decedent no deduction was allowable under this paragraph in respect of the property or property given in exchange therefor. Where a deduction was allowed of any mortgage or other lien in determining the gift tax, or the estate tax of the prior decedent, which was paid in whole or in part prior to the decedent's death, then the deduction allowable under this paragraph shall be reduced by the amount so paid. The deduction allowable under this paragraph shall be reduced by an amount which bears the same ratio to the amounts allowed as deductions under paragraphs (1) and (3) of this subsection as the amount otherwise deductible under this paragraph bears to the value of that part of the decedent's gross estate which at the time of his death is situated in the United States. Where the property referred to in this paragraph consists of two or more items the aggregate value of such items shall be used for the purpose of computing the deduction.

(3) TRANSFERS FOR PUBLIC, CHARITABLE, AND RELIGIOUS USES.—The amount of all bequests, legacies, devises, or transfers, to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or to or for the use of any domestic corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, or to a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, but only if such contributions or gifts are to be used within the United States by such trustee or trustees, or by such fraternal society, order, or association, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals. If the tax imposed by section 860, or any estate, succession, legacy, or inheritance taxes, are, either by the terms of the will, by the law of the jurisdiction under which the estate is administered, or by the law of the jurisdiction imposing the particular tax, payable in whole or in part out of the bequests, legacies, or devises otherwise deductible under this paragraph, then the amount deductible under this paragraph shall be the amount of such bequests, legacies, or devises reduced by the amount of such taxes. The amount of the deduction under this paragraph for any trans-

fer shall not exceed the value of the transferred property required to be included in the gross estate.

(b) CONDITION OF ALLOWANCE OF DEDUCTIONS.—No deduction shall be allowed in the case of a nonresident not a citizen of the United States unless the executor includes in the return required to be filed under section 864 the value at the time of his death of that part of the gross estate of such nonresident not situated in the United States.

SEC. 862. PROPERTY WITHIN THE UNITED STATES.

For the purpose of this subchapter—

(a) STOCK IN DOMESTIC CORPORATION.—Stock in a domestic corporation owned and held by a nonresident not a citizen of the United States shall be deemed property within the United States; and

(b) REVOCABLE TRANSFERS AND TRANSFERS IN CONTEMPLATION OF DEATH.—Any property of which the decedent has made a transfer, by trust or otherwise, within the meaning of section 811 (c) or (d), shall be deemed to be situated in the United States, if so situated either at the time of the transfer, or at the time of the decedent's death.

SEC. 863. PROPERTY WITHOUT THE UNITED STATES.

The following items shall not, for the purpose of this subchapter, be deemed property within the United States:

(a) PROCEEDS OF LIFE INSURANCE.—The amount receivable as insurance upon the life of a nonresident not a citizen of the United States; and

(b) BANK DEPOSITS.—Any moneys deposited with any person carrying on the banking business, by or for a nonresident not a citizen of the United States who was not engaged in business in the United States at the time of his death.

SEC. 864. RETURNS.

(a) REQUIREMENT.—

(1) RETURNS BY EXECUTOR.—In the case of the estate of every nonresident not a citizen of the United States any part of whose gross estate is situated in the United States, the executor shall make a return under oath in duplicate, setting forth (1) the value of that part of the gross estate of the decedent situated in the United States at the time of his death; (2) the deductions allowed under section 861; (3) the value of the net estate of the decedent as defined in section 861; (4) the tax paid or payable thereon; or such part of such information as may at the time be ascertainable and such supplemental data as may be necessary to establish the correct tax.

(2) RETURNS BY BENEFICIARIES.—If the executor is unable to make a complete return as to any part of the gross estate of the decedent, he shall include in his return a description of such part and the name of every person holding a legal or beneficial interest therein, and upon notice from the collector such person shall in like manner make a return as to such part of the gross estate.

(b) TIME FOR FILING.—The return required of the executor under subsection (a) shall be filed at such times and in such manner as may be required by regulations made pursuant to law.

(c) PLACE FOR FILING.—The return required of the executor under subsection (a) shall be filed with the collector of the district in which is situated the part of the gross estate of the decedent in the United States, or, if such part of the gross estate is situated in more than one district, then the collector of such district as may be designated by the Commissioner.

SEC. 865. CROSS REFERENCE.

For missionaries in foreign service, see section 850.

Part IV—Supplemental Provisions

Supplement A—Assessment and Collection of Deficiencies

SEC. 870. DEFINITION OF DEFICIENCY.

As used in this subchapter in respect of the tax imposed by this subchapter the term "deficiency" means—

(1) The amount by which the tax imposed by this subchapter exceeds the amount shown as the tax by the executor upon his return; but the amount so shown on the return shall first be increased by the amounts previously assessed (or collected without assessment) as a deficiency, and decreased by the amounts previously abated, refunded, or otherwise repaid in respect of such tax; or

(2) If no amount is shown as the tax by the executor upon his return, or if no return is made by the executor, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed, or collected without assessment, shall first be decreased by the amounts previously abated, refunded, or otherwise repaid in respect of such tax.

SEC. 871. PROCEDURE IN GENERAL.

(a) (1) Petition to Board of Tax Appeals.—If the Commissioner determines that there is a deficiency in respect of the tax imposed by this subchapter, the Commissioner is authorized to send notice of such deficiency to the executor by registered mail. Within 90 days after such notice is mailed (not counting Sunday or a legal holiday in the District of Columbia as the ninetieth day), the executor may file a petition with the Board of Tax Appeals for a redetermination of the deficiency. No assessment of a deficiency in respect of the tax imposed by this subchapter and no distraint or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the executor, nor until the expiration of such 90-day period, nor, if a petition has been filed with the Board, until the decision of the Board has become final. Notwithstanding the provisions of section 3653 (a) the making of such assessment or the beginning of such proceeding or distraint during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

(2) Cross References.—

For exceptions to the restrictions imposed by this subsection see—
Subsection (d) of this section, relating to waivers by the executor;
Subsection (f) of this section, relating to notifications of mathematical errors appearing upon the face of the return.
Section 872, relating to jeopardy assessments; and
Section 1145, relating to assessment or collection of the amount of the deficiency determined by the Board pending court review.

(b) Collection of Deficiency Found by Board.—If the executor files a petition with the Board, the entire amount redetermined as the deficiency by the decision of the Board which has become final shall be assessed and shall be paid upon notice and demand from the collector. No part of the amount determined as a deficiency by the Commissioner but disallowed as such by the decision of the Board which has become final shall be assessed or be collected by distraint or by proceeding in court with or without assessment.

(c) Failure to File Petition.—If the executor does not file a petition with the Board within the time prescribed in subsection (a) the deficiency, notice of which has been mailed to the executor, shall be assessed, and shall be paid upon notice and demand from the collector.

(d) Waiver of Restrictions.—The executor shall at any time have the right, by a signed notice in writing filed with the Commissioner, to waive the restrictions provided in subsection (a) on the assessment and collection of the whole or any part of the deficiency.

(e) INCREASE OF DEFICIENCY AFTER NOTICE MAILED.—The Board shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the executor, and to determine whether any additional amount or addition to the tax should be assessed, if claim therefor is asserted by the Commissioner at or before the hearing or a rehearing.

(f) FURTHER DEFICIENCY LETTERS RESTRICTED.—If the Commissioner has mailed to the executor notice of a deficiency as provided in subsection (a), and the executor files a petition with the Board within the time prescribed in such subsection, the Commissioner shall have no right to determine any additional deficiency, except in the case of fraud, and except as provided in subsection (e) or section 872 (c). If the executor is notified that, on account of a mathematical error appearing upon the face of the return, an amount of tax in excess of that shown upon the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical error, such notice shall not be considered, for the purposes of this subsection or of subsection (a), or of section 911, as a notice of a deficiency, and the executor shall have no right to file a petition with the Board of Tax Appeals based on such notice, nor shall such assessment or collection be prohibited by the provisions of subsection (a).

(g) FINAL DECISIONS OF BOARD.—For the purposes of this subchapter the date on which a decision of the Board becomes final shall be determined according to the provisions of section 1140.

(h) EXTENSION OF TIME FOR PAYMENT OF DEFICIENCY.—Where it is shown to the satisfaction of the Commissioner that the payment of a deficiency upon the date prescribed for the payment thereof will result in undue hardship to the estate, the Commissioner, under regulations prescribed by the Commissioner, with the approval of the Secretary (except where the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax), may grant an extension for the payment of such deficiency or any part thereof for a period not in excess of four years. If an extension is granted, the Commissioner may require the executor to furnish a bond in such amount, not exceeding double the amount of the deficiency, and with such sureties as the Commissioner deems necessary, conditioned upon the payment of the deficiency in accordance with the terms of the extension. In such case the running of the statute of limitations for assessment and collection, as provided in section 874, shall be suspended for the period of any such extension.

(i) 50 PER CENT ADDITION TREATED AS DEFICIENCY.—The 50 per centum addition to the tax provided by section 3612 (d) (2) shall, when assessed in connection with an estate tax, be assessed, collected, and paid in the same manner as if it were a deficiency, except that the provisions of section 891 shall not be applicable.

SEC. 872. JEOPARDY ASSESSMENTS.

(a) AUTHORITY FOR MAKING.—If the Commissioner believes that the assessment or collection of a deficiency will be jeopardized by delay, he shall immediately assess such deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) and notice and demand shall be made by the collector for the payment thereof.

(b) DEFICIENCY LETTERS.—If the jeopardy assessment is made before any notice in respect of the tax to which the jeopardy assessment relates has been mailed under section 871 (a), then the Commissioner shall mail a notice under such subsection within 60 days after the making of the assessment.

(c) AMOUNT ASSESSABLE BEFORE DECISION OF BOARD.—The jeopardy assessment may be made in respect of a deficiency greater or

less than that notice of which has been mailed to the executor, despite the provisions of section 871 (f) and whether or not the executor has theretofore filed a petition with the Board of Tax Appeals. The Commissioner may, at any time before the decision of the Board is rendered, abate such assessment, or any unpaid portion thereof, to the extent that he believes the assessment to be excessive in amount. The Commissioner shall notify the Board of the amount of such assessment, or abatement, if the petition is filed with the Board before the making of the assessment or is subsequently filed, and the Board shall have jurisdiction to redetermine the entire amount of the deficiency and of all amounts assessed at the same time in connection therewith.

(d) AMOUNT ASSESSABLE AFTER DECISION OF BOARD.—If the jeopardy assessment is made after the decision of the Board is rendered such assessment may be made only in respect of the deficiency determined by the Board in its decision.

(e) EXPIRATION OF RIGHT TO ASSESS.—A jeopardy assessment may not be made after the decision of the Board has become final or after the executor has filed a petition for review of the decision of the Board.

(f) BOND TO STAY COLLECTION.—When a jeopardy assessment has been made the executor, within 30 days after notice and demand from the collector for the payment of the amount of the assessment, may obtain a stay of collection of the whole or any part of the amount of the assessment by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of so much of the amount, the collection of which is stayed by the bond, as is not abated by a decision of the Board which has become final, together with interest thereon as provided in section 892 or 893 (b) (4). If any portion of the jeopardy assessment is abated by the Commissioner before the decision of the Board is rendered, the bond shall, at the request of the taxpayer, be proportionately reduced.

(g) SAME—FURTHER CONDITIONS.—If the bond is given before the executor has filed his petition with the Board under subsection (a) of section 871, the bond shall contain a further condition that if a petition is not filed within the period provided in such subsection, then the amount the collection of which is stayed by the bond will be paid on notice and demand at any time after the expiration of such period, together with interest thereon at the rate of 6 per centum per annum from the date of the jeopardy notice and demand to the date of notice and demand under this subsection.

(h) WAIVER OF STAY.—Upon the filing of the bond the collection of so much of the amount assessed as is covered by the bond shall be stayed. The executor shall have the right to waive such stay at any time in respect of the whole or any part of the amount covered by the bond, and if as a result of such waiver any part of the amount covered by the bond is paid, then the bond shall, at the request of the executor, be proportionately reduced. If the Board determines that the amount assessed is greater than the amount which should have been assessed, then when the decision of the Board is rendered the bond shall, at the request of the executor, be proportionately reduced.

(i) COLLECTION OF UNPAID AMOUNTS.—When the petition has been filed with the Board and when the amount which should have been assessed has been determined by a decision of the Board which has become final, then any unpaid portion, the collection of which has been stayed by the bond, shall be collected as part of the tax upon notice and demand from the collector, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be refunded. If the amount deter-

mined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the collector.

SEC. 873. CLAIMS IN ABATEMENT.

No claim in abatement shall be filed in respect of the assessment of any estate tax imposed by this subchapter.

SEC. 874. PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION.

(a) GENERAL RULE.—Except as provided in subsection (b) the amount of estate taxes imposed by this subchapter shall be assessed within three years after the return was filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of three years after the return was filed.

(b) EXCEPTIONS.—

(1) FALSE RETURN OR NO RETURN.—In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(2) COLLECTION AFTER ASSESSMENT.—Where the assessment of any tax imposed by this subchapter has been made within the statutory period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court, but only if begun (1) within six years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the executor.

SEC. 875. SUSPENSION OF RUNNING OF STATUTE.

The running of the statute of limitations provided in section 874 on the making of assessments and the beginning of distraint or a proceeding in court for collection, in respect of any deficiency, shall (after the mailing of a notice under section 871 (a)) be suspended for the period during which the Commissioner is prohibited from making the assessment or beginning distraint or a proceeding in court (and in any event, if a proceeding in respect of the deficiency is placed on the docket of the Board, until the decision of the Board becomes final), and for 60 days thereafter.

SEC. 876. CROSS REFERENCE.

For collection of unpaid deficiencies under provisions of general law and sale of property under judgment, see section 826 (a).

SUPPLEMENT B—INTEREST, ADDITIONS TO THE TAX, AND PENALTIES

SEC. 890. INTEREST ON EXTENDED PAYMENTS.

(a) TAX SHOWN ON RETURN.—If the time for the payment is extended as provided in section 822 (a) (2) there shall be collected, as a part of such amount, interest thereon from the expiration of three months after the due date of the tax to the expiration of the period of the extension. In the case of any such extension, the rate of interest shall be 4 per centum per annum.

(b) DEFICIENCY.—In case an extension for the payment of a deficiency is granted, as provided in section 871 (h), there shall be collected, as a part of the tax, interest on the part of the deficiency the time for payment of which is so extended, at the rate of 6 per centum per annum for the period of the extension, and no other interest shall be collected on such part of the deficiency for such period.

SEC. 891. INTEREST ON DEFICIENCIES.

Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the collector, and shall be collected as a part of the

tax, at the rate of 6 per centum per annum from the due date of the tax to the date the deficiency is assessed, or, in the case of a waiver under section 871 (d), to the thirtieth day after the filing of such waiver or to the date the deficiency is assessed whichever is the earlier.

SEC. 892. INTEREST ON JEOPARDY ASSESSMENTS.

In the case of the amount collected under section 872 (i) there shall be collected at the same time as such amount, and as a part of the tax, interest at the rate of 6 per centum per annum upon such amount from the date of the jeopardy notice and demand to the date of notice and demand under section 872 (i), or, in the case of the amount collected in excess of the amount of the jeopardy assessment, interest as provided in section 891.

SEC. 893. ADDITIONS TO THE TAX IN CASE OF NONPAYMENT.

(a) TAX SHOWN ON RETURN.—

(1) PAYMENT NOT EXTENDED.—Where the amount determined by the executor as the tax imposed by this subchapter, or any part of such amount, is not paid on the due date of the tax, there shall be collected as a part of the tax, interest upon such unpaid amount at the rate of 6 per centum per annum from the due date until it is paid.

(2) PAYMENT EXTENDED.—Where an extension of time for payment of the amount so determined as the tax by the executor has been granted, and the amount the time for payment of which has been extended, and the interest thereon determined under section 890 (a), is not paid in full prior to the expiration of the period of the extension, then, in lieu of the interest provided for in paragraph (1) of this subsection, interest at the rate of 6 per centum per annum shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid.

(b) DEFICIENCY.—

(1) PAYMENT NOT EXTENDED.—Where a deficiency, or any interest assessed in connection therewith under section 891, or any addition to the tax provided for in section 3612 (d), is not paid in full within 30 days from the date of notice and demand from the collector, there shall be collected as part of the tax, interest upon the unpaid amount at the rate of 6 per centum per annum from the date of such notice and demand until it is paid.

(2) FILING OF JEOPARDY BOND.—If a bond is filed, as provided in section 872, the provisions of paragraph (1) of this subsection shall not apply to the amount covered by the bond.

(3) PAYMENT EXTENDED.—If the part of the deficiency the time for payment of which is extended as provided in section 871 (h) is not paid in accordance with the terms of the extension, there shall be collected, as a part of the tax, interest on such unpaid amount at the rate of 6 per centum per annum for the period from the time fixed by the terms of the extension for its payment until it is paid, and no other interest shall be collected on such unpaid amount for such period.

(4) JEOPARDY ASSESSMENT—PAYMENT STAYED BY BOND.—If the amount included in the notice and demand from the collector under section 872 (i) is not paid in full within 30 days after such notice and demand, then there shall be collected, as part of the tax, interest upon the unpaid amount at the rate of 6 per centum per annum from the date of such notice and demand until it is paid.

SEC. 894. PENALTIES.

(a) AD VALOREM.—

FAILURE TO FILE RETURN.—For addition to the tax for failure to file return, see section 3612 (d) (1).

FALSE OR FRAUDULENT RETURN.—For 50 per centum addition to the tax in case of a false or fraudulent return, see section 3612 (d) (2).

(b) SPECIFIC.—

(1) CIVIL.—Whoever fails to comply with any duty imposed upon him by section 820, 821, or 864, or, having in his possession or control any record, file, or paper, containing or supposed to contain any information concerning the estate of the decedent, or, having in his possession or control any property comprised in the gross estate of the decedent, fails to exhibit the same upon request to the Commissioner or any collector or law officer of the United States or his duly authorized deputy or agent, who desires to examine the same in the performance of his duties under this subchapter, shall be liable to a penalty of not exceeding $500, to be recovered, with costs of suit, in a civil action in the name of the United States.

(2) CRIMINAL.—

(A) Whoever knowingly makes any false statement in any notice or return required to be filed under this subchapter shall be liable to a penalty of not exceeding $5,000, or imprisonment not exceeding one year, or both.

(B) Any person required under this subchapter to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this subchapter, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(C) Any person required under this subchapter to collect, account for and pay over any tax imposed by this subchapter, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this subchapter or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(D) The term "person" as used in paragraphs (B) and (C) includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(3) CROSS REFERENCE.—

For other penalties of a general character, see section 3793.

SEC. 895. CROSS REFERENCE.

For interest on refunds, see section 3771.

SUPPLEMENT C—CLAIMS AGAINST TRANSFEREES AND FIDUCIARIES

SEC. 900. TRANSFERRED ASSETS.

(a) METHOD OF COLLECTION.—The amounts of the following liabilities shall, except as hereinafter in this section provided, be assessed, collected, and paid in the same manner and subject to the same provisions and limitations as in the case of a deficiency in a tax imposed by this subchapter (including the provisions in case of delinquency in payment after notice and demand, the provisions authorizing distraint and proceedings in court for collection, and the provisions prohibiting claims and suits for refunds):

(1) TRANSFEREES.—The liability, at law or in equity, of a transferee of property of a decedent, in respect of the tax (including interest, additional amounts, and additions to the tax provided by law) imposed by this subchapter.

(2) FIDUCIARIES.—The liability of a fiduciary under section 3467 of the Revised Statutes (U. S. C., Title 31, §192) in respect of the payment of any such tax from the estate of the decedent.

Any such liability may be either as to the amount of tax shown on the return or as to any deficiency in tax.

(b) PERIOD OF LIMITATION.—The period of limitation for assessment of any such liability of a transferee or fiduciary shall be as follows:

(1) Within one year after the expiration of the period of limitation for assessment against the executor.

(2) If a court proceeding against the executor for the collection of the tax has been begun within the period provided in paragraph (1)—then within one year after return of execution in such proceeding.

(c) SUSPENSION OF RUNNING OF STATUTE OF LIMITATIONS.—The running of the statute of limitations, upon the assessment of the liability of a transferee or fiduciary shall, after the mailing of the notice under section 871 (a) to the transferee or fiduciary, be suspended for the period during which the Commissioner is prohibited from making the assessment in respect of the liability of the transferee or fiduciary (and in any event, if a proceeding in respect of the liability is placed on the docket of the Board, until the decision of the Board becomes final), and for 60 days thereafter.

(d) PROHIBITION OF SUITS TO RESTRAIN ENFORCEMENT OF LIABILITY OF TRANSFEREE OR FIDUCIARY.—No suit shall be maintained in any court for the purpose of restraining the assessment or collection of (1) the amount of the liability, at law or in equity, of a transferee of property of a taxpayer in respect of any estate tax, or (2) the amount of the liability of a fiduciary under section 3467 of the Revised Statutes (U. S. C., Title 31, § 192) in respect of any such tax.

(e) DEFINITION OF "TRANSFEREE".—As used in this section, the term "transferee" includes heir, legatee, devisee, and distributee.

SEC. 901. NOTICE OF FIDUCIARY RELATIONSHIP.

(a) FIDUCIARY OF DECEDENT.—Upon notice to the Commissioner that any person is acting as executor, such person shall assume the powers, rights, duties, and privileges of an executor in respect of the tax imposed by this subchapter until notice is given that such person is no longer acting as executor.

(b) FIDUCIARY OF TRANSFEREE.—Upon notice to the Commissioner that any person is acting in a fiduciary capacity for a person subject to the liability specified in section 900, the fiduciary shall assume on behalf of such person the powers, rights, duties, and privileges of such person under such section (except that the liability shall be collected from the estate of such person), until notice is given that the fiduciary capacity has terminated.

(c) MANNER OF NOTICE.—Notice under subsection (a) or (b) shall be given in accordance with regulations prescribed by the Commissioner with the approval of the Secretary.

(d) ADDRESS FOR NOTICE OF LIABILITY.—In the absence of any notice to the Commissioner under subsection (a) or (b), notice under this subchapter of a deficiency or other liability, if addressed in the name of the decedent or other person subject to liability and mailed to his last known address, shall be sufficient for the purposes of this subchapter.

SUPPLEMENT D—REFUNDS

SEC. 910. PERIOD OF LIMITATION FOR FILING CLAIMS.

All claims for the refunding of the tax imposed by this subchapter alleged to have been erroneously or illegally assessed or collected must be presented to the Commissioner within three years next after the payment of such tax. The amount of the refund shall not exceed the portion of the tax paid during the three years immediately preceding

the filing of the claim, or if no claim was filed, then during the three years immediately preceding the allowance of the refund.

SEC. 911. EFFECT OF PETITION TO BOARD.

If the Commissioner has mailed to the executor a notice of deficiency under section 871 (a) and if the executor files a petition with the Board of Tax Appeals within the time prescribed in such subsection, no refund in respect of the tax shall be allowed or made and no suit for the recovery of any part of such tax shall be instituted in any court, except—

(a) As to overpayments determined by a decision of the Board which has become final; and

(b) As to any amount collected in excess of an amount computed in accordance with the decision of the Board which has become final; and

(c) As to any amount collected after the statutory period of limitations upon the beginning of distraint or a proceeding in court for collection has expired; but in any such claim for refund or in any such suit for refund the decision of the Board which has become final, as to whether such period had expired before the notice of deficiency was mailed, shall be conclusive.

SEC. 912. OVERPAYMENT FOUND BY BOARD.

If the Board finds that there is no deficiency and further finds that the executor has made an overpayment of tax, the Board shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Board has become final, be credited or refunded to the executor as provided in section 3770 (a). No such refund shall be made of any portion of the tax unless the Board determines as part of its decision that such portion was paid within three years before the filing of the claim or the filing of the petition, whichever is earlier, or that such portion was paid after the mailing of the notice of deficiency.

SEC. 913. CROSS REFERENCES.

For other provisions affecting refunds of estate taxes, see—
Section 3770 (a) (1), Authority of Commissioner to make refunds.
Section 3772, Limitations on suits for refunds.
Section 3770 (a) (2), Refund of amounts collected after period of limitation.
Section 3746, Recovery of amounts erroneously refunded.
Section 3760, Closing agreements.
Section 3771, Interest on refunds.

SUPPLEMENT E—ESTATES IN CHINA

SEC. 920. PAYMENT OF TAX.

In the case of a resident within the meaning of section 851—

(a) TO CLERK OF UNITED STATES COURT FOR CHINA.—Where no part of the gross estate of the decedent is situated in the United States at the time of his death, the total amount of tax due under this subchapter shall be paid to or collected by the clerk of the United States Court for China;

(b) TO COLLECTOR.—Where any part of the gross estate of the decedent is situated in the United States at the time of his death, the tax due under this subchapter shall be paid to or collected by the collector of the district in which is situated the part of the gross estate in the United States, or, if such part is situated in more than one district, then the collector of such district as may be designated by the Commissioner.

SEC. 921. AUTHORITY OF CLERK OF UNITED STATES COURT FOR CHINA TO ACT AS COLLECTOR.

For the purpose of section 920 the clerk of the United States Court for China shall be a collector for the territorial jurisdiction of such court, and taxes shall be collected by and paid to him in

the same manner and subject to the same provisions of law, including penalties, as the taxes collected by and paid to a collector in the United States.

SUPPLEMENT F—EXTENSION OF PAYMENT IN CASE OF FUTURE INTERESTS

SEC. 925. PERIOD OF EXTENSION.

Where there is included in the value of the gross estate the value of a reversionary or remainder interest in property, the payment of the part of the tax imposed by this subchapter attributable to such interest may, at the election of the executor, be postponed until six months after the termination of the precedent interest or interests in the property, and the amount the payment of which is so postponed shall then be payable, together with interest thereon at the rate of 4 per centum per annum from eighteen months after the date of the decedent's death until such amount is paid.

SEC. 926. REQUIREMENTS FOR EXTENSION.

The postponement of payment of such amount shall be under such regulations as the Commissioner with the approval of the Secretary may prescribe, and shall be upon condition that the executor, or any other person liable for the tax, shall furnish a bond in such an amount, and with such sureties, as the Commissioner deems necessary, conditioned upon the payment within six months after the termination of such precedent interest or interests of the amount the payment of which is so postponed, together with interest thereon, as provided in section 925.

SEC. 927. CREDIT FOR STATE DEATH TAXES.

Such part of any estate, inheritance, legacy, or succession taxes allowable as a credit against the tax imposed by this subchapter as is attributable to such reversionary or remainder interest may be allowed as a credit against the tax attributable to such interest, subject to the percentage limitation contained in section 813 (b), if such part is paid, and credit therefor claimed, at any time prior to the expiration of 60 days after the termination of the precedent interest or interests in the property.

SUPPLEMENT G—DEFINITIONS

SEC. 930. "EXECUTOR," "NET ESTATE," "MONTH," "COLLECTOR."

When used in this subchapter—

(a) The term "executor" means the executor or administrator of the decedent, or, if there is no executor or administrator appointed, qualified, and acting within the United States, then any person in actual or constructive possession of any property of the decedent;

(b) The term "net estate" means the net estate as determined under the provisions of section 812 or 861;

(c) The term "month" means calendar month; and

(d) The term "collector" means the collector of internal revenue of the district in which was the domicile of the decedent at the time of his death, or, if there was no such domicile in the United States, then the collector of the district in which is situated the part of the gross estate of the decedent in the United States, or, if such part of the gross estate is situated in more than one district, then the collector of internal revenue of such district as may be designated by the Commissioner.

SEC. 931. CROSS REFERENCES.

(a) "TRANSFEREE."—

For definition of "transferee," see section 900 (e).

(b) "RESIDENT."—

For "resident" as including citizen with estate in China, see section 851.

SUBCHAPTER B—ADDITIONAL ESTATE TAX

SEC. 935. RATE OF TAX.

(a) In addition to the estate tax imposed by section 810 or 860, there shall be imposed upon the transfer of the net estate of every decedent dying after the date of the enactment of this title, whether a citizen or resident of the United States or a nonresident not a citizen of the United States, a tax equal to the excess of—

(1) the amount of a tentative tax computed under subsection (b) of this section, over

(2) the amount of the tax imposed by section 810, in the case of a citizen or resident of the United States, or 860, in the case of a nonresident not a citizen of the United States, computed without regard to the provisions of this subchapter.

(b) The tentative tax referred to in subsection (a) (1) of this section shall equal the sum of the following percentages of the value of the net estate:

Upon net estates not in excess of $10,000, 2 per centum.

$200 upon net estates of $10,000; and upon net estates in excess of $10,000 and not in excess of $20,000, 4 per centum in addition of such excess.

$600 upon net estates of $20,000; and upon net estates in excess of $20,000 and not in excess of $30,000, 6 per centum in addition of such excess.

$1,200 upon net estates of $30,000; and upon net estates in excess of $30,000 and not in excess of $40,000, 8 per centum in addition of such excess.

$2,000 upon net estates of $40,000; and upon net estates in excess of $40,000 and not in excess of $50,000, 10 per centum in addition of such excess.

$3,000 upon net estates of $50,000; and upon net estates in excess of $50,000 and not in excess of $70,000, 12 per centum in addition of such excess.

$5,400 upon net estates of $70,000; and upon net estates in excess of $70,000 and not in excess of $100,000, 14 per centum in addition of such excess.

$9,600 upon net estates of $100,000; and upon net estates in excess of $100,000 and not in excess of $200,000, 17 per centum in addition of such excess.

$26,600 upon net estates of $200,000; and upon net estates in excess of $200,000 and not in excess of $400,000, 20 per centum in addition of such excess.

$66,600 upon net estates of $400,000; and upon net estates in excess of $400,000 and not in excess of $600,000, 23 per centum in addition of such excess.

$112,600 upon net estates of $600,000; and upon net estates in excess of $600,000 and not in excess of $800,000, 26 per centum in addition of such excess.

$164,600 upon net estates of $800,000; and upon net estates in excess of $800,000 and not in excess of $1,000,000, 29 per centum in addition of such excess.

$222,600 upon net estates of $1,000,000; and upon net estates in excess of $1,000,000 and not in excess of $1,500,000, 32 per centum in addition of such excess.

$382,600 upon net estates of $1,500,000; and upon net estates in excess of $1,500,000 and not in excess of $2,000,000, 35 per centum in addition of such excess.

$557,600 upon net estates of $2,000,000; and upon net estates in excess of $2,000,000 and not in excess of $2,500,000, 38 per centum in addition of such excess.

$747,600 upon net estates of $2,500,000; and upon net estates in excess of $2,500,000 and not in excess of $3,000,000, 41 per centum in addition of such excess.

$952,600 upon net estates of $3,000,000; and upon net estates in excess of $3,000,000 and not in excess of $3,500,000, 44 per centum in addition of such excess.

$1,172,600 upon net estates of $3,500,000; and upon net estates in excess of $3,500,000 and not in excess of $4,000,000, 47 per centum in addition of such excess.

$1,407,600 upon net estates of $4,000,000; and upon net estates in excess of $4,000,000 and not in excess of $4,500,000, 50 per centum in addition of such excess.

$1,657,600 upon net estates of $4,500,000; and upon net estates in excess of $4,500,000 and not in excess of $5,000,000, 53 per centum in addition of such excess.

$1,922,600 upon net estates of $5,000,000; and upon net estates in excess of $5,000,000 and not in excess of $6,000,000, 56 per centum in addition of such excess.

$2,482,600 upon net estates of $6,000,000; and upon net estates in excess of $6,000,000 and not in excess of $7,000,000, 59 per centum in addition of such excess.

$3,072,600 upon net estates of $7,000,000; and upon net estates in excess of $7,000,000 and not in excess of $8,000,000, 61 per centum in addition of such excess.

$3,682,600 upon net estates of $8,000,000; and upon net estates in excess of $8,000,000 and not in excess of $9,000,000, 63 per centum in addition of such excess.

$4,312,600 upon net estates of $9,000,000; and upon net estates in excess of $9,000,000 and not in excess of $10,000,000, 65 per centum in addition of such excess.

$4,962,600 upon net estates of $10,000,000; and upon net estates in excess of $10,000,000 and not in excess of $20,000,000, 67 per centum in addition of such excess.

$11,662,600 upon net estates of $20,000,000; and upon net estates in excess of $20,000,000 and not in excess of $50,000,000, 69 per centum in addition of such excess.

$32,362,600 upon net estates of $50,000,000; and upon net estates in excess of $50,000,000, 70 per centum in addition of such excess.

(c) For the purposes of this section the value of the net estate shall be determined as provided in subchapter A, except that in lieu of the exemption of $100,000 provided in section 812 (a), the exemption shall be $40,000.

SEC. 936. CREDITS AGAINST TAX.

(a) The credit provided in section 813 (b) (80 per centum credit), shall not be allowed in respect of such additional tax.

(b) (1) If a tax has been paid under chapter 4 on a gift, and thereafter upon the death of the donor any amount in respect of such gift is required to be included in the value of the gross estate of the decedent for the purposes of this subchapter, then there shall be credited against the tax imposed by section 935 the amount of the tax paid under chapter 4 with respect to so much of the property which constituted the gift as is included in the gross estate, except that the amount of such credit (A) shall not exceed an amount which bears the same ratio to the tax imposed by section 935 as the value (at the time of the gift or at the time of the death, whichever is lower) of so much of the property which constituted the gift as is included in the gross estate, bears to the value of the entire gross estate, and (B) shall not exceed the amount by which the gift tax paid under chapter 4 with respect to so much of the property as constituted the gift as is included in the gross estate, exceeds the amount of the credit under section 813 (b).

(2) For the purposes of paragraph (1), the amount of tax paid for any year under chapter 4 with respect to any property shall be an amount which bears the same ratio to the total tax paid for such year as the value of such property bears to the total amount of net gifts (computed without deduction of the specific exemption) for such year.

SEC. 937. ASSESSMENT, COLLECTION, AND PAYMENT OF TAX.

Except as provided in section 936, the tax imposed by section 935 shall be assessed, collected, and paid, in the same manner, and shall be subject to the same provisions of law (including penalties), as the tax imposed by subchapter A, except that in the case of a citizen or resident of the United States a return shall be required if the value of the gross estate at the time of decedent's death exceeds the amount of the specific exemption provided in section 935 (c).

SEC. 938. PUBLICITY OF RETURNS.

For provisions with respect to publicity of returns under this chapter, see subsection (a) (2) of section 55.

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CHAPTER 4—GIFT TAX

SEC. 1000. IMPOSITION OF TAX.

(a) For the calendar year 1940 and each calendar year thereafter a tax, computed as provided in section 1001, shall be imposed upon the transfer during such calendar year by any individual, resident or nonresident, of property by gift. Gift taxes for the calendar years 1932–1939, inclusive, shall not be affected by the provisions of this chapter, but shall remain subject to the applicable provisions of the Revenue Act of 1932, except as such provisions are modified by legislation enacted subsequent to the Revenue Act of 1932.

(b) The tax shall apply whether the transfer is in trust or otherwise, whether the gift is direct or indirect, and whether the property is real or personal, tangible or intangible; but, in the case of a nonresident not a citizen of the United States, shall apply to a transfer only if the property is situated within the United States.

SEC. 1001. COMPUTATION OF TAX.

(a) The tax for each calendar year shall be an amount equal to the excess of—

(1) a tax, computed in accordance with the Rate Schedule hereinafter set forth, on the aggregate sum of the net gifts for such calendar year and for each of the preceding calendar years, over

(2) a tax, computed in accordance with the said Rate Schedule, on the aggregate sum of the net gifts for each of the preceding calendar years.

RATE SCHEDULE

Upon net gifts not in excess of $10,000, 1½ per centum.

$150 upon net gifts of $10,000; and upon net gifts in excess of $10,000 and not in excess of $20,000, 3 per centum in addition of such excess.

$450 upon net gifts of $20,000; and upon net gifts in excess of $20,000 and not in excess of $30,000, 4½ per centum in addition of such excess.

$900 upon net gifts of $30,000; and upon net gifts in excess of $30,000 and not in excess of $40,000, 6 per centum in addition of such excess.

$1,500 upon net gifts of $40,000; and upon net gifts in excess of $40,000 and not in excess of $50,000, 7½ per centum in addition of such excess.

$2,250 upon net gifts of $50,000; and upon net gifts in excess of $50,000 and not in excess of $70,000, 9 per centum in addition of such excess.

$4,050 upon net gifts of $70,000; and upon net gifts in excess of $70,000 and not in excess of $100,000, 10½ per centum in addition of such excess.

$7,200 upon net gifts of $100,000; and upon net gifts in excess of $100,000 and not in excess of $200,000, 12¾ per centum in addition of such excess.

$19,950 upon net gifts of $200,000; and upon net gifts in excess of $200,000 and not in excess of $400,000, 15 per centum in addition of such excess.

$49,950 upon net gifts of $400,000; and upon net gifts in excess of $400,000 and not in excess of $600,000, 17¼ per centum in addition of such excess.

$84,450 upon net gifts of $600,000; and upon net gifts in excess of $600,000 and not in excess of $800,000, 19½ per centum in addition of such excess.

$123,450 upon net gifts of $800,000; and upon net gifts in excess of $800,000 and not in excess of $1,000,000, 21¾ per centum in addition of such excess.

$166,950 upon net gifts of $1,000,000; and upon net gifts in excess of $1,000,000 and not in excess of $1,500,000, 24 per centum in addition of such excess.

$286,950 upon net gifts of $1,500,000; and upon net gifts in excess of $1,500,000 and not in excess of $2,000,000, 26¼ per centum in addition of such excess.

$418,200 upon net gifts of $2,000,000; and upon net gifts in excess of $2,000,000 and not in excess of $2,500,000, 28½ per centum in addition of such excess.

$560,700 upon net gifts of $2,500,000; and upon net gifts in excess of $2,500,000 and not in excess of $3,000,000; 30¾ per centum in addition of such excess.

$714,450 upon net gifts of $3,000,000; and upon net gifts in excess of $3,000,000 and not in excess of $3,500,000, 33 per centum in addition of such excess.

$879,450 upon net gifts of $3,500,000; and upon net gifts in excess of $3,500,000 and not in excess of $4,000,000, 35¼ per centum in addition of such excess.

$1,055,700 upon net gifts of $4,000,000; and upon net gifts in excess of $4,000,000 and not in excess of $4,500,000, 37½ per centum in addition of such excess.

$1,243,200 upon net gifts of $4,500,000; and upon net gifts in excess of $4,500,000 and not in excess of $5,000,000, 39¾ per centum in addition of such excess.

$1,441,950 upon net gifts of $5,000,000; and upon net gifts in excess of $5,000,000 and not in excess of $6,000,000, 42 per centum in addition of such excess.

$1,861,950 upon net gifts of $6,000,000; and upon net gifts in excess of $6,000,000 and not in excess of $7,000,000, 44¼ per centum in addition of such excess.

$2,304,450 upon net gifts of $7,000,000; and upon net gifts in excess of $7,000,000 and not in excess of $8,000,000, 45¾ per centum in addition of such excess.

$2,761,950 upon net gifts of $8,000,000; and upon net gifts in excess of $8,000,000 and not in excess of $9,000,000, 47¼ per centum in addition of such excess.

$3,234,450 upon net gifts of $9,000,000; and upon net gifts in excess of $9,000,000 and not in excess of $10,000,000, 48¾ per centum in addition of such excess.

$3,721,950 upon net gifts of $10,000,000; and upon net gifts in excess of $10,000,000 and not in excess of $20,000,000, 50¼ per centum in addition of such excess.

$8,746,950 upon net gifts of $20,000,000; and upon net gifts in excess of $20,000,000 and not in excess of $50,000,000, 51¾ per centum in addition of such excess.

$24,271,950 upon net gifts of $50,000,000; and upon net gifts in excess of $50,000,000, 52½ per centum in addition of such excess.

(b) For the purpose of this section the term "preceding calendar years" means the calendar year 1932 and all calendar years intervening between the calendar year 1932 and the calendar year for which the tax is being computed.

(c) CROSS REFERENCE.—

For definition of "calendar year", see section 1030 (a).

SEC. 1002. TRANSFER FOR LESS THAN ADEQUATE AND FULL CONSIDERATION.

Where property is transferred for less than an adequate and full consideration in money or money's worth, then the amount by which the value of the property exceeded the value of the consideration shall, for the purpose of the tax imposed by this chapter, be deemed a gift, and shall be included in computing the amount of gifts made during the calendar year.

SEC. 1003. NET GIFTS.

(a) GENERAL DEFINITION.—The term "net gifts" means the total amount of gifts made during the calendar year, less the deductions provided in section 1004.

(b) EXCLUSIONS FROM GIFTS.

(1) GIFTS PRIOR TO 1939.—In the case of gifts (other than of future interests in property) made to any person by the donor during the calendar year 1938 and previous calendar years, the first $5,000 of such gifts to such person shall not, for the purposes of subsection (a), be included in the total amount of gifts made during such year.

(2) GIFTS AFTER 1938.—In the case of gifts (other than gifts in trust or of future interests in property) made to any person by the donor during the calendar year 1939 and subsequent calendar years, the first $4,000 of such gifts to such person shall not, for the purposes of subsection (a), be included in the total amount of gifts made during such year.

SEC. 1004. DEDUCTIONS.

In computing net gifts for the calendar year 1939 and preceding calendar years, there shall be allowed (except as otherwise provided in paragraph (1) of subsection (a)) such deductions as are provided for under the gift tax laws applicable to the years in which the gifts were made.

In computing net gifts for the calendar year 1940 and subsequent calendar years, there shall be allowed as deductions:

(a) RESIDENTS.—In the case of a citizen or resident—

(1) SPECIFIC EXEMPTION.—An exemption of $40,000, less the aggregate of the amounts claimed and allowed as specific exemption in the computation of gift taxes for the calendar year 1932 and all calendar years intervening between that calendar year and the calendar year for which the tax is being computed under the laws applicable to such years. This exemption shall be applied in all computations in respect of the calendar year 1939 and previous calendar years for the purpose of computing the tax for the calendar year 1940 or any calendar year thereafter.

(2) CHARITABLE, ETC., GIFTS.—The amount of all gifts made during such year to or for the use of—

(A) the United States, any State, Territory, or any political subdivision thereof, or the District of Columbia, for exclusively public purposes;

(B) a corporation, or trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals; no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation;

(C) a fraternal society, order, or association, operating under the lodge system, but only if such gifts are to be used exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals;

(D) posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private shareholder or individual;

(E) the special fund for vocational rehabilitation authorized by section 12 of the World War Veterans' Act, 1924, 43 Stat. 611 (U. S. C., title 38 § 440).

(b) NONRESIDENTS.—In the case of a nonresident not a citizen of the United States, the amount of all gifts made during such year to or for the use of—

(1) the United States, any State, Territory, or any political subdivision thereof, or the District of Columbia, for exclusively public purposes;

(2) a domestic corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals; no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation;

(3) a trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes; including the encouragement of art and the prevention of cruelty to children or animals, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation; but only if such gifts are to be used within the United States exclusively for such purposes;

(4) a fraternal society, order, or association, operating under the lodge system, but only if such gifts are to be used within the United States exclusively for religious, charitable, scientific, literary, or

educational purposes, including the encouragement of art and the prevention of cruelty to children or animals;

(5) posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private shareholder or individual;

(6) the special fund for vocational rehabilitation authorized by section 12 of the World War Veterans' Act, 1924, 43 Stat. 611 (U. S. C., Title 38, § 440).

(c) EXTENT OF DEDUCTIONS.—The deductions provided in subsection (a) (2) or (b) shall be allowed only to the extent that the gifts therein specified are included in the amount of gifts against which such deductions are applied.

SEC. 1005. GIFTS MADE IN PROPERTY.

If the gift is made in property, the value thereof at the date of the gift shall be considered the amount of the gift.

SEC. 1006. RETURNS.

(a) REQUIREMENT.—Any individual who within the calendar year 1940 or any calendar year thereafter makes any transfers by gift (except those which under section 1003 are not to be included in the total amount of gifts for such year) shall make a return under oath in duplicate. The return shall set forth (1) each gift made during the calendar year which under section 1003 is to be included in computing net gifts; (2) the deductions claimed and allowable under section 1004; (3) the net gifts for each of the preceding calendar years; and (4) such further information as may be required by regulations made pursuant to law.

(b) TIME AND PLACE FOR FILING.—The return shall be filed on or before the 15th day of March following the close of the calendar year with the collector for the district in which is located the legal residence of the donor, or if he has no legal residence in the United States, then (unless the Commissioner designates another district) with the collector at Baltimore, Maryland.

SEC. 1007. RECORDS AND SPECIAL RETURNS.

(a) BY DONOR.—Every person liable to any tax imposed by this chapter or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

(b) TO DETERMINE LIABILITY TO TAX.—Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records, as the Commissioner deems sufficient to show whether or not such person is liable to tax under this chapter.

SEC. 1008. PAYMENT OF TAX.

(a) TIME OF PAYMENT.—The tax imposed by this chapter shall be paid by the donor on or before the 15th day of March following the close of the calendar year.

(b) EXTENSION OF TIME FOR PAYMENT. At the request of the donor, the Commissioner may extend the time for payment of the amount determined as the tax by the donor, for a period not to exceed six months from the date prescribed for the payment of the tax. In such case the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension.

(c) VOLUNTARY ADVANCE PAYMENT.—A tax imposed by this chapter, may be paid, at the election of the donor, prior to the date prescribed for its payment.

(d) FRACTIONAL PARTS OF CENT.—In the payment of any tax under this chapter a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

(e) RECEIPTS.—The collector to whom any payment of any gift tax is made shall, upon request, grant to the person making such payment a receipt therefor.

SEC. 1009. LIEN FOR TAX.

The tax imposed by this chapter shall be a lien upon all gifts made during the calendar year, for ten years from the time the gifts are made. If the tax is not paid when due, the donee of any gift shall be personally liable for such tax to the extent of the value of such gift. Any part of the property comprised in the gift sold by the donee to a bona fide purchaser for an adequate and full consideration in money or money's worth shall be divested of the lien herein imposed and the lien, to the extent of the value of such gift, shall attach to all the property of the donee (including after-acquired property) except any part sold to a bona fide purchaser for an adequate and full consideration in money or money's worth. If the Commissioner is satisfied that the tax liability has been fully discharged or provided for, he may, under regulations prescribed by him with the approval of the Secretary, issue his certificate, releasing any or all of the property from the lien herein imposed.

SEC. 1010. EXAMINATION OF RETURN AND DETERMINATION OF TAX.

As soon as practicable after the return is filed the Commissioner shall examine it and shall determine the correct amount of the tax.

SEC. 1011. DEFINITION OF DEFICIENCY.

As used in this chapter in respect of the tax imposed by this chapter the term "deficiency" means—

(1) The amount by which the tax imposed by this chapter exceeds the amount shown as the tax by the donor upon his return; but the amount so shown on the return shall first be increased by the amounts previously assessed (or collected without assessment) as a deficiency, and decreased by the amounts previously abated, refunded, or otherwise repaid in respect of such tax; or

(2) If no amount is shown as the tax by the donor upon his return, or if no return is made by the donor, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a deficiency; but such amounts previously assessed, or collected without assessment, shall first be decreased by the amounts previously abated, refunded. or otherwise repaid in respect of such tax.

SEC. 1012. ASSESSMENT AND COLLECTION OF DEFICIENCIES.

(a) (1) PETITION TO BOARD OF TAX APPEALS.—If the Commissioner determines that there is a deficiency in respect of the tax imposed by this chapter, the Commissioner is authorized to send notice of such deficiency to the donor by registered mail. Within 90 days after such notice is mailed (not counting Sunday or a legal holiday in the District of Columbia as the ninetieth day), the donor may file a petition with the Board of Tax Appeals for a redetermination of the deficiency. No assessment of a deficiency in respect of the tax imposed by this chapter and no distraint or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the donor, nor until the expiration of such 90-day period, nor, if a petition has been filed with the Board, until the decision of the Board has become final. Notwithstanding the provisions of section 3653 (a) the making of such assessment or the beginning of such proceeding or distraint during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

(2) CROSS REFERENCES.—

For exceptions to the restrictions imposed by this subsection see—
Subsection (d) of this section, relating to waivers by the donor;
Subsection (f) of this section, relating to notifications of mathematical errors appearing upon the face of the return;
Section 1013, relating to jeopardy assessments;
Section 1015, relating to bankruptcy and receiverships; and
Section 1145, relating to assessment or collection of the amount of the deficiency determined by the Board pending court review.

(b) COLLECTION OF DEFICIENCY FOUND BY BOARD.—If the donor files a petition with the Board, the entire amount redetermined as the deficiency by the decision of the Board which has become final shall be assessed and shall be paid upon notice and demand from the collector. No part of the amount determined as a deficiency by the Commissioner but disallowed as such by the decision of the Board which has become final shall be assessed or be collected by distraint or by proceeding in court with or without assessment.

(c) FAILURE TO FILE PETITION.—If the donor does not file a petition with the Board within the time prescribed in subsection (a) the deficiency, notice of which has been mailed to the donor, shall be assessed, and shall be paid upon notice and demand from the collector.

(d) WAIVER OF RESTRICTIONS.—The donor shall at any time have the right, by a signed notice in writing filed with the Commissioner, to waive the restrictions provided in subsection (a) on the assessment and collection of the whole or any part of the deficiency.

(e) INCREASE OF DEFICIENCY AFTER NOTICE MAILED.—The Board shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the donor, and to determine whether any additional amount or addition to the tax should be assessed, if claim therefor is asserted by the Commissioner at or before the hearing or a rehearing.

(f) FURTHER DEFICIENCY LETTERS RESTRICTED.—If the Commissioner has mailed to the donor notice of a deficiency as provided in subsection (a) of this section, and the donor files a petition with the Board within the time prescribed in such subsection, the Commissioner shall have no right to determine any additional deficiency in respect of the same calendar year, except in the case of fraud, and except as provided in subsection (e) of this section, relating to assertion of greater deficiencies before the Board, or in section 1013 (c), relating to the making of jeopardy assessments. If the donor is notified that, on account of a mathematical error appearing upon the face of the return, an amount of tax in excess of that shown upon the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical error, such notice shall not be considered (for the purposes of this subsection, or of subsection (a) of this section, prohibiting assessment and collection until notice of deficiency has been mailed, or of section 1027 (c), prohibiting credits or refunds after petition to the Board of Tax Appeals) as a notice of a deficiency, and the donor shall have no right to file a petition with the Board based on such notice, nor shall such assessment or collection be prohibited by the provisions of subsection (a) of this section.

(g) JURISDICTION OVER OTHER CALENDAR YEARS.—The Board in redetermining a deficiency in respect of any calendar year shall consider such facts with relation to the taxes for other calendar years as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the tax for any other calendar year has been overpaid or underpaid.

(h) FINAL DECISIONS OF BOARD.—For the purposes of this chapter the date on which a decision of the Board becomes final shall be determined according to the provisions of section 1140.

(i) EXTENSION OF TIME FOR PAYMENT OF DEFICIENCIES.—Where it is shown to the satisfaction of the Commissioner that the payment of a deficiency upon the date prescribed for the payment thereof will result in undue hardship to the donor the Commissioner, under regulations prescribed by the Commissioner, with the approval of the Secretary (except where the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax), may grant an extension for the payment of such deficiency or any part thereof for a period not in excess of eighteen months, and, in exceptional cases, for a further period not in excess of twelve months. If an extension is granted, the Commissioner may require the donor to furnish a bond in such amount, not exceeding double the amount of the deficiency, and with such sureties, as the Commissioner deems necessary, conditioned upon the payment of the deficiency in accordance with the terms of the extension.

(j) ADDRESS FOR NOTICE OF DEFICIENCY.—In the absence of notice to the Commissioner under section 1026 (a) of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by this chapter, if mailed to the donor at his last known address, shall be sufficient for the purposes of this chapter even if such donor is deceased, or is under a legal disability.

SEC. 1013. JEOPARDY ASSESSMENTS.

(a) AUTHORITY FOR MAKING.—If the Commissioner believes that the assessment or collection of a deficiency will be jeopardized by delay, he shall immediately assess such deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) and notice and demand shall be made by the collector for the payment thereof.

(b) DEFICIENCY LETTERS.—If the jeopardy assessment is made before any notice in respect of the tax to which the jeopardy assessment relates has been mailed under section 1012 (a), then the Commissioner shall mail a notice under such subsection within 60 days after the making of the assessment.

(c) AMOUNT ASSESSABLE BEFORE DECISION OF BOARD.—The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the donor, despite the provisions of section 1012 (f) prohibiting the determination of additional deficiencies, and whether or not the donor has theretofore filed a petition with the Board of Tax Appeals. The Commissioner may, at any time before the decision of the Board is rendered, abate such assessment, or any unpaid portion thereof, to the extent that he believes the assessment to be excessive in amount. The Commissioner shall notify the Board of the amount of such assessment, or abatement, if the petition is filed with the Board before the making of the assessment or is subsequently filed, and the Board shall have jurisdiction to redetermine the entire amount of the deficiency and of all amounts assessed at the same time in connection therewith.

(d) AMOUNT ASSESSABLE AFTER DECISION OF BOARD.—If the jeopardy assessment is made after the decision of the Board is rendered such assessment may be made only in respect of the deficiency determined by the Board in its decision.

(e) EXPIRATION OF RIGHT TO ASSESS.—A jeopardy assessment may not be made after the decision of the Board has become final or after the donor has filed a petition for review of the decision of the Board.

(f) BOND TO STAY COLLECTION.—When a jeopardy assessment has been made the donor, within 10 days after notice and demand from the collector for the payment of the amount of the assessment, may

obtain a stay of collection of the whole or any part of the amount of the assessment by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of so much of the amount, the collection of which is stayed by the bond, as is not abated by a decision of the Board which has become final, together with interest thereon as provided in section 1022 or 1023 (b) (4). If any portion of the jeopardy assessment is abated by the Commissioner before the decision of the Board is rendered, the bond shall, at the request of the taxpayer, be proportionately reduced.

(g) SAME—FURTHER CONDITIONS.—If the bond is given before the donor has filed his petition with the Board under section 1012 (a), the bond shall contain a further condition that if a petition is not filed within the period provided in such subsection, then the amount the collection of which is stayed by the bond will be paid on notice and demand at any time after the expiration of such period, together with interest thereon at the rate of 6 per centum per annum from the date of the jeopardy notice and demand to the date of notice and demand under this subsection.

(h) WAIVER OF STAY.—Upon the filing of the bond the collection of so much of the amount assessed as is covered by the bond shall be stayed. The donor shall have the right to waive such stay at any time in respect of the whole or any part of the amount covered by the bond, and if as a result of such waiver any part of the amount covered by the bond is paid, then the bond shall, at the request of the donor, be proportionately reduced. If the Board determines that the amount assessed is greater than the amount which should have been assessed, then when the decision of the Board is rendered the bond shall, at the request of the donor, be proportionately reduced.

(i) COLLECTION OF UNPAID AMOUNTS.—When the petition has been filed with the Board and when the amount which should have been assessed has been determined by a decision of the Board which has become final, then any unpaid portion, the collection of which has been stayed by the bond, shall be collected as part of the tax upon notice and demand from the collector, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be credited or refunded as provided in section 1027, without the filing of claim therefor. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the collector.

SEC. 1014. CLAIMS IN ABATEMENT.

No claim in abatement shall be filed in respect of any assessment in respect of any tax imposed by this chapter.

SEC. 1015. BANKRUPTCY AND RECEIVERSHIPS.

(a) IMMEDIATE ASSESSMENT.—Upon the adjudication of bankruptcy of any donor in any bankruptcy proceeding or the appointment of a receiver for any donor in any receivership proceeding before any court of the United States or of any State or Territory or of the District of Columbia, any deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) determined by the Commissioner in respect of a tax imposed by this chapter upon such donor shall, despite the restrictions imposed by section 1012 (a) upon assessments be immediately assessed if such deficiency has not theretofore been assessed in accordance with law. Claims for the deficiency and such interest, additional amounts and additions to the tax may be presented, for adjudication in ac-

cordance with law, to the court before which the bankruptcy or receivership proceeding is pending, despite the pendency of proceedings for the redetermination of the deficiency in pursuance of a petition to the Board; but no petition for any such redetermination shall be filed with the Board after the adjudication of bankruptcy or the appointment of the receiver.

(b) UNPAID CLAIMS.—Any portion of the claim allowed in such bankruptcy or receivership proceeding which is unpaid shall be paid by the donor upon notice and demand from the collector after the termination of such proceeding, and may be collected by distraint or proceeding in court within six years after termination of such proceeding. Extensions of time for such payment may be had in the same manner and subject to the same provisions and limitations as are provided in sections 1012 (i), 1020 (b), and 1023 (b) (3) in the case of a deficiency in a tax imposed by this chapter.

SEC. 1016. PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION.

(a) GENERAL RULE.—Except as provided in subsection (b), the amount of taxes imposed by this chapter shall be assessed within three years after the return was filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of three years after the return was filed.

(b) EXCEPTIONS.—

(1) FALSE RETURN OR NO RETURN.—In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(2) COLLECTION AFTER ASSESSMENT.—Where the assessment of any tax imposed by this chapter has been made within the statutory period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court, but only if begun (1) within six years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the donor.

SEC. 1017. SUSPENSION OF RUNNING OF STATUTE.

The running of the statute of limitations provided in section 1016 on the making of assessments and the beginning of distraint or a proceeding in court for collection, in respect of any deficiency, shall (after the mailing of a notice under section 1012 (a)) be suspended for the period during which the Commissioner is prohibited from making the assessment or beginning distraint or a proceeding in court (and in any event, if a proceeding in respect of the deficiency is placed on the docket of the Board, until the decision of the Board becomes final), and for 60 days thereafter.

SEC. 1018. ADDITION TO THE TAX IN CASE OF DELINQUENT RETURN.

For addition to the tax in case of failure to make and file a return required by this chapter within the time prescribed by law or prescribed by the Commissioner in pursuance of the law, see section 3612 (d) (1).

SEC. 1019. ADDITIONS TO THE TAX IN CASE OF DEFICIENCY.

(a) NEGLIGENCE.—If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, 5 per centum of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected, and paid in the same manner as if it were a deficiency, except that the provisions of section 1021, relating to interest on deficiencies, shall not be applicable.

(b) FRAUD.—If any part of any deficiency is due to fraud with intent to evade tax, then 50 per centum of the total amount of the deficiency (in addition to such deficiency) shall be so assessed, collected, and paid, in lieu of the 50 per centum addition to the tax provided in section 3612 (d) (2).

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SEC. 1020. INTEREST ON EXTENDED PAYMENTS.

(a) TAX SHOWN ON RETURN.—If the time for payment of the amount determined as the tax by the donor is extended under the authority of section 1008 (b), there shall be collected as a part of such amount, interest thereon at the rate of 6 per centum per annum from the date when such payment should have been made if no extension had been granted, until the expiration of the period of the extension.

(b) DEFICIENCY.—In case an extension for the payment of a deficiency is granted, as provided in section 1012 (i), there shall be collected, as a part of the tax, interest on the part of the deficiency the time for payment of which is so extended, at the rate of 6 per centum per annum for the period of the extension, and no other interest shall be collected on such part of the deficiency for such period.

SEC. 1021. INTEREST ON DEFICIENCIES.

Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the collector, and shall be collected as a part of the tax, at the rate of 6 per centum per annum from the due date of the tax to the date the deficiency is assessed, or, in the case of a waiver under section 1012 (d), to the thirtieth day after the filing of such waiver or to the date the deficiency is assessed whichever is the earlier.

SEC. 1022. INTEREST ON JEOPARDY ASSESSMENTS.

In the case of the amount collected under section 1013 (f) there shall be collected at the same time as such amount, and as a part of the tax, interest at the rate of 6 per centum per annum upon such amount from the date of the jeopardy notice and demand to the date of notice and demand under section 1013 (i), or, in the case of the amount collected in excess of the amount of the jeopardy assessment, interest as provided in section 1021.

SEC. 1023. ADDITIONS TO THE TAX IN CASE OF NONPAYMENT.

(a) TAX SHOWN ON RETURN.—

(1) PAYMENT NOT EXTENDED.—Where the amount determined by the donor as the tax imposed by this chapter, or any part of such amount, is not paid on the due date of the tax, there shall be collected as a part of the tax, interest upon such unpaid amount at the rate of 6 per centum per annum from the due date until it is paid.

(2) PAYMENT EXTENDED.—Where an extension of time for payment of the amount so determined as the tax by the donor has been granted, and the amount the time for payment of which has been extended, and the interest thereon determined under section 1020 (a), is not paid in full prior to the expiration of the period of the extension, then, in lieu of the interest provided for in paragraph (1) of this subsection, interest at the rate of 6 per centum per annum shall be collected on such unpaid amount from the date of the expiration of the period of the extension until it is paid.

(b) DEFICIENCY.—

(1) PAYMENT NOT EXTENDED.—Where a deficiency, or any interest assessed in connection therewith under section 1021, or any addition to the tax provided for in section 3612 (d), is not paid in full within 10 days from the date of notice and demand from the collector, there shall be collected as part of the tax, interest upon the unpaid amount at the rate of 6 per centum per annum from the date of such notice and demand until it is paid.

(2) FILING OF JEOPARDY BOND.—If a bond is filed, as provided in section 1013, the provisions of paragraph (1) of this subsection shall not apply to the amount covered by the bond.

(3) PAYMENT EXTENDED.—If the part of the deficiency the time for payment of which is extended as provided in section 1012 (i) is not paid in accordance with the terms of the extension, there

shall be collected, as a part of the tax, interest on such unpaid amount at the rate of 6 per centum per annum for the period from the time fixed by the terms of the extension for its payment until it is paid, and no other interest shall be collected on such unpaid amount for such period.

(4) JEOPARDY ASSESSMENT—PAYMENT STAYED BY BOND.—If the amount included in the notice and demand from the collector under section 1013 (i) is not paid in full within 10 days after such notice and demand, then there shall be collected, as part of the tax, interest upon the unpaid amount at the rate of 6 per centum per annum from the date of such notice and demand until it is paid.

(5) INTEREST IN CASE OF BANKRUPTCY AND RECEIVERSHIPS.—If the unpaid portion of the claim allowed in a bankruptcy or receivership proceeding, as provided in section 1015, is not paid in full within 10 days from the date of notice and demand from the collector, then there shall be collected as a part of such amount interest upon the unpaid portion thereof at the rate of 6 per centum per annum from the date of such notice and demand until payment.

SEC. 1024. PENALTIES.

(a) Any person required under this chapter to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this chapter, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(b) Any person who willfully attempts in any manner to evade or defeat any tax imposed by this chapter or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, on conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

SEC. 1025. TRANSFERRED ASSETS.

(a) METHOD OF COLLECTION.—The amounts of the following liabilities shall, except as hereinafter in this section provided, be assessed, collected, and paid in the same manner and subject to the same provisions and limitations as in the case of a deficiency in the tax imposed by this chapter (including the provisions in case of delinquency in payment after notice and demand, the provisions authorizing distraint and proceedings in court for collection, and the provisions prohibiting claims and suits for refunds):

(1) TRANSFEREES.—The liability, at law or in equity, of a transferee of property of a donor, in respect of the tax (including interest, additional amounts, and additions to the tax provided by law) imposed by this chapter.

(2) FIDUCIARIES—The liability of a fiduciary under section 3467 of the Revised Statutes (U. S. C., Title 31, § 192) in respect of the payment of any such tax from the estate of the donor.

Any such liability may be either as to the amount of tax shown on the return or as to any deficiency in tax.

(b) PERIOD OF LIMITATION.—The period of limitation for assessment of any such liability of a transferee or fiduciary shall be as follows:

(1) Within one year after the expiration of the period of limitation for assessment against the donor.

(2) If a court proceeding against the donor for the collection of the tax has been begun within the period provided in para-

graph (1),—then within one year after return of execution in such proceeding.

(c) PERIOD FOR ASSESSMENT AGAINST DONOR.—For the purposes of this section, if the donor is deceased, the period of limitation for assessment against the donor shall be the period that would be in effect had the death not occurred.

(d) SUSPENSION OF RUNNING OF STATUTE OF LIMITATIONS.—The running of the statute of limitations upon the assessment of the liability of a transferee or fiduciary shall, after the mailing of the notice under section 1012 (a) to the transferee or fiduciary, be suspended for the period during which the Commissioner is prohibited from making the assessment in respect of the liability of the transferee or fiduciary (and in any event, if a proceeding in respect of the liability is placed on the docket of the Board, until the decision of the Board becomes final), and for 60 days thereafter.

(e) PROHIBITION OF SUITS TO RESTRAIN ENFORCEMENT OF LIABILITY OF TRANSFEREE OR FIDUCIARY.—No suit shall be maintained in any court for the purpose of restraining the assessment or collection of (1) the amount of the liability, at law or in equity, of a transferee of property of a donor in respect of any gift tax, or (2) the amount of the liability of a fiduciary under section 3467 of the Revised Statutes (U. S. C., Title 31, § 192) in respect of any such tax.

(f) DEFINITION OF "TRANSFEREE".—As used in this section the term "transferee' includes donee, heir, legatee, devisee, and distributee.

(g) ADDRESS FOR NOTICE OF LIABILITY.—In the absence of notice to the Commissioner under section 1026 (b) of the existence of a fiduciary relationship, notice of liability enforceable under this section in respect of a tax imposed by this chapter, if mailed to the person subject to the liability at his last known address, shall be sufficient for the purposes of this chapter even if such person is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

SEC. 1026. NOTICE OF FIDUCIARY RELATIONSHIP.

(a) FIDUCIARY OF DONOR.—Upon notice to the Commissioner that any person is acting in a fiduciary capacity such fiduciary shall assume the powers, rights, duties, and privileges of the donor in respect of a tax imposed by this chapter (except as otherwise specifically provided and except that the tax shall be collected from the estate of the donor), until notice is given that the fiduciary capacity has terminated.

(b) FIDUCIARY OF TRANSFEREE.—Upon notice to the Commissioner that any person is acting in a fiduciary capacity for a person subject to the liability specified in section 1025, the fiduciary shall assume, on behalf of such person, the powers, rights, duties, and privileges of such person under such section (except that the liability shall be collected from the estate of such person), until notice is given that the fiduciary capacity has terminated.

(c) MANNER OF NOTICE.—Notice under subsection (a) or (b) shall be given in accordance with regulations prescribed by the Commissioner with the approval of the Secretary.

SEC. 1027. REFUNDS AND CREDITS.

(a) AUTHORIZATION.—Where there has been an overpayment of any tax imposed by this chapter, the amount of such overpayment shall be credited against any gift tax then due from the taxpayer, and any balance shall be refunded immediately to the taxpayer.

(b) LIMITATION ON ALLOWANCE.—

(1) PERIOD OF LIMITATION.—No such credit or refund shall be allowed or made after three years from the time the tax was paid, unless before the expiration of such period a claim therefor is filed by the taxpayer.

(2) LIMIT ON AMOUNT OF CREDIT OR REFUND.—The amount of the credit or refund shall not exceed the portion of the tax paid during the three years immediately preceding the filing of the claim, or if no claim was filed, then during the three years immediately preceding the allowance of the credit or refund.

(c) EFFECT OF PETITION TO BOARD.—If the Commissioner has mailed to the taxpayer a notice of deficiency under section 1012 (a) and if the taxpayer files a petition with the Board of Tax Appeals within the time prescribed in such subsection, no credit or refund in respect of the tax for the calendar year in respect of which the Commissioner has determined the deficiency shall be allowed or made and no suit by the taxpayer for the recovery of any part of such tax shall be instituted in any court except—

(1) As to overpayments determined by a decision of the Board which has become final; and

(2) As to any amount collected in excess of an amount computed in accordance with the decision of the Board which has become final; and

(3) As to any amount collected after the period of limitation upon the beginning of distraint or a proceeding in court for collection has expired; but in any such claim for credit or refund or in any such suit for refund, the decision of the Board which has become final, as to whether such period has expired before the notice of deficiency was mailed, shall be conclusive.

(d) OVERPAYMENT FOUND BY BOARD.—If the Board finds that there is no deficiency and further finds that the taxpayer has made an overpayment of tax in respect of the taxable year in respect of which the Commissioner determined the deficiency, the Board shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Board has become final, be credited or refunded to the taxpayer. No such credit or refund shall be made of any portion of the tax unless the Board determines as part of its decision that such portion was paid within three years before the filing of the claim or the filing of the petition, whichever is earlier, or that such portion was paid after the mailing of the notice of deficiency.

SEC. 1028. LAWS MADE APPLICABLE.

All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are hereby extended to and made a part of this chapter.

SEC. 1029. RULES AND REGULATIONS.

The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this chapter.

SEC. 1030. DEFINITIONS.

For the purposes of this chapter—

(a) CALENDAR YEAR.—The term "calendar year" includes only the calendar year 1932 and succeeding calendar years, and, in the case of the calendar year 1932, includes only the portion of such year after June 6, 1932.

(b) PROPERTY WITHIN THE UNITED STATES.—Stock in a domestic corporation owned and held by a nonresident shall be deemed property situated within the United States.

SEC. 1031. PUBLICITY OF RETURNS.

For provisions with respect to publicity of returns under this chapter, see subsection (a) (2) of section 55.

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CHAPTER 5—BOARD OF TAX APPEALS

SUBCHAPTER A—ORGANIZATION, JURISDICTION AND PROCEDURE

Part I—Organization and Jurisdiction

SEC. 1100. STATUS.

The Board of Tax Appeals (hereinafter referred to as the "Board") shall be continued as an independent agency in the Executive Branch of the Government.

SEC. 1101. JURISDICTION.

The Board and its divisions shall have such jurisdiction as is conferred on them by chapters 1, 2, 3, and 4 of this title, by Title II and Title III of the Revenue Act of 1926, 44 Stat. 9, or by laws enacted subsequent to February 26, 1926.

SEC. 1102. MEMBERSHIP.

(a) NUMBER.—The Board shall be composed of 16 members.

(b) APPOINTMENT.—Members of the Board shall be appointed by the President, by and with the advice and consent of the Senate, solely on the grounds of fitness to perform the duties of the office.

(c) SALARY.—Each member shall receive salary at the rate of $10,000 per annum.

(d) EXPENSES FOR TRAVEL AND SUBSISTENCE.—The members of the Board shall receive necessary traveling expenses, and expenses actually incurred for subsistence while traveling on duty and away from their designated stations, subject to the same limitations in amount as are now or may hereafter be applicable to the United States Customs Court.

(e) TERM OF OFFICE.—The terms of office of the sixteen members first taking office after June 1, 1926, shall expire, as designated by the President at the time of nomination, four at the end of the sixth year, four at the end of the eighth year, four at the end of the tenth year, and four at the end of the twelfth year, after June 2, 1926. The terms of office of all successors shall expire twelve years after the expiration of the terms for which their predecessors were appointed; but any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the unexpired term of his predecessor.

(f) REMOVAL FROM OFFICE.—Members of the Board may be removed by the President, after notice and opportunity for public hearing, for inefficiency, neglect of duty, or malfeasance in office, but for no other cause.

(g) DISBARMENT OF REMOVED MEMBERS.—A member of the Board removed from office in accordance with subsection (f) shall not be permitted at any time to practice before the Board.

SEC. 1103. ORGANIZATION.

(a) SEAL.—The Board shall have a seal which shall be judicially noticed.

(b) DESIGNATION OF CHAIRMAN.—The Board shall at least biennially designate a member to act as chairman.

(c) DIVISIONS.—The chairman may from time to time divide the Board into divisions of one or more members, assign the members of the Board thereto, and in case of a division of more than one member, designate the chief thereof. If a division, as a result of a vacancy or the absence or inability of a member assigned thereto to serve thereon, is composed of less than the number of members designated for the division, the chairman may assign other members to the division or direct the division to proceed with the transaction of business without awaiting any additional assignment of members thereto.

(d) QUORUM.—A majority of the members of the Board or of any division thereof shall constitute a quorum for the transaction of the business of the Board or of the division, respectively. A vacancy in the Board or in any division thereof shall not impair the powers nor affect the duties of the Board or division nor of the remaining members of the Board or division, respectively.

SEC. 1104. OFFICES.

The principal office of the Board shall be in the District of Columbia, but the Board or any of its divisions may sit at any place within the United States. The Secretary of the Treasury shall provide the Board with suitable rooms in courthouses or other buildings when necessary for hearings by the Board, or any division thereof, outside the District of Columbia.

SEC. 1105. TIMES AND PLACES OF MEETINGS.

The times and places of the meetings of the Board and of its divisions shall be prescribed by the chairman with a view to securing reasonable opportunity to taxpayers to appear before the Board or any

of its divisions, with as little inconvenience and expense to taxpayers as is practicable.

Part II—Procedure

SEC. 1110. FEE FOR FILING PETITION.

The Board is authorized to impose a fee in an amount not in excess of $10 to be fixed by the Board for the filing of any petition for the redetermination of a deficiency.

SEC. 1111. RULES OF PRACTICE, PROCEDURE, AND EVIDENCE.

The proceedings of the Board and its divisions shall be conducted in accordance with such rules of practice and procedure (other than rules of evidence) as the Board may prescribe and in accordance with the rules of evidence applicable in the courts of the District of Columbia in the type of proceedings which prior to September 16, 1938, were within the jurisdiction of the courts of equity of said District.

SEC. 1112. BURDEN OF PROOF IN FRAUD CASES.

In any proceeding involving the issue whether the petitioner has been guilty of fraud with intent to evade tax, the burden of proof in respect of such issue shall be upon the Commissioner.

SEC. 1113. SERVICE OF PROCESS.

The mailing by registered mail of any pleading, decision, order, notice, or process in respect of proceedings before the Board shall be held sufficient service of such pleading, decision, order, notice, or process.

SEC. 1114. ADMINISTRATION OF OATHS AND PROCUREMENT OF TESTIMONY.

For the efficient administration of the functions vested in the Board or any division thereof, any member of the Board, or any employee of the Board designated in writing for the purpose by the chairman, may administer oaths, and any member of the Board may examine witnesses and require, by subpœna ordered by the Board or any division thereof and signed by the member, (1) the attendance and testimony of witnesses, and the production of all necessary returns, books, papers, documents, correspondence, and other evidence, from any place in the United States at any designated place of hearing, or (2) the taking of a deposition before any designated individual competent to administer oaths under this title. In the case of a deposition the testimony shall be reduced to writing by the individual taking the deposition or under his direction and shall then be subscribed by the deponent.

SEC. 1115. WITNESS FEES.

(a) AMOUNT.—Any witness summoned or whose deposition is taken under section 1114 shall receive the same fees and mileage as witnesses in courts of the United States.

(b) PAYMENT.—Such fees and mileage and the expenses of taking any such deposition shall be paid as follows:

(1) WITNESSES FOR COMMISSIONER.—In the case of witnesses for the Commissioner, such payments shall be made by the Secretary out of any moneys appropriated for the collection of internal-revenue taxes, and may be made in advance.

(2) OTHER WITNESSES.—In the case of any other witnesses, such payments shall be made, subject to rules prescribed by the Board, by the party at whose instance the witness appears or the deposition is taken.

SEC. 1116. HEARINGS.

Notice and opportunity to be heard upon any proceeding instituted before the Board shall be given to the taxpayer and the Commissioner. If an opportunity to be heard upon the proceeding is given

before a division of the Board, neither the taxpayer nor the Commissioner shall be entitled to notice and opportunity to be heard before the Board upon review, except upon a specific order of the chairman. Hearings before the Board and its divisions shall be open to the public, and the testimony, and, if the Board so requires, the argument shall be stenographically reported. The Board is authorized to contract (by renewal of contract or otherwise) for the reporting of such hearings, and in such contract to fix the terms and conditions under which transcripts will be supplied by the contractor to the Board and to other persons and agencies.

SEC. 1117. REPORTS AND DECISIONS.

(a) REQUIREMENT.—A report upon any proceeding instituted before the Board and a decision thereon shall be made as quickly as practicable. The decision shall be made by a member in accordance with the report of the Board, and such decision so made shall, when entered, be the decision of the Board.

(b) INCLUSION OF FINDINGS OF FACT OR OPINIONS IN REPORT.—It shall be the duty of the Board and of each division to include in its report upon any proceeding its findings of fact or opinion or memorandum opinion. The Board shall report in writing all its findings of fact, opinions and memorandum opinions.

(c) DATE OF DECISION.—A decision of the Board (except a decision dismissing a proceeding for lack of jurisdiction) shall be held to be rendered upon the date that an order specifying the amount of the deficiency is entered in the records of the Board. If the Board dismisses a proceeding for reasons other than lack of jurisdiction and is unable from the record to determine the amount of the deficiency determined by the Commissioner, or if the Board dismisses a proceeding for lack of jurisdiction, an order to that effect shall be entered in the records of the Board, and the decision of the Board shall be held to be rendered upon the date of such entry.

(d) EFFECT OF DECISION DISMISSING PETITION.—If a petition for a redetermination of a deficiency has been filed by the taxpayer, a decision of the Board dismissing the proceeding shall be considered as its decision that the deficiency is the amount determined by the Commissioner. An order specifying such amount shall be entered in the records of the Board unless the Board can not determine such amount from the record in the proceeding, or unless the dismissal is for lack of jurisdiction.

(e) EFFECT OF DECISION THAT TAX IS BARRED BY LIMITATION.—If the assessment or collection of any tax is barred by any statute of limitations, the decision of the Board to that effect shall be considered as its decision that there is no deficiency in respect of such tax.

(f) FINDINGS OF FACT AS EVIDENCE.—The findings of the Board made in connection with any decision prior to February 26, 1926 shall, notwithstanding the enactment of the Revenue Act of 1926, 44 Stat. 9, continue to be prima facie evidence of the facts therein stated.

(g) PROCEEDING FRIVOLOUS.—Whenever it appears to the Board that proceedings before it have been instituted by the taxpayer merely for delay, damages in an amount not in excess of $500 shall be awarded to the United States by the Board in its decision. Damages so awarded shall be assessed at the same time as the deficiency and shall be paid upon notice and demand from the collector, and shall be collected as a part of the tax.

(h) CROSS REFERENCES.—

(1) For special provisions relating to reports of divisions, see section 1118.

(2) For publication of reports, see section 1121.

SEC. 1118. PROVISIONS OF SPECIAL APPLICATION TO DIVISIONS.

(a) HEARINGS, DETERMINATIONS, AND REPORTS.—A division shall hear, and make a determination upon, any proceeding instituted before the Board and any motion in connection therewith, assigned to

such division by the chairman, and shall make a report of any such determination which constitutes its final disposition of the proceeding.

(b) EFFECT OF ACTION BY A DIVISION.—The report of the division shall become the report of the Board within 30 days after such report by the division, unless within such period the chairman has directed that such report shall be reviewed by the Board. Any preliminary action by a division which does not form the basis for the entry of the final decision shall not be subject to review by the Board except in accordance with such rules as the Board may prescribe. The report of a division shall not be a part of the record in any case in which the chairman directs that such report shall be reviewed by the Board.

SEC. 1119. PROVISIONS OF SPECIAL APPLICATION TO TRANSFEREES.

(a) BURDEN OF PROOF.—In proceedings before the Board the burden of proof shall be upon the Commissioner to show that a petitioner is liable as a transferee of property of a taxpayer, but not to show that the taxpayer was liable for the tax.

(b) EVIDENCE.—Upon application to the Board, a transferee of property of a taxpayer shall be entitled, under rules prescribed by the Board, to a preliminary examination of books, papers, documents, correspondence, and other evidence of the taxpayer or a preceding transferee of the taxpayer's property, if the transferee making the application is a petitioner before the Board for the redetermination of his liability in respect of the tax (including interest, penalties, additional amounts, and additions to the tax provided by law) imposed upon the taxpayer. Upon such application the Board may require by subpœna, ordered by the Board or any division thereof and signed by a member, the production of all such books, papers, documents, correspondence, and other evidence within the United States the production of which, in the opinion of the Board or division thereof, is necessary to enable the transferee to ascertain the liability of the taxpayer or preceding transferee and will not result in undue hardship to the taxpayer or preceding transferee. Such examination shall be had at such time and place as may be designated in the subpœna.

SEC. 1120. PUBLICITY OF PROCEEDINGS.

All reports of the Board and all evidence received by the Board and its divisions, including a transcript of the stenographic report of the hearings, shall be public records open to the inspection of the public; except that after the decision of the Board in any proceeding has become final the Board may, upon motion of the taxpayer or the Commissioner, permit the withdrawal by the party entitled thereto of originals of books, documents, and records, and of models, diagrams, and other exhibits, introduced in evidence before the Board or any division; or the Board may, on its own motion, make such other disposition thereof as it deems advisable.

SEC. 1121. PUBLICATION OF REPORTS.

The Board shall provide for the publication of its reports at the Government Printing Office in such form and manner as may be best adapted for public information and use, and such authorized publication shall be competent evidence of the reports of the Board therein contained in all courts of the United States and of the several States without any further proof or authentication thereof. Such reports shall be subject to sale in the same manner and upon the same terms as other public documents.

Part III—Miscellaneous Provisions

SEC. 1130. EMPLOYEES.

(a) APPOINTMENT AND COMPENSATION.—The Board is authorized in accordance with the civil service laws to appoint, and in accordance with the Classification Act of 1923, 42 Stat. 1488 (U. S. C., Title 5, § 13) as amended to fix the compensation of, such employees

as may be necessary efficiently to execute the functions vested in the Board.

(b) EXPENSES FOR TRAVEL AND SUBSISTENCE.—The employees of the Board shall receive their necessary traveling expenses, and expenses for subsistence while traveling on duty and away from their designated stations, as provided in the Subsistence Expense Act of 1926, 44 Sat. 688 (U. S. C., Title 5, c. 16).

SEC. 1131. EXPENDITURES.

The Board is authorized to make such expenditures (including expenditures for personal services and rent at the seat of Government and elsewhere, and for law books, books of reference, and periodicals), as may be necessary efficiently to execute the functions vested in the Board. All expenditures of the Board shall be allowed and paid, out of any moneys appropriated for the purposes of the Board, upon presentation of itemized vouchers therefor signed by the chairman.

SEC. 1132. DISPOSITION OF FEES.

All fees received by the Board shall be covered into the Treasury as miscellaneous receipts. Section 3709 of the Revised Statutes (U. S. C., Title 41, § 5) shall not be construed to apply to any purchase or service rendered for the Board when the aggregate amount involved does not exceed the sum of $25.

SEC. 1133. FEE FOR TRANSCRIPT OF RECORD.

The Board is authorized to fix a fee, not in excess of the fee fixed by law to be charged and collected therefor by the clerks of the district courts, for comparing, or for preparing and comparing, a transcript of the record, or for copying any record, entry, or other paper and the comparison and certification thereof.

SUBCHAPTER B—COURT REVIEW OF BOARD DECISIONS

SEC. 1140. DATE WHEN BOARD DECISION BECOMES FINAL.

The decision of the Board shall become final—

(a) PETITION FOR REVIEW NOT FILED ON TIME.—Upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time; or

(b) DECISION AFFIRMED OR PETITION FOR REVIEW DISMISSED.—

(1) PETITION FOR CERTIORARI NOT FILED ON TIME.—Upon the expiration of the time allowed for filing a petition for certiorari, if the decision of the Board has been affirmed or the petition for review dismissed by the Circuit Court of Appeals and no petition for certiorari has been duly filed; or

(2) PETITION FOR CERTIORARI DENIED.—Upon the denial of a petition for certiorari, if the decision of the Board has been affirmed or the petition for review dismissed by the Circuit Court of Appeals; or

(3) AFTER MANDATE OF SUPREME COURT.—Upon the expiration of 30 days from the date of issuance of the mandate of the Supreme Court, if such Court directs that the decision of the Board be affirmed or the petition for review dismissed.

(c) DECISION MODIFIED OR REVERSED.—

(1) UPON MANDATE OF SUPREME COURT.—If the Supreme Court directs that the decision of the Board be modified or reversed, the decision of the Board rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of 30 days from the time it was rendered, unless within such 30 days either the Commissioner or the taxpayer has instituted proceedings to have such decision corrected to accord with the mandate, in which event the decision of the Board shall become final when so corrected.

(2) UPON MANDATE OF THE CIRCUIT COURT OF APPEALS.—If the decision of the Board is modified or reversed by the Circuit Court of Appeals, and if (1) the time allowed for filing a petition for

certiorari has expired and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the Court has been affirmed by the Supreme Court, then the decision of the Board rendered in accordance with the mandate of the Circuit Court of Appeals shall become final on the expiration of 30 days from the time such decision of the Board was rendered, unless within such 30 days either the Commissioner or the taxpayer has instituted proceedings to have such decision corrected so that it will accord with the mandate, in which event the decision of the Board shall become final when so corrected.

(d) REHEARING.—If the Supreme Court orders a rehearing; or if the case is remanded by the Circuit Court of Appeals to the Board for a rehearing, and if (1) the time allowed for filing a petition for certiorari has expired, and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the Court has been affirmed by the Supreme Court, then the decision of the Board rendered upon such rehearing shall become final in the same manner as though no prior decision of the Board had been rendered.

(e) DEFINITIONS.—As used in this section—

(1) CIRCUIT COURT OF APPEALS—The term "Circuit Court of Appeals" includes the United States Court of Appeals for the District of Columbia;

(2) MANDATE.—The term "mandate," in case a mandate has been recalled prior to the expiration of 30 days from the date of issuance thereof, means the final mandate.

SEC. 1141. COURTS OF REVIEW.

(a) JURISDICTION.—The Circuit Courts of Appeals and the United States Court of Appeals for the District of Columbia shall have exclusive jurisdiction to review the decisions of the Board, except as provided in section 239 of the Judicial Code, as amended, 43 Stat. 938 (U. S. C., Title 28, § 346); and the judgment of any such court shall be final, except that it shall be subject to review by the Supreme Court of the United States upon certiorari, in the manner provided in section 240 of the Judicial Code, as amended, 43 Stat. 938 (U. S. C., Title 28, § 347).

(b) VENUE.—

(1) IN GENERAL.—Except as provided in paragraph 2, such decisions may be reviewed by the Circuit Court of Appeals for the circuit in which is located the collector's office to which was made the return of the tax in respect of which the liability arises or, if no return was made, then by the United States Court of Appeals for the District of Columbia.

(2) BY AGREEMENT.—Notwithstanding the provisions of paragraph 1, such decisions may be reviewed by any circuit court of appeals, or the United States Court of Appeals for the District of Columbia, which may be designated by the Commissioner and the taxpayer by stipulation in writing.

(3) APPLICATION OF SUBSECTION.—This subsection shall be applicable to all decisions of the Board rendered on and after May 10, 1934, and section 1002 of the Revenue Act of 1926, 44 Stat. 110, as in force prior to May 10, 1934, shall be applicable to such decisions rendered prior thereto, except that paragraph 2 of this subsection may be applied to any such decision rendered prior to May 10, 1934.

(c) POWERS.—

(1) TO AFFIRM, MODIFY, OR REVERSE.—Upon such review, such courts shall have power to affirm or, if the decision of the Board is not in accordance with law, to modify or to reverse the decision of the Board, with or without remanding the case for a rehearing, as justice may require.

(2) To MAKE RULES.—Such courts are authorized to adopt rules for the filing of the petition for review, the preparation of the record for review, and the conduct of proceedings upon such review.

(3) To REQUIRE ADDITIONAL SECURITY.—Nothing in section 1145 shall be construed as relieving the petitioner from making or filing such undertakings as the court may require as a condition of or in connection with the review.

(4) To IMPOSE DAMAGES.—The Circuit Court of Appeals, the United States Court of Appeals for the District of Columbia, and the Supreme Court shall have power to impose damages in any case where the decision of the Board is affirmed and it appears that the petition was filed merely for delay.

SEC. 1142. PETITION FOR REVIEW.

The decision of the Board rendered after February 26, 1926 (except as provided in subdivision (j) of section 283 and in subdivision (h) of section 318 of the Revenue Act of 1926, 44 Stat. 65, 83, relating to hearings before the Board prior to February 26, 1926) may be reviewed by a Circuit Court of Appeals, or the United States Court of Appeals for the District of Columbia, as provided in section 1141, if a petition for such review is filed by either the Commissioner or the taxpayer within three months after the decision is rendered, or, in the case of a decision rendered on or before June 6, 1932, within six months after the decision is rendered.

SEC. 1143. CHANGE OF COMMISSIONER.

When the incumbent of the office of Commissioner changes, no substitution of the name of his successor shall be required in proceedings pending after May 10, 1934, before any appellate court reviewing the action of the Board.

SEC. 1144. CROSS REFERENCE.

For authority of the Board to fix fees for transcripts of records, see section 1133.

SEC. 1145. BOND TO STAY ASSESSMENT AND COLLECTION.

Notwithstanding any provision of law imposing restrictions on the assessment and collection of deficiencies, the review under section 1142 shall not operate as a stay of assessment or collection of any portion of the amount of the deficiency determined by the Board unless a petition for review in respect of such portion is duly filed by the taxpayer, and then only if the taxpayer (1) on or before the time his petition for review is filed has filed with the Board a bond in a sum fixed by the Board not exceeding double the amount of the portion of the deficiency in respect of which the petition for review is filed, and with surety approved by the Board, conditioned upon the payment of the deficiency as finally determined, together with any interest, additional amounts, or additions to the tax provided for by law, or (2) has filed a jeopardy bond under the income or estate tax laws. If as a result of a waiver of the restrictions on the assessment and collection of a deficiency any part of the amount determined by the Board is paid after the filing of the review bond, such bond shall, at the request of the taxpayer, be proportionately reduced.

SEC. 1146. REFUND, CREDIT, OR ABATEMENT OF AMOUNTS DISALLOWED.

In cases where assessment or collection has not been stayed by the filing of a bond, then if the amount of the deficiency determined by the Board is disallowed in whole or in part by the court, the amount so disallowed shall be credited or refunded to the taxpayer, without the making of claim therefor, or, if collection has not been made, shall be abated.

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CHAPTER 6.—CAPITAL STOCK

SEC. 1200. TAX.

(a) DOMESTIC CORPORATIONS.—For each year ending June 30, beginning with the year ending June 30, 1939, there shall be imposed upon every domestic corporation with respect to carrying on or doing business for any part of such year an excise tax of $1 for each $1,000 of the adjusted declared value of its capital stock.

(b) FOREIGN CORPORATIONS.—For each year ending June 30, beginning with the year ending June 30, 1939, there shall be imposed upon every foreign corporation with respect to carrying on or doing business in the United States for any part of such year an excise tax equivalent to $1 for each $1,000 of the adjusted declared value of capital employed in the transaction of its business in the United States.

SEC. 1201. EXEMPTIONS.

(a) The taxes imposed by section 1200 shall not apply—

(1) CORPORATIONS EXEMPT FROM INCOME TAX.—To any corporation enumerated in section 101;

(2) INSURANCE COMPANIES.—To any insurance company subject to the tax imposed by section 201, 204, or 207.

(b) COMMON TRUST FUNDS.—

For exemption of common trust funds from the capital stock tax, see section 169 (b) of chapter 1.

SEC. 1202. ADJUSTED DECLARED VALUE.

(a) DECLARATION YEAR.—

(1) The adjusted declared value shall be determined with respect to three-year periods beginning with the year ending June 30, 1938, and each third year thereafter. The first year of each such three-year period, or, in case of a corporation not subject to the tax imposed for such year, the first year of such three-year period for which the corporation is subject to such tax, shall constitute a "declaration year."

(2) For the declaration year of the first three-year period the adjusted declared value shall be the value as declared by the corporation in its return under section 601 of the Revenue Act of 1938, 52 Stat. 565, for the year ended June 30, 1938, or in the case of a corporation not subject to the tax imposed for such year, the value as declared in its return filed under this chapter for the

first year with respect to which it is subject to the tax. For each subsequent three-year period, the adjusted declared value for a declaration year shall be the value as declared by the corporation in its return for such declaration year. The value declared by a corporation in its return for a declaration year (which declaration of value cannot be amended) shall be as of the close of its last income-tax taxable year ending with or prior to the close of such declaration year (or as of the date of organization in the case of a corporation having no income-tax taxable year ending with or prior to the close of such declaration year).

(b) SUBSEQUENT YEARS.—

(1) DOMESTIC CORPORATIONS.—For each year of any three-year period subsequent to the declaration year, the adjusted declared value in the case of a domestic corporation shall be the value declared in the return for the declaration year plus—

(A) the cash, and the fair market value of property, paid in for stock or shares,

(B) paid-in surplus and contributions to capital,

(C) its net income,

(D) its income wholly exempt from Federal income tax, and

(E) the amount, if any, by which the deduction for depletion exceeds the amount which would be allowable if computed without regard to discovery value or to percentage depletion, under section 114 (b) (2), (3), or (4) of chapter 1 or a corresponding section of a later Revenue Act;

and minus—

(i) the cash, and the fair market value of property, distributed to shareholders,

(ii) the amount disallowed as a deduction by section 24 (a) (5) of chapter 1 or a corresponding provision of a later Revenue Act, and

(iii) the excess of the deductions allowable for income tax purposes over its gross income.

The adjustments provided in this paragraph shall be made for each income-tax taxable year included in the three-year period from the date as of which the value was declared in the return for the declaration year to the close of the last income-tax taxable year ending with or prior to the close of the year for which the tax is imposed by this section. The amount of such adjustment for each such year shall be computed (on the basis of a separate return) according to the income tax law applicable to such year.

(2) FOREIGN CORPORATIONS.—For each year of any three-year period subsequent to the declaration year, the adjusted declared value in the case of a foreign corporation shall be the value declared in the return for the declaration year adjusted (for the same income-tax taxable years as in the case of a domestic corporation), in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, to reflect increases or decreases in the capital employed in the transaction of its business in the United States.

(c) CORPORATIONS IN BANKRUPTCY OR RECEIVERSHIP.—The capital-stock tax year beginning with or within an income-tax taxable year within which bankruptcy or receivership, due to insolvency, of a domestic corporation, is terminated shall constitute a declaration year. In such case the adjusted declared value for any subsequent year of the three-year period shall be determined on the basis of the value declared in the return for such declaration year.

(d) CREDIT FOR CHINA TRADE ACT CORPORATIONS.—For the purpose of the tax imposed by section 1200 there shall be allowed in the case of a corporation organized under the China Trade Act, 1922, 42 Stat. 849 (U. S. C., Title 15, c. 4), as a credit against the adjusted declared

value of its capital stock, an amount equal to the proportion of such adjusted declared value which the par value of the shares of stock of the corporation, owned on the last day of the taxable year by (1) persons resident in China, the United States, or possessions of the United States, and (2) individual citizens of the United States or China wherever resident, bears to the par value of the whole number of shares of stock of the corporation outstanding on such date. For the purposes of this subsection shares of stock of a corporation shall be considered to be owned by the person in whom the equitable right to the income from such shares is in good faith vested; and as used in this subsection the term "China" shall have the same meaning as when used in the China Trade Act, 1922.

SEC. 1203. RETURNS.

(a) REQUIREMENT.—Every corporation liable for tax under section 1200 shall make a return under oath. Such return shall contain such information and be made in such manner as the Commissioner with the approval of the Secretary may by regulations prescribe.

(b) TIME FOR FILING.

(1) GENERAL RULE.—Such return shall be made within one month after the close of the year with respect to which such tax is imposed.

(2) EXTENSION OF TIME.—The Commissioner may extend the time for making the returns, under such rules and regulations as he may prescribe with the approval of the Secretary, but no such extension shall be for more than sixty days.

(c) PLACE FOR FILING.—The return shall be made to the collector for the district in which is located the principal place of business of the corporation, or, if it has no principal place of business in the United States, then to the collector at Baltimore, Maryland.

SEC. 1204. PUBLICITY OF RETURNS.

Returns required to be filed for the purpose of the tax imposed by section 1200 shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under chapter 1, except that paragraph (2) of subsections (b) and (f) of section 55 shall not apply.

SEC. 1205. PAYMENT OF TAX.

(a) TIME OF PAYMENT.—The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector before the expiration of the period for filing the return.

(b) EXTENSION OF TIME.—The Commissioner may extend the time for paying the taxes imposed by section 1200, under such rules and regulations as he may prescribe with the approval of the Secretary, but no such extension shall be for more than sixty days.

SEC. 1206. ADDITION TO THE TAX IN CASE OF DELINQUENCY.

If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 6 per centum per annum from the time when the tax became due until paid.

SEC. 1207. OTHER LAWS APPLICABLE.

All provisions of law (including penalties) applicable in respect of the taxes imposed by section 2700 shall, insofar as not inconsistent with this chapter, be applicable in respect of the taxes imposed by section 1200.

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CHAPTER 7—TAX ON TRANSFERS TO AVOID INCOME TAX

SEC. 1250. IMPOSITION OF TAX.

There shall be imposed upon the transfer of stock or securities by a citizen or resident of the United States, or by a domestic corporation or partnership, or by a trust which is not a foreign trust, to a foreign corporation as paid-in surplus or as a contribution to capital, or to a foreign trust, or to a foreign partnership, an excise tax equal to 25 per centum of the excess of (1) the value of the stock or securities so transferred over (2) its adjusted basis in the hands of the transferor as determined under section 113 of the Revenue Act of 1932, 47 Stat. 198.

SEC. 1251. NONTAXABLE TRANSFERS.

The tax imposed by section 1250 shall not apply—

(a) if the transferee is an organization exempt from income tax under section 103 of the Revenue Act of 1932; or

(b) if prior to the transfer it has been established to the satisfaction of the Commissioner that such transfer is not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes.

SEC. 1252. DEFINITION OF "FOREIGN TRUST."

A trust shall be considered a foreign trust within the meaning of this chapter if, assuming a subsequent sale by the trustee, outside the United States and for cash, of the property so transferred, the profit, if any, from such sale would not be included in the gross income of the trust under Title I of the Revenue Act of 1932.

SEC. 1253. PAYMENT AND COLLECTION.

(a) The tax imposed by section 1250 shall, without assessment or notice and demand, be due and payable by the transferor at the time of the transfer, and shall be assessed, collected, and paid under regulations prescribed by the Commissioner with the approval of the Secretary.

(b) Under regulations prescribed by the Commissioner with the approval of the Secretary the tax may be abated, remitted, or refunded if after the transfer it has been established to the satisfaction of the Commissioner that such transfer was not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes.

(c) All administrative, special, or stamp provisions of law, including penalties and including the law relating to the assessment of taxes, so far as applicable, shall be extended to and made a part of this chapter.

SEC. 1254. PUBLICITY OF RETURNS.

For provisions with respect to publicity of returns under this chapter, see subsection (a) (2) of section 55.

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CHAPTER 8—ALASKAN RAILROADS TAX

SEC. 1300. RATE OF TAX.

There shall be levied and collected, for each taxable year beginning after December 31, 1938, a tax of one per centum on the gross annual income of all railroad corporations doing business in Alaska, on business done in Alaska.

SEC. 1301. ASSESSMENT AND COLLECTION OF TAX.

The tax imposed by section 1300 shall be computed and collected in the manner provided in section II of the act of October 3, 1913, c. 16, 38 Stat. 114, 174. The proceeds of such tax when collected shall be deposited into the Treasury as miscellaneous receipts, and amounts equal thereto are (1) authorized to be appropriated annually from the general fund of the Treasury, (2) paid to the treasurer of Alaska, and (3) made applicable to general Territorial purposes. If the total of receipts for any fiscal year is greater than the amount appropriated for the payment of such receipts to the Alaskan government, such excess is authorized to be appropriated for the following fiscal year.

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CHAPTER 9—EMPLOYMENT TAXES

SUBCHAPTER A—EMPLOYMENT BY OTHERS THAN CARRIERS

Part I—Tax on Employees

SEC. 1400. RATE OF TAX.

In addition to other taxes, there shall be levied, collected, and paid upon the income of every individual a tax equal to the following percentages of the wages (as defined in section 1426 (a)) received by him after December 31, 1936, with respect to employment (as defined in section 1426 (b)) after such date:

(1) With respect to employment during the calendar year 1939, the rate shall be 1 per centum.

(2) With respect to employment during the calendar years 1940, 1941, and 1942, the rate shall be 1½ per centum.

(3) With respect to employment during the calendar years 1943, 1944, and 1945, the rate shall be 2 per centum.

(4) With respect to employment during the calendar years 1946, 1947, and 1948, the rate shall be 2½ per centum.

(5) With respect to employment after December 31, 1948, the rate shall be 3 per centum.

SEC. 1401. DEDUCTION OF TAX FROM WAGES.

(a) REQUIREMENT.—The tax imposed by section 1400 shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the wages as and when paid.

(b) INDEMNIFICATION OF EMPLOYER.—Every employer required so to deduct the tax shall be liable for the payment of such tax, and shall be indemnified against the claims and demands of any person for the amount of any such payment made by such employer.

(c) ADJUSTMENTS.—If more or less than the correct amount of tax imposed by section 1400 is paid with respect to any wage payment, then, under regulations made under this subchapter, proper adjustments, with respect both to the tax and the amount to be deducted, shall be made, without interest, in connection with subsequent wage payments to the same individual by the same employer.

SEC. 1402. NON-DEDUCTIBILITY OF TAX FROM NET INCOME.

For the purposes of the income tax imposed by chapter 1 or by any act of Congress in substitution therefor, the tax imposed by section 1400 shall not be allowed as a deduction to the taxpayer in computing his net income for the year in which such tax is deducted from his wages.

Part II—Tax on Employers

SEC. 1410. RATE OF TAX.

In addition to other taxes, every employer shall pay an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defined in section 1426 (a)) paid

by him after December 31, 1936, with respect to employment (as defined in section 1426 (b)) after such date:

(1) With respect to employment during the calendar year 1939, the rate shall be 1 per centum.

(2) With respect to employment during the calendar years 1940, 1941, and 1942, the rate shall be 1½ per centum.

(3) With respect to employment during the calendar years 1943, 1944, and 1945, the rate shall be 2 per centum.

(4) With respect to employment during the calendar years 1946, 1947, and 1948, the rate shall be 2½ per centum.

(5) With respect to employment after December 31, 1948, the rate shall be 3 per centum.

SEC. 1411. ADJUSTMENT OF TAX.

If more or less than the correct amount of tax imposed by section 1410 is paid with respect to any wage payment, then, under regulations made under this subchapter, proper adjustments with respect to the tax shall be made, without interest, in connection with subsequent wage payments to the same individual by the same employer.

Part III—General Provisions

SEC. 1420. COLLECTION AND PAYMENT OF TAXES.

(a) ADMINISTRATION.—The taxes imposed by this subchapter shall be collected by the Bureau of Internal Revenue under the direction of the Secretary and shall be paid into the Treasury of the United States as internal-revenue collections.

(b) ADDITION TO TAX IN CASE OF DELINQUENCY.—If the tax is not paid when due, there shall be added as part of the tax interest (except in the case of adjustments made in accordance with the provisions of sections 1401 (c) and 1411) at the rate of 6 per centum per annum from the date the tax became due until paid.

(c) METHOD OF COLLECTION AND PAYMENT.—Such taxes shall be collected and paid in such manner, at such times, and under such conditions, not inconsistent with this subchapter (either by making and filing returns, or by stamps, coupons, tickets, books, or other reasonable devices or methods necessary or helpful in securing a complete and proper collection and payment of the tax or in securing proper identification of the taxpayer), as may be prescribed by the Commissioner, with the approval of the Secretary.

(d) FRACTIONAL PARTS OF A CENT.—In the payment of any tax under this subchapter a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

SEC. 1421. OVERPAYMENTS AND UNDERPAYMENTS.

If more or less than the correct amount of tax imposed by section 1400 or 1410 is paid or deducted with respect to any wage payment and the overpayment or underpayment of tax cannot be adjusted under section 1401 (c) or 1411 the amount of the overpayment shall be refunded and the amount of the underpayment shall be collected, in such manner and at such times (subject to the statutes of limitations properly applicable thereto) as may be prescribed by regulations made under this subchapter.

SEC. 1422. ERRONEOUS PAYMENTS.

Any tax paid under this subchapter by a taxpayer with respect to any period with respect to which he is not liable to tax under this subchapter shall be credited against the tax, if any, imposed by subchapter B upon such taxpayer, and the balance, if any, shall be refunded.

SEC. 1423. SALE OF STAMPS BY POSTMASTERS.

(a) SUPPLY.—The Commissioner shall furnish to the Postmaster General without prepayment a suitable quantity of stamps, coupons, tickets, books, or other devices prescribed by the Commissioner under section 1420 (c) for the collection or payment of any tax imposed by this subchapter, to be distributed to, and kept on sale by, all post offices of the first and second classes, and such post offices of the third and fourth classes as (1) are located in county seats, or (2) are certified by the Secretary to the Postmaster General as necessary to the proper administration of this subchapter.

(b) BOND AND ACCOUNTING.—The Postmaster General may require each such postmaster to furnish bond in such increased amount as he may from time to time determine, and each such postmaster shall deposit the receipts from the sale of such stamps, coupons, tickets, books, or other devices, to the credit of, and render accounts to, the Postmaster General at such times and in such form as the Postmaster General may by regulations prescribe.

(c) DEPOSIT OF RECEIPTS.—The Postmaster General shall at least once a month transfer to the Treasury as internal-revenue collections all receipts so deposited.

SEC. 1424. EXPENDITURES INCURRED BY THE POST OFFICE DEPARTMENT.

The Postmaster General shall at least once a month transfer to the Treasury, together with the receipts required to be deposited under section 1423, a statement of the additional expenditures in the District of Columbia and elsewhere incurred by the Post Office Department in performing the duties imposed upon said Department by this subchapter, and the Secretary shall be authorized and directed to advance from time to time to the credit of the Post Office Department from appropriations made for the collection of the taxes imposed by this subchapter, such sums as may be required for such additional expenditures incurred by the Post Office Department.

SEC. 1425. PENALTIES RELATING TO STAMPS AND OTHER COLLECTION DEVICES.

(a) UNAUTHORIZED USE, SALE, ETC.—Whoever buys, sells, offers for sale, uses, transfers, takes or gives in exchange, or pledges or gives in pledge, except as authorized in this subchapter or in regulations made pursuant thereto, any stamp, coupon, ticket, book, or other device, prescribed by the Commissioner under section 1420 (c) for the collection or payment of any tax imposed by this subchapter, shall be fined not more than $1,000 or imprisoned for not more than six months, or both.

(b) COUNTERFEITING, ETC.—Whoever, with intent to defraud, alters, forges, makes, or counterfeits any stamp, coupon, ticket, book, or other device prescribed by the Commissioner under section 1420 (c) for the collection or payment of any tax imposed by this subchapter, or uses, sells, lends, or has in his possession any such altered, forged, or counterfeited stamp, coupon, ticket, book, or other device, or makes, uses, sells, or has in his possession any material in imitation of the material used in the manufacture of such stamp, coupon, ticket, book, or other device, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

SEC. 1426. DEFINITIONS.

When used in this subchapter—

(a) WAGES.—The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include that part of the remuneration which, after remuneration equal to $3,000 has been paid to an individual by an employer with respect to

employment during any calendar year, is paid to such individual by such employer with respect to employment during such calendar year.

(b) EMPLOYMENT.—The term "employment" means any service of whatever nature, performed within the United States by an employee for his employer, except—

(1) Agricultural labor;

(2) Domestic service in a private home;

(3) Casual labor not in the course of the employer's trade or business;

(4) Service performed by an individual who has attained the age of sixty-five;

(5) Service performed as an officer or member of the crew of a vessel documented under the laws of the United States or of any foreign country;

(6) Service performed in the employ of the United States Government or of an instrumentality of the United States;

(7) Service performed in the employ of a State, a political subdivision thereof, or an instrumentality of one or more States or political subdivisions;

(8) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(9) Service performed by an individual as an employee as defined in section 1532 (b); or

(10) Service performed as an employee representative as defined in section 1532 (c).

(c) EMPLOYEE.—The term "employee" includes an officer of a corporation.

(d) STATE.—The term "State" includes Alaska, Hawaii, and the District of Columbia.

(e) PERSON.—The term "person" means an individual, a trust or estate, a partnership, or a corporation.

SEC. 1427. DEDUCTIONS AS CONSTRUCTIVE PAYMENTS.

Whenever under this subchapter or any Act of Congress, or under the law of any State, an employer is required or permitted to deduct any amount from the remuneration of an employee and to pay the amount deducted to the United States, a State, or any political subdivision thereof, then for the purposes of this subchapter the amount so deducted shall be considered to have been paid to the employee at the time of such deduction.

SEC. 1428. ESTIMATE OF REVENUE REDUCTION.

The Secretary at intervals of not longer than three years shall estimate the reduction in the amount of taxes collected under this subchapter by reason of the operation of paragraphs (9) and (10) of subsection (b) of section 1426 and shall include such estimate in his anual report.

SEC. 1429. RULES AND REGULATIONS.

The Secretary shall make and publish such rules and regulations, not inconsistent with this subchapter, as may be necessary to the efficient administration of the functions with which he is charged under this subchapter. The Commissioner, with the approval of the Secretary, shall make and publish rules and regulations for the enforcement of this subchapter.

SEC. 1430. OTHER LAWS APPLICABLE.

All provisions of law, including penalties, applicable with respect to any tax imposed by section 2700 or section 1800, and the provisions of section 3762, shall, insofar as applicable and not inconsistent

with the provisions of this subchapter, be applicable with respect to the taxes imposed by this subchapter.

SEC. 1431. EFFECTIVE DATE OF SUBCHAPTER.

This subchapter shall take effect on the first day of that quarter of the calendar year occurring next after the enactment of this title.

SUBCHAPTER B—EMPLOYMENT BY CARRIERS

Part I—Tax on Employees

SEC. 1500. RATE OF TAX.

In addition to other taxes, there shall be levied, collected, and paid upon the income of every employee a tax equal to the following percentages of so much of the compensation of such employee as is not in excess of $300 for any calendar month, earned by him after the effective date of this subchapter—

1. With respect to compensation earned during the calendar year 1939, the rate shall be 2¾ per centum;
2. With respect to compensation earned during the calendar years 1940, 1941, and 1942, the rate shall be 3 per centum;
3. With respect to compensation earned during the calendar years 1943, 1944, and 1945, the rate shall be 3¼ per centum;
4. With respect to compensation earned during the calendar years 1946, 1947, and 1948, the rate shall be 3½ per centum;
5. With respect to compensation earned after December 31, 1948, the rate shall be 3¾ per centum.

SEC. 1501. DEDUCTION OF TAX FROM COMPENSATION.

(a) REQUIREMENT.—The tax imposed by section 1500 shall be collected by the employer of the taxpayer by deducting the amount of the tax from the compensation of the employee as and when paid. If an employee is paid compensation by more than one employer with respect to any calendar month, then, under regulations made under this subchapter, the Commissioner may prescribe the proportion of the tax to be deducted by each employer from the compensation paid by him to the employee with respect to such month.

(b) INDEMNIFICATION OF EMPLOYER.—Every employer required under subsection (a) to deduct the tax shall be made liable for the payment of such tax and shall not be liable to any person for the amount of any such payment.

(c) ADJUSTMENTS.—If more or less than the correct amount of tax imposed by section 1500 is paid with respect to any compensation payment, then, under regulations made under this subchapter by the Commissioner, with the approval of the Secretary, proper adjustments, with respect both to the tax and the amount to be deducted, shall be made, without interest, in connection with subsequent compensation payments to the same employee by the same employer.

SEC. 1502. OVERPAYMENTS AND UNDERPAYMENTS.

If more or less than the correct amount of the tax imposed by section 1500 is paid or deducted with respect to any compensation payment and the overpayment or underpayment of the tax cannot be adjusted under section 1501 (c), the amount of the overpayment shall be refunded, or the amount of the underpayment shall be collected in such manner and at such times (subject to the statute of limitations properly applicable thereto) as may be prescribed by regulations under this subchapter as made by the Commissioner, with the approval of the Secretary.

SEC. 1503. NON-DEDUCTIBILITY OF TAX FROM NET INCOME.

For the purposes of the income tax imposed by chapter 1 or by any Act of Congress in substitution therefor, the tax imposed by section 1500 shall not be allowed as a deduction to the taxpayer in computing his net income.

Part II—Tax on Employee Representatives

SEC. 1510. RATE OF TAX.

In addition to other taxes, there shall be levied, collected, and paid upon the income of each employee representative a tax equal to the following percentages of so much of the compensation of such employee representative as is not in excess of $300 for any calendar month earned by him after the effective date of this subchapter:

1. With respect to compensation earned during the calendar year 1939, the rate shall be 5½ per centum;
2. With respect to compensation earned during the calendar years 1940, 1941, and 1942, the rate shall be 6 per centum;
3. With respect to compensation earned during the calendar years 1943, 1944, and 1945, the rate shall be 6½ per centum;
4. With respect to compensation earned during the calendar years 1946, 1947, and 1948, the rate shall be 7 per centum;
5. With respect to compensation earned after December 31, 1948, the rate shall be 7½ per centum.

SEC. 1511. DETERMINATION OF COMPENSATION.

The compensation of an employee representative for the purpose of ascertaining the tax thereon shall be determined in the same manner and with the same effect as if the employee organization by which such employee representative is employed were an employer as defined in section 1532 (a).

SEC. 1512. NON-DEDUCTIBILITY OF TAX FROM NET INCOME.

For the purposes of the income tax imposed by chapter 1 or by any Act of Congress in substitution therefor, the taxes imposed by section 1510 shall not be allowed as a deduction to the taxpayer in computing his net income.

Part III—Tax on Employers

SEC. 1520. RATE OF TAX.

In addition to other taxes, every employer shall pay an excise tax, with respect to having individuals in his employ, equal to the following percentages of so much of the compensation as is not in excess of $300 for any calendar month paid by him to any employee for services rendered to him after December 31, 1936: *Provided, however*, That if an employee is paid compensation by more than one employer with respect to any such calendar month, the tax imposed by this section shall apply to not more than $300 of the aggregate compensation paid to said employee by all said employers with respect to such calendar month, and each such employer shall be liable for that proportion of the tax with respect to such compensation which his payment to the employee with respect to such calendar month bears to the aggregate compensation paid to such employee by all employers with respect to such calendar month:

1. With respect to compensation paid to employees for services rendered during the calendar year 1939, the rate shall be 2¾ per centum;
2. With respect to compensation paid to employees for services rendered during the calendar years 1940, 1941, and 1942, the rate shall be 3 per centum;
3. With respect to compensation paid to employees for services rendered during the calendar years 1943, 1944, and 1945, the rate shall be 3¼ per centum;
4. With respect to compensation paid to employees for services rendered during the calendar years 1946, 1947, and 1948, the rate shall be 3½ per centum;
5. With respect to compensation paid to employees for services rendered after December 31, 1948, the rate shall be 3¾ per centum.

SEC. 1521. ADJUSTMENTS.

If more or less than the correct amount of the tax imposed by section 1520 is paid with respect to any compensation payment, then, under regulations made by the Commissioner, with the approval of the Secretary, proper adjustments with respect to the tax shall be made, without interest, in connection with subsequent excise-tax payments made by the same employer.

SEC. 1522. OVERPAYMENTS AND UNDERPAYMENTS.

If more or less than the correct amount of the tax imposed by section 1520 is paid or deducted with respect to any compensation payment and the overpayment or underpayment of the tax cannot be adjusted under section 1521, the amount of the overpayment shall be refunded, or the amount of the underpayment shall be collected in such manner and at such times (subject to the statute of limitations properly applicable thereto) as may be prescribed by regulations under this subchapter as made by the Commissioner, with the approval of the Secretary.

Part IV—General Provisions

SEC. 1530. COLLECTION AND PAYMENT OF TAXES.

(a) ADMINISTRATION.—The taxes imposed by this subchapter shall be collected by the Bureau of Internal Revenue and shall be paid into the Treasury of the United States as internal-revenue collections.

(b) TIME AND MANNER OF PAYMENT.—The taxes imposed by this subchapter shall be collected and paid quarterly or at such other times and in such manner and under such conditions not inconsistent with this subchapter as may be prescribed by the Commissioner with the approval of the Secretary.

(c) ADDITION TO TAX IN CASE OF DELINQUENCY.—If a tax imposed by this subchapter is not paid when due, there shall be added as part of the tax (except in the case of adjustments made in accordance with the provisions of this subchapter) interest at the rate of 6 per centum per annum from the date the tax became due until paid.

(d) FRACTIONAL PARTS OF A CENT.—In the payment of any tax under this subchapter, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

SEC. 1531. ERRONEOUS PAYMENTS.

Any tax paid under this subchapter by a taxpayer with respect to any period with respect to which he is not liable to tax under this subchapter shall be credited against the tax, if any, imposed by subchapter A upon such taxpayer, and the balance, if any, shall be refunded.

SEC. 1532. DEFINITIONS.

As used in this subchapter—

(a) EMPLOYER.—The term "employer" means any carrier (as defined in subsection (h) of this section), and any company which is directly or indirectly owned or controlled by one or more such carriers or under common control therewith, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the property or operating all or any part of the business of any such employer: *Provided, however*, That the term "employer" shall not include any street, interurban, or suburban electric railway, unless such railway

is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Commissioner of Internal Revenue, or upon complaint of any party interested, to determine after hearing whether any line operated by electric power falls within the terms of this proviso. The term "employer" shall also include railroad associations, traffic associations, tariff bureaus, demurrage bureaus, weighing and inspection bureaus, collection agencies and other associations, bureaus, agencies, or organizations controlled and maintained wholly or principally by two or more employers as hereinbefore defined and engaged in the performance of services in connection with or incidental to railroad transportation; and railway labor organizations, national in scope, which have been or may be organized in accordance with the provisions of the Railway Labor Act, as amended, and their State and National legislative committees and their general committees and their insurance departments and their local lodges and divisions, established pursuant to the constitution and bylaws of such organizations.

(b) EMPLOYEE.—The term "employee" means any person in the service of one or more employers for compensation: *Provided, however*, That the term "employee" shall include an employee of a local lodge or division defined as an employer in subsection (a) only if he was in the service of or in the employment relation to a carrier on or after August 29, 1935. An individual is in the employment relation to a carrier if he is on furlough, subject to call for service within or outside the United States and ready and willing to serve, or on leave of absence, or absent on account of sickness or disability; all in accordance with the established rules and practices in effect on the carrier: *Provided further*, That an individual shall not be deemed to have been on August 29, 1935, in the employment relation to a carrier not conducting the principal part of its business in the United States unless during the last pay-roll period in which he rendered service to it prior to said date, he rendered service to it in the United States.

The term "employee" includes an officer of an employer.

(c) EMPLOYEE REPRESENTATIVE.—The term "employee representative" means any officer or official representative of a railway labor organization other than a labor organization included in the term "employer" as defined in subsection (a), who before or after June 29, 1937, was in the service of an employer as defined in subsection (a) and who is duly authorized and designated to represent employees in accordance with the Railway Labor Act, 44 Stat. 577 (U. S. C., Title 45, c. 18), as amended, and any individual who is regularly assigned to or regularly employed by such officer or official representative in connection with the duties of his office.

(d) SERVICE.—An individual is in the service of an employer whether his service is rendered within or without the United States if he is subject to the continuing authority of the employer to supervise and direct the manner of rendition of his service, which service he renders for compensation: *Provided, however*, That an individual shall be deemed to be in the service of an employer not conducting the principal part of its business in the United States only when he is rendering service to it in the United States.

(e) COMPENSATION.—The term "compensation" means any form of money remuneration earned by an individual for services rendered as an employee to one or more employers, or as an employee representative, including remuneration paid for time lost as an employee, but remuneration paid for time lost shall be deemed earned in the month in which such time is lost. Such term does not include tips, or the voluntary payment by an employer, without deduction from the re-

muneration of the employee, of the tax imposed on such employee by section 1500. Compensation which is earned during the period for which the Commissioner shall require a return of taxes under this subchapter to be made and which is payable during the calendar month following such period shall be deemed to have been paid during such period only.

(f) UNITED STATES.—The term "United States" when used in a geographical sense means the States, Alaska, Hawaii, and the District of Columbia.

(g) COMPANY.—The term "company" includes corporations, associations, and joint-stock companies.

(h) CARRIER.—The term "carrier" means an express company, sleeping-car company, or carrier by railroad, subject to part I of the Interstate Commerce Act.

(i) PERSON.—The term "person" means an individual, a partnership, an association, a joint-stock company, or a corporation.

SEC. 1534. COURT JURISDICTION.

The several district courts of the United States and the District Court of the United States for the District of Columbia, respectively, shall have jurisdiction to entertain an application by the Attorney General on behalf of the Commissioner to compel an employee or other person residing within the jurisdiction of the court or an employer subject to service of process within its jurisdiction to comply with any obligations imposed on such employee, employer, or other person under the provisions of this subchapter. The jurisdiction herein specifically conferred upon such Federal courts shall not be held exclusive of any jurisdiction otherwise possessed by such courts to entertain actions at law or suits in equity in aid of the enforcement of rights or obligations arising under the provisions of this subchapter.

SEC. 1535. RULES AND REGULATIONS.

The Commissioner, with the approval of the Secretary, shall make and publish such rules and regulations as may be necessary for the enforcement of this subchapter.

SEC. 1536. OTHER LAWS APPLICABLE.

All provisions of law, including penalties, applicable with respect to any tax imposed by section 2700 or section 1800, and the provisions of section 3762, insofar as applicable and not inconsistent with the provisions of this subchapter, shall be applicable with respect to the taxes imposed by this subchapter.

SEC. 1537. EFFECTIVE DATE OF SUBCHAPTER.

This subchapter shall take effect on the first day of that quarter of the calendar year occurring next after the enactment of this title.

SUBCHAPTER C—TAX ON EMPLOYERS OF EIGHT OR MORE

SEC. 1600. RATE OF TAX.

On and after January 1, 1939, every employer (as defined in section 1607 (a)) shall pay for each calendar year an excise tax, with respect to having individuals in his employ, equal to 3 per centum of the total wages (as defined in section 1607 (b)) payable by him (regardless of the time of payment) with respect to employment (as defined in section 1607 (c)) during the calendar year 1939 and subsequent calendar years.

SEC. 1601. CREDITS AGAINST TAX.

(a) CONTRIBUTIONS TO STATE UNEMPLOYMENT FUNDS.—

The taxpayer may credit against the tax imposed by section 1600 the amount of contributions, with respect to employment during the taxable year, paid by him (before the date of filing his return for

the taxable year) into an unemployment fund under a State law. Credit shall be allowed only for contributions made under the laws of States certified for the taxable year as provided in section 1603. The total credit allowed to a taxpayer under this subsection for all contributions paid into unemployment funds with respect to employment during such taxable year shall not exceed 90 per centum of the tax against which it is credited.

(b) ADDITIONAL CREDIT.—

(1) ALLOWANCE.—In addition to the credit allowed under subsection (a), a taxpayer may, subject to the conditions imposed by section 1602, credit against the tax imposed by section 1600 for any taxable year, an amount, with respect to each State law, equal to the amount, if any, by which the contributions, with respect to employment in such taxable year, actually paid by the taxpayer under such law before the date of filing his return for such taxable year, is exceeded by whichever of the following is the lesser—

(A) The amount of contributions which he would have been required to pay under such law for such taxable year if he had been subject to the highest rate applicable from time to time throughout such year to any employer under such law; or

(B) Two and seven-tenths per centum of the wages payable by him with respect to employment with respect to which contributions for such year were required under such law.

(2) REDUCTION.—If the amount of the contributions actually so paid by the taxpayer is less than the amount which he should have paid under the State law, the additional credit under subsection (b) shall be reduced proportionately.

(c) LIMIT ON TOTAL CREDITS.—The total credits allowed to a taxpayer under this subchapter shall not exceed 90 per centum of the tax against which such credits are taken.

SEC. 1602. CONDITIONS OF ADDITIONAL CREDIT ALLOWANCE.

(a) CONTRIBUTIONS WITHIN RECOGNIZED STATE LAW REQUIREMENTS.—A taxpayer shall be allowed the additional credit under section 1601 (b) and (c), with respect to his contribution rate under a State law being lower, for any taxable year, than that of another employer subject to such law, only if the Board finds that under such law—

(1) Such lower rate, with respect to contributions to a pooled fund, is permitted on the basis of not less than three years of compensation experience;

(2) Such lower rate, with respect to contributions to a guaranteed employment account, is permitted only when his guaranty of employment was fulfilled in the preceding calendar year, and such guaranteed employment account amounts to not less than 7½ per centum of the total wages payable by him, in accordance with such guaranty, with respect to employment in such State in the preceding calendar year;

(3) Such lower rate, with respect to contributions to a separate reserve account, is permitted only when (A) compensation has been payable from such account throughout the preceding calendar year, and (B) such account amounts to not less than five times the largest amount of compensation paid from such account within any one of the three preceding calendar years, and (C) such account amounts to not less than 7½ per centum of the total wages payable by him (plus the total wages payable by any other employers who may be contributing to such account) with respect to employment in such State in the preceding calendar year.

(b) OTHER CONTRIBUTIONS.—Such additional credit shall be reduced, if any contributions under such law are made by such taxpayer at a lower rate under conditions not fulfilling the requirements of sub-

section (a), by the amount bearing the same ratio to such additional credit as the amount of contributions made at such lower rate bears to the total of his contributions paid for such year under such law.

(c) DEFINITIONS.—As used in this section—

(1) RESERVE ACCOUNT.—The term "reserve account" means a separate account in an unemployment fund, with respect to an employer or group of employers, from which compensation is payable only with respect to the unemployment of individuals who were in the employ of such employer, or of one of the employers comprising the group.

(2) POOLED FUND.—The term "pooled fund" means an unemployment fund or any part thereof in which all contributions are mingled and undivided, and from which compensation is payable to all eligible individuals, except that to individuals last employed by employers with respect to whom reserve accounts are maintained by the State agency, it is payable only when such accounts are exhausted.

(3) GUARANTEED EMPLOYMENT ACCOUNT.—The term "guaranteed employment account" means a separate account, in an unemployment fund, of contributions paid by an employer (or group of employers) who

(A) guarantees in advance thirty hours of wages for each of forty calendar weeks (or more, with one weekly hour deducted for each added week guaranteed) in twelve months, to all the individuals in his employ in one or more distinct establishments, except that any such individual's guaranty may commence after a probationary period (included within twelve or less consecutive calendar weeks), and

(B) gives security or assurance, satisfactory to the State agency, for the fulfillment of such guaranties,

from which account compensation shall be payable with respect to the unemployment of any such individual whose guaranty is not fulfilled or renewed and who is otherwise eligible for compensation under the State law.

(4) YEAR OF COMPENSATION EXPERIENCE.—The term "year of compensation experience", as applied to an employer, means any calendar year throughout which compensation was payable with respect to any individual in his employ who became unemployed and was eligible for compensation.

SEC. 1603. APPROVAL OF STATE LAWS.

(a) REQUIREMENTS.—The Social Security Board shall approve any State law submitted to it, within thirty days of such submission, which it finds provides that—

(1) All compensation is to be paid through public employment offices in the State or such other agencies as the Board may approve;

(2) No compensation shall be payable with respect to any day of unemployment occurring within two years after the first day of the first period with respect to which contributions are required;

(3) All money received in the unemployment fund shall immediately upon such receipt be paid over to the Secretary of the Treasury to the credit of the Unemployment Trust Fund established by section 904 of the Social Security Act, 49 Stat. 640 (U. S. C., Title 42, § 1104);

(4) All money withdrawn from the Unemployment Trust Fund by the State agency shall be used solely in the payment of compensation, exclusive of expenses of administration;

(5) Compensation shall not be denied in such State to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (A) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; (B) if the

wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (C) if as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization;

(6) All the rights, privileges, or immunities conferred by such law or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal such law at any time.

(b) NOTIFICATION.—The Board shall, upon approving such law, notify the Governor of the State of its approval.

(c) CERTIFICATION.—On December 31 of each taxable year the Board shall certify to the Secretary each State whose law it has previously approved, except that it shall not certify any State which, after reasonable notice and opportunity for hearing to the State agency, the Board finds has changed its law so that it no longer contains the provisions specified in subsection (a) or has with respect to such taxable year failed to comply substantially with any such provision.

(d) NOTICE OF NON-CERTIFICATION.—If, at any time during the taxable year, the Board has reason to believe that a State whose law it has previously approved, may not be certified under subsection (c), it shall promptly so notify the Governor of such State.

SEC. 1604. RETURNS.

(a) REQUIREMENT.—Not later than January 31, next following the close of the taxable year, each employer shall make a return of the tax under this subchapter for such taxable year. Each such return shall be made under oath, shall be filed with the collector for the district in which is located the principal place of business of the employer, or, if he has no principal place of business in the United States, then with the collector at Baltimore, Maryland, and shall contain such information and be made in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

(b) EXTENSION OF TIME FOR FILING.—The Commissioner may extend the time for filing the return of the tax imposed by this subchapter, under such rules and regulations as he may prescribe with the approval of the Secretary, but no such extension shall be for more than sixty days.

(c) PUBLICITY.—Returns filed under this subchapter shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under chapter 1, except that paragraph (2) of subsections (a), (b) and (f) of section 55 shall not apply.

SEC. 1605. PAYMENT OF TAXES.

(a) ADMINISTRATION.—The tax imposed by this subchapter shall be collected by the Bureau of Internal Revenue under the direction of the Secretary and shall be paid into the Treasury as internal-revenue collections.

(b) ADDITION TO TAX IN CASE OF DELINQUENCY.—If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 6 per centum per annum from the date the tax became due until paid.

(c) INSTALLMENT PAYMENTS.—The taxpayer may elect to pay the tax in four equal installments instead of in a single payment, in which case the first installment shall be paid not later than the last day prescribed for the filing of returns, the second installment shall be paid on or before the last day of the third month, the third installment on or before the last day of the sixth month, and the fourth installment on or before the last day of the ninth month, after such last day. If the tax or any installment thereof is not paid on or before the last day of the period fixed for its payment, the whole

amount of the tax unpaid shall be paid upon notice and demand from the collector.

(d) EXTENSION OF TIME FOR PAYMENT.—At the request of the taxpayer the time for payment of the tax or any installment thereof may be extended under regulations prescribed by the Commissioner with the approval of the Secretary, for a period not to exceed six months from the last day of the period prescribed for the payment of the tax or any installment thereof. The amount of the tax in respect of which any extension is granted shall be paid (with interest at the rate of one-half of 1 per centum per month) on or before the date of the expiration of the period of the extension.

(e) FRACTIONAL PARTS OF A CENT.—In the payment of any tax under this subchapter a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

SEC. 1606. INTERSTATE COMMERCE.

No person required under a State law to make payments to an unemployment fund shall be relieved from compliance therewith on the ground that he is engaged in interstate commerce, or that the State law does not distinguish between employees engaged in interstate commerce and those engaged in intrastate commerce.

SEC. 1607. DEFINITIONS.

When used in this subchapter—

(a) EMPLOYER.—The term "employer" does not include any person unless on each of some twenty days during the taxable year, each day being in a different calendar week, the total number of individuals who were in his employ for some portion of the day (whether or not at the same moment of time) was eight or more.

(b) WAGES.—The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash.

(c) EMPLOYMENT.—The term "employment" means any service, of whatever nature, performed within the United States by an employee for his employer, except—

(1) Agricultural labor;

(2) Domestic service in a private home;

(3) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(4) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(5) Service performed in the employ of the United States Government or of an instrumentality of the United States;

(6) Service performed in the employ of a State, a political subdivision thereof, or an instrumentality of one or more States or political subdivisions;

(7) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(d) STATE AGENCY.—The term "State agency" means any State officer, board, or other authority, designated under a State law to administer the unemployment fund in such State.

(e) UNEMPLOYMENT FUND.—The term "unemployment fund" means a special fund, established under a State law and administered by a State agency, for the payment of compensation.

(f) CONTRIBUTIONS.—The term "contributions" means payments required by a State law to be made by an employer into an unem-

ployment fund, to the extent that such payments are made by him without any part thereof being deducted or deductible from the wages of individuals in his employ.

(g) COMPENSATION.—The term "compensation" means cash benefits payable to individuals with respect to their unemployment.

(h) EMPLOYEE.—The term "employee" includes an officer of a corporation.

(i) STATE.—The term "State" includes Alaska, Hawaii, and the District of Columbia.

(j) PERSON.—The term "person" means an individual, a trust or estate, a partnership, or a corporation.

SEC. 1608. DEDUCTIONS AS CONSTRUCTIVE PAYMENTS.

Whenever under this subchapter or any Act of Congress, or under the law of any State, an employer is required or permitted to deduct any amount from the remuneration of an employee and to pay the amount deducted to the United States, a State, or any political subdivision thereof, then for the purposes of this subchapter the amount so deducted shall be considered to have been paid to the employee at the time of such deduction.

SEC. 1609. RULES AND REGULATIONS.

The Secretary and the Social Security Board, respectively, shall make and publish such rules and regulations, not inconsistent with this subchapter, as may be necessary to the efficient administration of the functions with which each is charged under this subchapter. The Commissioner, with the approval of the Secretary, shall make and publish rules and regulations for the enforcement of this subchapter, except sections 1602 and 1603.

SEC. 1610. OTHER LAWS APPLICABLE.

All provisions of law (including penalties) applicable in respect of the taxes imposed by section 2700, shall, insofar as not inconsistent with this subchapter, be applicable in respect of the tax imposed by this subchapter.

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CHAPTER 10—ADMISSIONS AND DUES

SUBCHAPTER A—ADMISSIONS

SEC. 1700. TAX.

There shall be levied, assessed, collected, and paid—

(a) SINGLE OR SEASON TICKET; SUBSCRIPTION.—

(1) RATE.—A tax of 1 cent for each 10 cents or fraction thereof of the amount paid for admission to any place, including admission by season ticket or subscription; except that in case the amount paid for admission, until July 1, 1939, is less than 41 cents, and thereafter is $3 or less, no tax shall be imposed. In the case of persons (except bona fide employees, municipal officers on official business, and children under 12 years of age) admitted free or at reduced rates to any place at a time when and under circumstances under which an admission charge is made to other persons, an equivalent tax shall be collected based on the price so charged to such other persons for the same or similar accommodations, to be paid by the person so admitted, except that no tax shall be imposed in the case of persons admitted free to any spoken play (not a mechanical reproduction), whether or not set to music or with musical parts or accompaniments, which is a consecutive narrative interpreted by a single set of characters, all necessary to the development of the plot, in two or more acts, the performance consuming more than 1 hour and 45 minutes of time, and except that in the case of tickets or cards of admission to any such spoken play sold at the ticket office of theaters at reduced rates the tax shall be based upon the price for which sold. Amounts paid for admission by season ticket or subscription shall be exempt only if the amount

which would be charged to the holder or subscriber for a single admission is less than 41 cents, until July 1, 1939, and thereafter $3 or less.

(2) BY WHOM PAID.—The tax imposed under paragraph (1) shall be paid by the person paying for such admission.

(b) PERMANENT USE OR LEASE OF BOXES OR SEATS.—

(1) RATE.—In the case of persons having the permanent use of boxes or seats in an opera house or any place of amusement or a lease for the use of such box or seat in such opera house or place of amusement (in lieu of the tax imposed under paragraph (1) of subsection (a)), a tax equivalent to 10 per centum of the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by or for the lessee or holder.

(2) BY WHOM PAID.—The tax imposed under paragraph (1) shall be paid by the lessee or holder.

(c) SALES OUTSIDE BOX OFFICE.—

(1) RATE.—Upon tickets or cards of admission to theaters, operas, and other places of amusement, sold at news stands, hotels, and places other than the ticket offices of such theaters, operas, or other places of amusement, at a price in excess of the sum of the established price therefor at such ticket offices plus the amount of any tax imposed under paragraph (1) of subsection (a), a tax equivalent to 10 per centum of the amount of such excess.

(2) BY WHOM PAID.—The taxes imposed under paragraph (1) shall be returned and paid by the person selling such tickets.

(3) HOW PAID.—The taxes imposed under paragraph (1) shall be returned and paid in the manner and subject to the interest provided in sections 1715, 1716, and 1717.

(d) SALES BY PROPRIETORS IN EXCESS OF REGULAR PRICE.—

(1) RATE.—A tax equivalent to 50 per centum of the amount for which the proprietors, managers, or employees of any opera house, theater, or other place of amusement sell or dispose of tickets or cards of admission in excess of the regular or established price or charge therefor.

(2) BY WHOM PAID.—The tax imposed under paragraph (1) shall be returned and paid by the persons selling such tickets.

(3) HOW PAID.—The tax imposed under paragraph (1) shall be returned and paid in the manner and subject to the interest provided in sections 1715, 1716, and 1717.

(e) SALES WHERE PRICE INCLUDES REFRESHMENTS, SERVICE, OR MERCHANDISE.—

(1) RATE.—A tax of 1½ cents for each 10 cents or fraction thereof of the amount paid for admission to any public performance for profit at any roof garden, cabaret, or other similar entertainment, to which the charge for admission is wholly or in part included in the price paid for refreshment, service, or merchandise; the amount paid for such admission to be deemed to be 20 per centum of the amount paid for refreshment, service, and merchandise. Where the amount paid for admission is 50 cents or less, no tax shall be imposed.

(2) BY WHOM PAID.—The tax imposed under paragraph (1) shall be paid by the person paying for such refreshment, service, or merchandise.

(f) CROSS REFERENCE.

For provisions requiring the tax so collected to be held as a special fund in trust for the United States, see section 3661.

SEC. 1701. EXEMPTIONS FROM TAX.

No tax shall be levied under this subchapter in respect of—

(a) RELIGIOUS, EDUCATIONAL, OR CHARITABLE ENTERTAINMENTS.—Except in the case of admissions to any athletic game or exhibition

the proceeds of which inure wholly or partly to the benefit of any college or university (including any academy of the military or naval forces of the United States), any admissions all the proceeds of which inure (1) exclusively to the benefit of religious, educational, or charitable institutions, societies, or organizations, societies for the prevention of cruelty to children or animals, or societies or organizations conducted for the sole purpose of maintaining symphony orchestras and receiving substantial support from voluntary contributions, or of improving any city, town, village, or other municipality, or of maintaining a cooperative or community center moving-picture theater—if such admissions are not to wrestling matches, prize fights, or boxing, sparring, or other pugilistic matches or exhibitions and no part of the net earnings thereof inures to the benefit of any private stockholder or individual; or (2) exclusively to the benefit of persons in the military or naval forces of the United States; or (3) exclusively to the benefit of persons who have served in such forces and are in need; or (4) exclusively to the benefit of National Guard organizations, Reserve Officers' associations or organizations, posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private stockholder or individual; or (5) exclusively to the benefit of members of the police or fire department of any city, town, village, or other municipality, or the dependents or heirs of such members; or

(b) AGRICULTURAL FAIRS.—Any admissions to agricultural fairs if no part of the net earnings thereof inures to the benefit of any stockholders or members of the association conducting the same, or admissions to any exhibit, entertainment, or other pay feature conducted by such association as part of any such fair—if the proceeds therefrom are used exclusively for the improvement, maintenance, and operation of such agricultural fairs; or

(c) CERTAIN CONCERTS.—Any admissions to concerts conducted by a civic or community membership association if no part of the net earnings thereof inures to the benefit of any stockholders or members of such association.

SEC. 1702. PRINTING OF PRICE ON TICKET.

The price (exclusive of the tax to be paid by the person paying for admission) at which every admission ticket or card is sold shall be conspicuously and indelibly printed, stamped, or written on the face or back of that part of the ticket which is to be taken up by the management of the theater, opera, or other place of amusement, together with the name of the vendor if sold other than at the ticket office of the theater, opera, or other place of amusement.

SEC. 1703. PENALTIES.

(a) FAILURE TO PRINT CORRECT PRICE ON TICKET.—Whoever sells an admission ticket or card on which the name of the vendor and price is not printed, stamped, or written, as provided in section 1702, or at a price in excess of the price so printed, stamped, or written thereon, is guilty of a misdemeanor, and upon conviction thereof shall be fined not more than $100.

(b) CROSS REFERENCE.—

For other penalties relating to admissions, see section 1718.

SEC. 1704. ADMISSION DEFINED.

The term "admission" as used in this chapter includes seats and tables, reserved or otherwise and other similar accommodations, and the charges made therefor.

SUBCHAPTER B—DUES

SEC. 1710. TAX.

(a) RATE.—There shall be levied, assessed, collected, and paid—

(1) DUES OR MEMBERSHIP FEES.—A tax equivalent to 10 per centum of any amount paid as dues or membership fees to any social, athletic, or sporting club or organization, if the dues or fees of an active resident annual member are in excess of $25 per year.

(2) INITIATION FEES.—A tax equivalent to 10 per centum of any amount paid as initiation fees to such a club or organization, if such fees amount to more than $10, or if the dues or membership fees, not including initiation fees, of an active resident annual member are in excess of $25 per year.

(3) LIFE MEMBERSHIPS.—In the case of life memberships, a tax equivalent to the tax upon the amount paid by active resident annual members for dues or membership fees other than assessments, but no tax shall be paid upon the amount paid for life membership. In such a case, the tax shall be paid annually at the time for the payment of dues by active resident annual members.

(b) BY WHOM PAID.—The taxes imposed by subdivision (a) shall be paid by the person paying such dues or fees, or holding such life membership.

SEC. 1711. EXEMPTIONS FROM TAX.

There shall be exempted from the provisions of section 1710 all amounts paid as dues or fees to a fraternal society, order, or association, operating under the lodge system, or to any local fraternal organization among the students of a college or university.

SEC. 1712. DEFINITIONS.

As used in this subchapter—

(a) DUES.—The term "dues" includes any assessment irrespective of the purpose for which made; and

(b) INITIATION FEES.—The term "initiation fees" includes any payment, contribution, or loan, required as a condition precedent to membership, whether or not any such payment, contribution or loan is evidenced by a certificate of interest or indebtedness or share of stock, and irrespective of the person or organization to whom paid, contributed, or loaned.

SUBCHAPTER C—PROVISIONS COMMON TO ADMISSIONS AND DUES

SEC. 1715. PAYMENT OF TAX.

(a) COLLECTION BY RECIPIENT OF ADMISSIONS, DUES, AND FEES.—Every person receiving any payments for admission, dues, or fees, subject to the tax imposed by section 1700 or 1710 shall collect the amount thereof from the person making such payments. Every club or organization having life members shall collect from such members the amount of the tax imposed by section 1710.

(b) PLACE FOR PAYMENT.—The taxes collected under subsection (a) shall be paid to the collector of the district in which the principal office or place of business is located.

(c) TIME FOR PAYMENT.—The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time fixed for filing the return.

(d) EXCESS PAYMENTS.—

(1) Any person making a refund of any payment upon which tax is collected under this section may repay therewith the amount of the tax collected on such payment; and the amount so repaid may be credited against amounts included in any subsequent return.

(2) In the case of any overpayment or overcollection of any tax imposed by this chapter, the person making such overpayment or overcollection may take credit therefor against taxes due upon any return, and shall make refund of any excessive amount collected by him upon proper application by the person entitled thereto.

(e) CROSS REFERENCE.

For provisions requiring the tax so collected to be held as a special fund in trust for the United States, see section 3661.

SEC. 1716. RETURNS.

(a) REQUIREMENT.—Every person required under subsection (a) of section 1715 to collect the taxes imposed by this chapter shall make returns under oath, in duplicate, in such manner and containing such information as the Commissioner, with the approval of the Secretary, may, by regulation, prescribe.

(b) TIME FOR FILING.—The returns required under this section shall be made at such times as the Commissioner, with the approval of the Secretary, may, by regulation, prescribe.

(c) PLACE FOR FILING.—The returns provided for in this section shall be filed with the collector of the district in which the principal office or place of business is located.

SEC. 1717. ADDITION TO TAX IN CASE OF NONPAYMENT.

If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 6 per centum per annum from the time when the tax became due until paid.

SEC. 1718. PENALTIES.

(a) Any person required under this chapter to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this chapter, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(b) Any person required under this chapter to collect, account for and pay over any tax imposed by this chapter who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this chapter or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(c) Any person who willfully fails to pay, collect, or truthfully account for and pay over, any tax imposed by this chapter, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty of the amount of the tax evaded, or not paid, collected, or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected. No penalty shall be assessed under this subsection for any offense for which a penalty may be assessed under authority of section 3612.

(d) The term "person" as used in this section includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

SEC. 1719. DISCRETIONARY METHOD ALLOWED COMMISSIONER FOR COLLECTING TAX.

Whether or not the method of collecting any tax imposed by this chapter is specifically provided herein, any such tax may, under regulations prescribed by the Commissioner, with the approval of the Secretary, be collected by stamp, coupon, serial-numbered ticket, or such other reasonable device or method as may be necessary or helpful in securing a complete and prompt collection of the tax. All administrative and penalty provisions of subchapters A, B, and C of chapter 11, in so far as applicable, shall apply to the collection of any tax which the Commissioner determines or prescribes shall be collected in such manner.

SEC. 1720. RECORDS, STATEMENTS, AND RETURNS.

Every person liable to any tax imposed by this chapter, or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

SEC. 1721. RULES AND REGULATIONS.

For authority of the Commissioner, with the approval of the Secretary, to prescribe and publish all needful rules and regulations for the enforcement of this chapter, see section 3791.

SEC. 1722. OTHER LAWS APPLICABLE.

All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, shall be extended to and made a part of this chapter.

SEC. 1723. EFFECTIVE DATE OF CHAPTER.

This chapter shall take effect on the first day of that calendar month occurring next after the enactment of this title.

SEC. 1724. CROSS REFERENCES.

For general provisions relating to stamps, information and returns, assessment, collection, and refund, see sections 3310 to 3313, and chapters 34 to 37, inclusive.

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CHAPTER 11—DOCUMENTS, OTHER INSTRUMENTS, AND PLAYING CARDS

SUBCHAPTER A—RATE AND PAYMENT OF TAX

SEC. 1800. IMPOSITION OF TAX.

There shall be levied, collected, and paid, for and in respect of the several bonds, debentures, or certificates of stock and of indebtedness, and other documents, instruments, matters, and things mentioned and described in sections 1801 to 1807, inclusive, or for or in respect of the vellum, parchment, or paper upon which such instruments, matters, or things, or any of them, are written or printed, the several taxes specified in such sections.

SEC. 1801. CORPORATE SECURITIES.

On all bonds, debentures, or certificates of indebtedness issued by any corporation, and all instruments, however termed, issued by any corporation with interest coupons or in registered form, known generally as corporate securities, on each $100 of face value or fraction thereof, 10 cents until July 1, 1939, and 5 cents thereafter: *Provided*,

That every renewal of the foregoing shall be taxed as a new issue: *Provided further*, That when a bond conditioned for the repayment or payment of money is given in a penal sum greater than the debt secured, the tax shall be based upon the amount secured. The tax under this section shall not apply to any instrument under the terms of which the obligee is required to make payment therefor in installments and is not permitted to make in any year a payment of more than 20 per centum of the cash amount to which entitled upon maturity of the instrument.

SEC. 1802. CAPITAL STOCK (AND SIMILAR INTERESTS).

(a) ORIGINAL ISSUE.—On each original issue, whether on organization or reorganization, of shares or certificates of stock, or of profits, or of interest in property or accumulations, by any corporation, or by any investment trust or similar organization (or by any person on behalf of such investment trust or similar organization) holding or dealing in any of the instruments mentioned or described in this subsection or section 1801 (whether or not such investment trust or similar organization constitutes a corporation within the meaning of this title), on each $100 of par or face value or fraction thereof of the certificates issued by such corporation or by such investment trust or similar organization (or of the shares where no certificates were issued), 10 cents until July 1, 1939, and 5 cents thereafter: *Provided*, That where such shares or certificates are issued without par or face value, the tax shall be 10 cents until July 1, 1939, and 5 cents thereafter, per share (corporate share, or investment trust or other organization share, as the case may be), unless the actual value is in excess of $100 per share; in which case the tax shall be 10 cents until July 1, 1939, and 5 cents thereafter, on each $100 of actual value or fraction thereof of such certificates (or of the shares where no certificates were issued), or unless the actual value is less than $100 per share, in which case the tax shall be 2 cents until July 1, 1939, and 1 cent thereafter, on each $20 of actual value, or fraction thereof, of such certificates (or of the shares where no certificates were issued). The stamps representing the tax imposed by this subsection shall be attached to the stock books or corresponding records of the organization and not to the certificates issued.

(b) SALES AND TRANSFERS.—On all sales, or agreements to sell, or memoranda of sales or deliveries of, or transfers of legal title to any of the shares or certificates mentioned or described in subsection (a), or to rights to subscribe for or to receive such shares or certificates, whether made upon or shown by the books of the corporation or other organization, or by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale (whether entitling the holder in any manner to the benefit of such share, certificate, interest, or rights, or not), on each $100 of par or face value or fraction thereof of the certificates of such corporation or other organization (or of the shares where no certificates were issued) 4 cents until July 1, 1939, and 2 cents thereafter, and where such shares or certificates are without par or face value, the tax shall be 4 cents until July 1, 1939, and 2 cents thereafter, on the transfer or sale or agreement to sell on each share (corporate share, or investment trust or other organization share as the case may be): *Provided*, That in case the selling price, if any, is $20 or more per share the above rate shall be 5 cents instead of 4 cents until July 1, 1939: *Provided further*, That it is not intended by this chapter to impose a tax upon an agreement evidencing a deposit of certificates as collateral security for money loaned thereon, which certificates are not actually sold, nor upon the delivery or transfer for such purpose of certificates so deposited nor upon the return of stock loaned: *Provided further*, That the tax shall not be imposed upon deliveries or transfers to a broker or his registered nominee for sale, nor upon de-

liveries or transfers by a broker or his registered nominee to a customer for whom and upon whose order the broker has purchased same, nor upon deliveries or transfers by a purchasing broker to his registered nominee if the shares or certificates so delivered or transferred are to be held by such nominee for the same purpose as if held by the broker, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided further*, That the tax shall not be imposed upon deliveries or transfers from a fiduciary to a nominee of such fiduciary, or from one nominee of such fiduciary to another, if such shares or certificates continue to be held by such nominee for the same purpose for which they would be held if retained by such fiduciary, or from the nominee to such fiduciary, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided further*, That in case of sale where the evidence of transfer is shown only by the books of the corporation or other organization the stamp shall be placed upon such books; and where the change of ownership is by transfer of the certificate the stamp shall be placed upon the certificate; and in cases of an agreement to sell or where the transfer is by delivery of the certificate assigned in blank there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale or agreement to sell before mentioned shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers: *Provided further*, That as used in this section the term "registered nominee" shall mean any person registered with the collector in accordance with such rules and regulations as the Commissioner with the approval of the Secretary shall prescribe. The tax shall not be imposed upon deliveries or transfers of shares or certificates—

(1) From the owner to a custodian if under a written agreement between the parties the shares or certificates are to be held or disposed of by such custodian for, and subject at all times to the instructions of, the owner; or from such custodian to such owner;

(2) From such custodian to a registered nominee of such custodian, or from one such nominee to another such nominee, if in either case the shares or certificates continue to be held by such nominee for the same purpose for which they would be held if retained by such custodian; or from such nominee to such custodian.

No exemption shall be granted under this paragraph unless the deliveries or transfers are accompanied by a certificate setting forth such facts as the Commissioner, with the approval of the Secretary, may by regulation prescribe as necessary for the evidencing of the right to such exemption. No delivery or transfer to a nominee shall be exempt under this paragraph unless such nominee, in accordance with regulations prescribed by the Commissioner, with the approval of the Secretary, is registered with the Commissioner.

SEC. 1804. INSURANCE POLICIES.

On each policy of insurance, or certificate, binder, covering note, memorandum, cablegram, letter, or other instrument by whatever name called whereby insurance is made or renewed upon property within the United States (including rents and profits) against peril by sea or on inland waters or in transit on land (including transshipments and storage at termini or way points) or by fire, lightning, tornado, windstorm, bombardment, invasion, insurrection or riot, issued to or for or in the name of a domestic corporation or partnership or an individual resident of the United States by any foreign corporation or partnership or any individual not a resident of the United States, when such policy or other instrument is not signed or countersigned by an officer or agent of the insurer in a State, Territory, or District of the United States within which such insurer is authorized to do business, a tax of 3 cents on each dollar,

or fractional part thereof of the premium charged: *Provided*, That policies of reinsurance shall be exempt from the tax imposed by this section.

SEC. 1805. SILVER BULLION.

On all transfers of any interest in silver bullion, if the price for which such interest is or is to be transferred exceeds the total of the cost thereof and allowed expenses, 50 per centum of the amount of such excess. On every such transfer there shall be made and delivered by the transferor to the transferee a memorandum to which there shall be affixed lawful stamps in value equal to the tax thereon. Every such memorandum shall show the date thereof, the names and addresses of the transferor and transferee, the interest in silver bullion to which it refers, the price for which such interest is or is to be transferred and the cost thereof and the allowed expenses. Stamps affixed under this section shall be canceled (in lieu of the manner provided in section 1816) by such officers and in such manner as regulations under this section shall prescribe. Such officers shall cancel such stamps only if it appears that the proper tax is being paid, and when stamps with respect to any transfer are so canceled, the transferor and not the transferee shall be liable for any additional tax found due or penalty with respect to such transfer. The Commissioner shall abate or refund, in accordance with regulations issued hereunder, such portion of any tax hereunder as he finds to be attributable to profits (1) realized in the course of the transferor's regular business of furnishing silver bullion for industrial, professional, or artistic use and (a) not resulting from a change in the market price of silver bullion, or (b) offset by contemporaneous losses incurred in transactions in interests in silver bullion determined, in accordance with such regulations, to have been specifically related hedging transactions; or (2) offset by contemporaneous losses attributable to changes in the market price of silver bullion and incurred in transactions in silver foreign exchange determined, in accordance with such regulations, to have been hedged specifically by the interest in silver bullion transferred. The provisions of this section shall extend to all transfers in the United States of any interest in silver bullion, and to all such transfers outside the United States if either party thereto is a resident of the United States or is a citizen of the United States who has been a resident thereof within three months before the date of the transfer or if such silver bullion or interest therein is situated in the United States; and shall extend to transfers to the United States Government (the tax in such cases to be payable by the transferor), but shall not extend to transfers of silver bullion by deposit or delivery at a United States mint under proclamation by the President or in compliance with any Executive order issued pursuant to section 7 of the Silver Purchase Act of 1934, 48 Stat. 1179 (U. S. C., Title 31, § 316 (a)).

As used in this section—

The term "cost" means the cost of the interest in silver bullion to the transferor, except that (a) in case of silver bullion produced from materials containing silver which has not previously entered into industrial, commercial, or monetary use, the cost to a transferor who is the producer shall be deemed to be the market price at the time of production determined in accordance with regulations issued hereunder; (b) in the case of an interest in silver bullion acquired by the transferor otherwise than for valuable consideration, the cost shall be deemed to be the cost thereof to the last previous transferor by whom it was acquired for a valuable consideration; and (c) in the case of any interest in silver bullion acquired by the transferor in a wash sale, the cost shall be deemed to be the cost to him of the interest transferred by him in such wash sale, but with proper adjustment, in accordance with regulations under this section,

when such interests are in silver bullion for delivery at different times.

The term "transfer" means a sale, agreement of sale, agreement to sell, memorandum of sale or delivery of, or transfer, whether made by assignment in blank or by any delivery, or by any paper or agreement or memorandum or any other evidence of transfer or sale; or means to make a transfer as so defined.

The term "interest in silver bullion" means any title or claim to, or interest in, any silver bullion or contract therefor.

The term "allowed expenses" means usual and necessary expenses actually incurred in holding, processing, or transporting the interest in silver bullion as to which an interest is transferred (including storage, insurance, and transportation charges but not including interest, taxes, or charges in the nature of overhead), determined in accordance with regulations issued hereunder.

The term "memorandum" means a bill, memorandum, agreement, or other evidence of a transfer.

The term "wash sale" means a transaction involving the transfer of an interest in silver bullion and, within thirty days before or after such transfer, the acquisition by the same person of an interest in silver bullion. Only so much of the interest so acquired as does not exceed the interest so transferred, and only so much of the interest so transferred as does not exceed the interest so acquired, shall be deemed to be included in the wash sale.

The term "silver bullion" means silver which has been melted, smelted, or refined and is in such state or condition that its value depends primarily upon the silver content and not upon its form.

The Secretary is authorized to issue, with the approval of the President, such rules and regulations as the Secretary may deem necessary or proper to carry out the purposes of this section, or of any order issued hereunder.

As used in this section—

The term "person" means an individual, partnership, association, or corporation;

The term "the continental United States" means the States of the United States, the District of Columbia, and the Territory of Alaska.

SEC. 1806. PASSAGE TICKETS.

Passage ticket, one way or round trip, for each passenger, sold or issued in the United States for passage by any vessel to a port or place not in the United States, Canada, Mexico, Cuba, or Puerto Rico, if costing not exceeding $30, $1; costing more than $30 and not exceeding $60, $3; costing more than $60, $5. This section shall not apply to passage tickets costing $10 or less.

SEC. 1807. PLAYING CARDS.

Upon every pack of playing cards containing not more than fifty-four cards, manufactured or imported, and sold, or removed for consumption or sale, a tax of 10 cents per pack. This tax shall be in addition to any import duties imposed on such articles of foreign manufacture.

SEC. 1808. EXEMPTIONS.

There shall not be taxed under this chapter—

(a) GOVERNMENT AND STATE OBLIGATIONS.—Any bond, note, or other instrument, issued by the United States, or by any foreign Government, or by any State, Territory, or the District of Columbia, or local subdivision thereof, or municipal or other corporation exercising the taxing power; or

(b) BONDS OF INDEMNITY.—Any bond of indemnity required to be filed by any person to secure payment of any pension, allowance, allotment, relief, or insurance by the United States, or to secure a

duplicate for, or the payment of, any bond, note, certificate of indebtedness, war-savings certificate, warrant or check, issued by the United States; or

(c) STOCKS AND BONDS OF DOMESTIC BUILDING AND LOAN ASSOCIATIONS AND MUTUAL DITCH OR IRRIGATION COMPANIES.—Stocks and bonds issued by domestic building and loan associations substantially all the business of which is confined to making loans to members, or by mutual ditch or irrigation companies; or

(d) STOCKS AND BONDS OF FARMERS', FRUIT GROWERS', OR COOPERATIVE ASSOCIATIONS.—Stocks and bonds and other certificates of indebtedness issued by any farmers' or fruit growers' or like associations organized and operated on a cooperative basis for the purposes, and subject to the conditions, prescribed in paragraph (12) of section 101.

(e) REORGANIZATION OF RAILROADS ENGAGED IN INTERSTATE COMMERCE.—The provisions of sections 1801, 1802, and 1821 (b) of this chapter and sections 3481 and 3482 of chapter 31 shall not apply to the issuance, transfers, or exchanges of securities or filing of conveyances to make effective any plan of reorganization confirmed under the provisions of section 77 of the National Bankruptcy Act, as amended by section 1 of the Act of March 3, 1933, c. 204, 47 Stat. 1474 (U. S. C., Title 11 § 205).

(f) CORPORATE REORGANIZATIONS.—The provisions of sections 1801, 1802, and 1821 (b) of this chapter and the provisions of sections 3481 and 3482 of chapter 31 shall not apply to the issuance, transfers, or exchange of securities or making or delivery of conveyances to make effective any plan of reorganization confirmed under section 77B of the National Bankruptcy Act, as amended by the Act of June 7, 1934, c. 424, 48 Stat. 919 (U. S. C., Title 11, § 207).

(g) CROSS REFERENCE.—

For exemption in case of playing cards exported to a foreign country, see section 1830.

SEC. 1809. PAYMENT OF TAX.

(a) BY WHOM PAID.—The tax imposed by this chapter shall be paid by any person who makes, signs, issues, sells, removes, consigns, or ships any of the documents, instruments, matters, and things mentioned and described in sections 1801 to 1807, inclusive, or for whose use or benefit the same are made, signed, issued, sold, removed, consigned, or shipped.

(b) METHOD OF PAYMENT.—

(1) STAMPS.—The Commissioner shall cause to be prepared and distributed for the payment of the taxes prescribed in this chapter suitable stamps denoting the tax on the documents, articles, or things to which the same may be affixed.

(2) ASSESSMENT.—All internal revenue laws relating to the assessment and collection of taxes shall be extended to and made a part of this chapter, so far as applicable, for the purpose of collecting stamp taxes omitted through mistake or fraud from any instrument, document, paper, writing, parcel, package, or article named herein.

(3) CROSS REFERENCE.—

For general provisions relating to assessment and collection, see part II of subchapter A of chapter 28, and chapters 34, 35, and 36.

SUBCHAPTER B—STAMPS

SEC. 1815. AFFIXING.

The Commissioner shall prescribe such method for the affixing of the stamps prescribed in section 1809 (b) (1) in substitution for, or in addition to the method provided in this chapter, as he may deem expedient.

SEC. 1816. CANCELLATION.

(a) GENERAL RULE.—Whenever an adhesive stamp is used for denoting any tax imposed by this chapter, except as hereinafter provided, the person using or affixing the same shall write or stamp or cause to be written or stamped thereupon the initials of his or its name and the date upon which the same is attached or used, so that the same may not again be used: *Provided*, That the Commissioner may prescribe such other method for the cancellation of such stamps as he may deem expedient.

(b) CROSS REFERENCE.—

For method of canceling stamps in the case of silver sales and transfers, see section 1805.

SEC. 1817. SUPPLY.

(a) POST OFFICE.—The Commissioner shall furnish to the Postmaster General without prepayment a suitable quantity of adhesive stamps to be distributed to and kept on sale by the various postmasters in the United States in all postoffices of the first and second classes and such post offices of the third and fourth classes as are located in county seats. The Postmaster General may require each such postmaster to give additional or increased bond as postmaster for the value of the stamps so furnished, and each such postmaster shall deposit the receipts from the sale of such stamps to the credit of and render accounts to the Postmaster General at such times and in such form as he may by regulations prescribe. The Postmaster General shall at least once monthly transfer all collections from this source to the Treasury as internal-revenue collections.

(b) DESIGNATED DEPOSITARY OF THE UNITED STATES.—Each collector shall furnish, without prepayment, to any designated depositary of the United States, located in the district of such collector, a suitable quantity of adhesive stamps to be kept on sale by such designated depositary.

(c) STATE AGENTS.—Each collector shall furnish, without prepayment, to any person who is (1) located in the district of such collector, (2) duly appointed and acting as agent of any State for the sale of stock transfer stamps of such State, and (3) designated by the Commissioner for the purpose, a suitable quantity of such adhesive stamps as are required by section 1802, to be kept on sale by such person.

SEC. 1818. METHODS OF SAFEGUARDING.

(a) BOND.—In cases coming within the provisions of subsections (b) and (c) of section 1817 the collector may require a bond, with sufficient sureties, in a sum to be fixed by the Commissioner, conditioned for the faithful return, whenever so required, of all quantities or amounts undisposed of, and for the payment monthly of all quantities or amounts sold or not remaining on hand.

(b) REGULATIONS.—The Secretary may from time to time make such regulations as he may find necessary to insure the safe-keeping or prevent the illegal use of all the adhesive stamps referred to in section 1817 (b) and (c).

SEC. 1819. CROSS REFERENCE.

For general provisions relating to stamps, see part I of subchapter A of chapter 28.

SUBCHAPTER C—PENALTIES AND FORFEITURES

SEC. 1820. UNDERPAYMENT OF TAX.

Whoever—

(a) INSTRUMENTS.—Makes, signs, issues, or accepts, or causes to be made, signed, issued, or accepted, any instrument, document, or paper of any kind or description whatsoever without the full amount of tax thereon being duly paid; or

(b) MERCHANDISE.—Manufactures or imports and sells, or offers for sale, or causes to be manufactured or imported and sold, or offered for sale, any playing cards, package, or other article without the full amount of tax being duly paid;
is guilty of a misdemeanor and upon conviction thereof shall pay a fine of not more than $100 for each offense.

SEC. 1821. NONPAYMENT OR EVASION OF TAX.

(a) IN GENERAL.—

(1) Any person required under this chapter to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this chapter, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(2) Any person required under this chapter to collect, account for and pay over any tax imposed by this chapter, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this chapter or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(3) Any person who willfully fails to pay, collect, or truthfully account for and pay over, any tax imposed by this chapter, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty of the amount of the tax evaded, or not paid, collected or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected. No penalty shall be assessed under this paragraph for any offense for which a penalty may be assessed under authority of section 3612.

(4) The term "person" as used in this subsection includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(b) IN PARTICULAR.—

(1) CAPITAL STOCK SALES OR TRANSFERS.—Any person liable to pay the tax as provided in subsection (b) of section 1802, or anyone who acts in the matter as agent or broker for such person, who makes any such sale, or who in pursuance of any such sale delivers any certificate or evidence of the sale of any stock, share, interest or right, or bill or memorandum thereof, as required in that subsection, without having the proper stamps affixed thereto, with intent to evade the provisions of such subsection, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding $1,000, or be imprisoned not more than six months, or both.

(2) Any person who, with intent to evade the tax provided in subsection (b) of section 1802, falsely makes a certificate accompanying any delivery or transfer shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than $1,000, or imprisoned not more than six months, or both.

(3) INSURANCE POLICIES.—Any person to or for whom or in whose name any insurance policy or other instrument referred to in section 1804 is issued, or any solicitor or broker acting for or on

behalf of such person in the procurement of any such policy or other instrument, shall affix the proper stamps to such policy or other instrument, and for failure to affix such stamps with intent to evade the tax shall, in addition to other penalties provided therefor, pay a fine of double the amount of the tax.

(4) SILVER BULLION SALES OR TRANSFERS.—Any person liable for payment of tax under section 1805 (or anyone who acts in the matter as agent or broker for any such person) who is a party to any such transfer, or who in pursuance of any such transfer delivers any silver bullion or interest therein, without a memorandum stating truly and completely the information herein required, or who delivers any such memorandum without having the proper stamps affixed thereto, with intent to evade the provisions of section 1805, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding $1,000 or be imprisoned not more than six months, or both.

(5) PLAYING CARDS.—

For penalty imposed for failure of manufacturers of playing cards to register, see subsection (c) of section 1831.

SEC. 1822. USE OF UNCANCELED STAMPS.

Whoever makes use of any adhesive stamp to denote any tax imposed by this chapter without cancelling or obliterating such stamp as prescribed in section 1816, is guilty of a misdemeanor and upon conviction thereof shall pay a fine of not more than $100 for each offense.

SEC. 1823. FRAUDS RELATING TO STAMPS.

Whoever—

(a) MUTILATION OR REMOVAL.—Fraudulently cuts, tears, or removes from any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this chapter, any adhesive stamp or the impression of any stamp, die, plate, or other article provided, made, or used in pursuance of this chapter;

(b) USE OF MUTILATED, INSUFFICIENT, AND COUNTERFEIT STAMPS.—Fraudulently uses, joins, fixes, or places to, with, or upon any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this chapter, (1) any adhesive stamp, or the impression of any stamp, die, plate, or other article, which has been cut, torn, or removed from any other vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this chapter; or (2) any adhesive stamp or the impression of any stamp, die, plate, or other article of insufficient value; or (3) any forged or counterfeited stamp, or the impression of any forged or counterfeited stamp, die, plate, or other article;

(c) REUSE OF STAMPS.—

(1) PREPARATION FOR REUSE.—Willfully removes, or alters the cancellation or defacing marks of, or otherwise prepares, any adhesive stamp, with intent to use, or cause the same to be used, after it has already been used;

(2) TRAFFICKING.—Knowingly or willfully buys, sells, offers for sale, or gives away, any such washed or restored stamp to any person for use, or knowingly uses the same; or

(3) POSSESSION.—Knowingly and without lawful excuse (the burden of proof of such excuse being on the accused) has in possession any washed, restored, or altered stamp, which has been removed from any vellum, parchment, paper, instrument, writing, package, or article;

shall, upon conviction, be punished by a fine of not more than $1,000, or by imprisonment for not more than five years, or both, and any such reused, canceled, or counterfeit stamp and the vellum, parchment, document, paper, package, or article upon which it is placed or impressed shall be forfeited to the United States.

SUBCHAPTER D—SPECIAL PROVISIONS APPLICABLE TO PLAYING CARDS

SEC. 1830. EXEMPTION IN CASE OF EXPORTATION.

Playing cards may be removed from the place of manufacture for export to a foreign country, without payment of tax, or affixing stamps thereto, under such regulations and the filing of such bonds as the Commissioner, with the approval of the Secretary, may prescribe.

SEC. 1831. MANUFACTURERS.

(a) DEFINITION.—Every person who offers or exposes for sale playing cards, whether the articles so offered or exposed are of foreign manufacture and imported or are of domestic manufacture, shall be deemed the manufacturer thereof, and subject to all the duties, liabilities, and penalties imposed by law in regard to the sale of domestic articles without the use of the proper stamps denoting the tax paid thereon.

(b) REGISTRATION.—Every manufacturer of playing cards shall register with the collector of the district his name or style, place of residence, trade, or business, and the place where such business is to be carried on.

(c) PENALTY FOR FAILURE TO REGISTER.—Every manufacturer of playing cards who fails to register as provided and required in subsection (b) shall be subject to a penalty of $50.

SEC. 1832. STAMPS.

(a) SUPPLY.—The stamps on playing cards shall be furnished to the collectors requiring them, and collectors shall, if there be any manufacturers of playing cards within their respective districts, keep on hand at all times a supply equal in amount to two months' sales thereof, and shall sell the same only to such manufacturers as have registered as required by law and to importers of playing cards, who are required to affix the same to imported playing cards.

(b) COLLECTOR'S ACCOUNT.—Every collector shall keep an account of the number and denominate values of the stamps sold by him to each manufacturer and importer.

SUBCHAPTER E—MISCELLANEOUS PROVISIONS

SEC. 1835. RECORDS, STATEMENTS, AND RETURNS.

Every person liable to any tax imposed by this chapter or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

SEC. 1836. RULES AND REGULATIONS.

For authority of the Commissioner, with the approval of the Secretary, to prescribe and publish all needful rules and regulations for the enforcement of this chapter see section 3791.

SEC. 1837. OTHER LAWS APPLICABLE.

All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, shall be extended to and made a part of this chapter.

SEC. 1838. CROSS REFERENCES.

For general provisions relating to stamps, information and returns, assessment, collection, and refund, see chapters 28 and 34 to 37, inclusive.

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CHAPTER 12—SAFE DEPOSIT BOXES

SEC. 1850. TAX.

(a) RATE.—There shall be imposed a tax equivalent to 10 per centum of the amount collected for the use of any safe deposit box.

(b) BY WHOM PAID.—The tax imposed by subsection (a) shall be paid by the person paying for the use of the safe deposit box.

SEC. 1851. COLLECTION OF TAX BY LESSOR.

(a) REQUIREMENT.—Every person making any collections specified in subsection (a) of section 1850 shall collect the amount of tax imposed by such subsection from the person paying for the use of the safe deposit box.

(b) CROSS REFERENCE.—

For provision requiring the amount of tax so collected to be held in a special fund in trust for the United States, see section 3762.

SEC. 1852. RETURNS.

(a) REQUIREMENT.—Every person making any collections specified in subsection (a) of section 1850 shall on or before the last day of each month make a return, under oath, for the preceding month. Such returns shall contain such information and be made in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

(b) PLACE FOR FILING.—The return shall be made to the collector for the district in which is located the principal place of business of the person making any collections specified in subsection (a) of section 1850, or, if he has no principal place of business in the United States, then to the collector at Baltimore, Maryland.

SEC. 1853. PAYMENT OF TAX.

(a) TIME FOR PAYMENT.—The tax imposed by section 1850 shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time fixed for filing the return.

(b) PLACE FOR PAYMENT.—The tax shall be paid to the collector for the district in which is located the principal place of business of the person making any collections specified in subsection (a) of section 1850, or, if he has no principal place of business in the United States, then to the collector at Baltimore, Maryland.

(c) ADDITION TO THE TAX IN CASE OF DELINQUENCY.—If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 6 per centum per annum from the time the tax became due until paid.

SEC. 1854. REFUNDS AND CREDITS.

(a) ALLOWANCE.—Credit or refund of any overpayment of tax imposed by section 1850 may be allowed to the person who collected the tax and paid it to the United States if such person establishes, to the satisfaction of the Commissioner, under such regulations as the Commissioner with the approval of the Secretary may prescribe, that he has repaid the amount of such tax to the person from whom he collected it, or obtained the consent of such person to the allowance of such credit or refund.

(b) CREDIT ON MONTHLY RETURNS.—Any person entitled to refund of tax under section 1850 paid, or collected and paid, to the United States by him may take credit therefor against taxes due upon any monthly return.

(c) ADJUSTMENTS FOR REFUNDED PAYMENTS.—Any person making a refund of any payment on which tax under section 1850 has been collected, may repay therewith the amount of tax collected on such payment, and the amount of tax so repaid may be credited against the tax under any subsequent return.

SEC. 1855. REGULATIONS.

The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this chapter.

SEC. 1856. APPLICABILITY OF ADMINISTRATIVE PROVISIONS.

All provisions of law (including penalties) applicable in respect of the taxes imposed by section 1700 shall, in so far as applicable and not inconsistent with this chapter, be applicable in respect of the tax imposed by section 1850.

SEC. 1857. DEFINITION OF SAFE DEPOSIT BOX.

For the purposes of this chapter any vault, safe, box, or other receptacle, of not more than 40 cubic feet capacity, used for the safekeeping or storage of jewelry, plate, money, specie, bullion, stocks, bonds, securities, valuable papers of any kind, or other valuable personal property, shall be regarded as a safe deposit box.

SEC. 1858. PUBLICITY OF RETURNS.

For provisions with respect to publicity of returns under this chapter, see subsection (a) (2) of section 55.

SEC. 1859. EFFECTIVE DATE OF CHAPTER.

This chapter shall take effect on the first day of that calendar month occurring next after the enactment of this title.

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CHAPTER 13—CIRCULATION OTHER THAN OF NATIONAL BANKS

SEC. 1900. RATE OF TAX.

(a) AVERAGE CIRCULATION OUTSTANDING.—There shall be levied, collected, and paid—

(1) ENTIRE CIRCULATION.—A tax of one-twelfth of 1 per centum each month upon the average amount of circulation issued by any bank, association, corporation, company, or person, including as circulation all certified checks and all notes and other obligations calculated or intended to circulate or to be used as money, but not including that in the vault of the bank, or redeemed and on deposit for said bank; and

(2) CIRCULATION EXCEEDING NINETY PER CENTUM OF CAPITAL.—An additional tax of one-sixth of 1 per centum each month upon the average amount of such circulation, issued as aforesaid, beyond the amount of 90 per centum of the capital of any such bank, association, corporation, company, or person.

In the case of banks with branches, the tax herein provided shall be assessed upon the circulation of each branch severally, and the amount of capital of each branch shall be considered to be the amount allotted to it.

(b) CIRCULATION PAID OUT.—

(1) OWN CIRCULATION.—Every person, firm, association other than national bank associations, and every corporation, State bank, or State banking association, shall pay a tax of 10 per centum on the amount of their own notes used for circulation and paid out by them.

(2) OTHER CIRCULATION.—Every such person, firm, association, corporation, State bank, or State banking association, and also every national banking association, shall pay a like tax of 10 per centum on the amount of notes of any person, firm, association other than a national banking association, or of any corporation, State bank, or State banking association, or of any town, city, or municipal corporation, used for circulation and paid out by them.

SEC. 1901. EXEMPTION FROM TAX.

(a) CIRCULATION REDUCED TO NOT OVER FIVE PER CENTUM OF CAPITAL.—Whenever the outstanding circulation of any bank, association, corporation, company, or person is reduced to an amount not exceeding 5 per centum of the chartered or declared capital existing at the time the same was issued, said circulation shall be free from taxation; and

(b) CIRCULATION UNDER REDEMPTION IN WHOLE.—Whenever any bank which has ceased to issue notes for circulation deposits in the Treasury of the United States, in lawful money, the amount of its outstanding circulation, to be redeemed at par, under such regulations as the Secretary shall prescribe, it shall be exempt from any tax upon such circulation.

(c) CIRCULATION OF INSOLVENT BANKS.—

For exemption in case of insolvent banks, see section 3798.

SEC. 1902. RETURNS AND PAYMENT OF TAX.

(a) CIRCULATION OUTSTANDING.—

(1) TIME FOR MAKING RETURN.—A true and complete return of the monthly amount of circulation as aforesaid for the previous six months shall be made and rendered in duplicate on the 1st day of December, and the 1st day of June, by each of such banks, associations, corporations, companies, or persons, with a declaration annexed thereto, under the oath of such person, or of the president or cashier of such bank, association, corporation, or company, in such form and manner as may be prescribed by the Commissioner, that the same contains a true and faithful statement of the amounts subject to tax, as aforesaid; and

(2) TO WHOM RETURN MADE.—One copy shall be transmitted to the collector of the district in which any such bank, association, corporation, or company is situated, or in which such person has his place of business, and one copy to the Commissioner.

(3) CALCULATION AND TIME FOR PAYMENT OF TAX.—The taxes provided in section 1900 (a) shall be paid semi-annually, on the 1st day of January and the 1st day of July; but the same shall be calculated at the rate per month as prescribed by said section, so that the tax for six months shall not be less than the aggregate would be if such taxes were collected monthly.

(4) RETURN AND PAYMENT WHEN STATE BANK CONVERTED INTO NATIONAL BANK.—Whenever any State bank or banking association has been converted into a national banking association, and such national banking association has assumed the liabilities of such State bank or banking association, including the redemption of its bills, by any agreement or understanding whatever with the representatives of such State bank or banking association, such national banking association shall be held to make the required return and payment on the circulation outstanding, so long as such circulation shall exceed 5 per centum of the capital before such conversion of such State bank or banking association.

(b) CIRCULATION PAID OUT.—The amount of circulating notes referred to in section 1900 (b), and of the tax due thereon, shall be returned, and the tax paid at the same time, and in the same manner, and with like penalties for failure to return and pay the same, as provided by law for the return and payment of taxes on circulation imposed by subsection (a) of that section.

SEC. 1903. ESTIMATION OF OUTSTANDING CIRCULATION IN DEFAULT OF RETURN.

In default of the returns provided in section 1902, the amount of circulation and notes of persons, town, city, and municipal corporations, State banks, and State banking associations paid out, as aforesaid, shall be estimated by the Commissioner, upon the best information he can obtain.

SEC. 1904. PENALTY FOR REFUSAL OR NEGLECT TO MAKE RETURN OR PAYMENT.

For any refusal or neglect to make return and payment, any bank, association, corporation, company, or person in default as described in the preceding section, shall pay a penalty of $200, besides the additional penalty and forfeitures provided in other cases.

SEC. 1905. DEFINITION OF BANK OR BANKER.

Every incorporated or other bank, and every person, firm, or company having a place of business where credits are opened by the deposit or collection of money or currency, subject to be paid or remitted upon draft, check, or order, or where money is advanced or loaned on stocks, bonds, bullion, bills of exchange, or promissory notes, or where stocks, bonds, bullion, bills of exchange, or promissory notes are received for discount or for sale, shall be regarded as a bank or as a banker.

SEC. 1906. APPLICATION OF CHAPTER TO NATIONAL BANKS.

The provisions of this chapter, relating to the tax on the circulation of banks, and to their returns, except as contained in sections 1900 (b) (2), 1901 (a) and (b), 1902 (a) (4), and such parts of sections 1902 (a) (1) and (2) and (b), 1903, and 1904 as relate to the tax of 10 per centum on certain notes, shall not apply to associations which are taxed as national banks.

SEC. 1907. EFFECTIVE DATE OF CHAPTER.

This chapter shall take effect on the first day of June or the first day of December, whichever occurs first, next after the enactment of this title.

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CHAPTER 14—COTTON FUTURES

SEC. 1920. TAX.

(a) RATE.—Upon each contract of sale of any cotton for future delivery made at, on, or in any exchange, board of trade, or similar institution or place of business, there shall be levied a tax in the nature of an excise of 2 cents for each pound of the cotton involved in any such contract.

(b) BY WHOM PAID.—The tax imposed by subsection (a) shall be paid by the seller of the cotton involved in the contract of sale.

(c) HOW PAID.—The tax imposed by subsection (a) shall be paid by means of stamps which shall be affixed to such contracts, or to the memoranda evidencing the same, and canceled in compliance with rules and regulations which shall be prescribed by the Secretary of the Treasury.

(d) CROSS REFERENCE.—

For authority of the Secretary of the Treasury to promulgate rules and regulations for the collection of the tax, see section 1928 (a).

SEC. 1921. EXEMPTION OF SPOT COTTON.

This chapter shall not be construed to impose a tax on any sale of spot cotton.

SEC. 1922. EXEMPTION OF BASIS GRADE CONTRACTS.

(a) CONDITIONS.—No tax shall be levied under this chapter on any contract of sale mentioned in section 1920 (a) if the contract comply with each of the following conditions:

(1) CONFORMITY WITH SECTION 1925 (A) AND REGULATIONS.—Conform to the requirements in section 1925 (a) of, and the rules and regulations made pursuant to, this chapter.

(2) SPECIFICATION OF GRADE, PRICE, DATES OF SALE AND SETTLEMENT.—Specify the basis grade for the cotton involved in the contract, which shall be one of the grades for which standards are established by the Secretary of Agriculture, except grades prohibited from being delivered on a contract made under this section by the fifth paragraph of this subsection, the price per pound at which the cotton of such basis grade is contracted to be bought or sold, the date when the purchase or sale was made, and the month or months in which the contract is to be fulfilled or settled: *Provided*,

That middling shall be deemed the basis grade incorporated into the contract if no other basis grade be specified either in the contract or in the memorandum evidencing the same.

(3) PROVISION FOR DELIVERY OF STANDARD GRADES ONLY.—Provide that the cotton dealt with therein or delivered thereunder shall be of or within the grades for which standards are established by the Secretary of Agriculture except grades prohibited from being delivered on a contract made under this section by the fifth paragraph of this subsection and no other grade or grades.

(4) PROVISION FOR SETTLEMENT ON BASIS OF ACTUAL COMMERCIAL DIFFERENCES.—Provide that in case cotton of grade other than the basis grade be tendered or delivered in settlement of such contract, the differences above or below the contract price which the receiver shall pay for such grades other than the basis grade shall be the actual commercial differences, determined as hereinafter provided.

(5) PROHIBITION OF DELIVERY OF INFERIOR COTTON.—Provide that cotton that, because of the presence of extraneous matter of any character, or irregularities or defects, is reduced in value below that of low middling, or cotton that is below the grade of low middling, or, if tinged, cotton that is below the grade of strict middling, or, if yellow stained, cotton that is below the grade of good middling, the grades mentioned being of the official cotton standards of the United States, or cotton that is less than seven-eighths of an inch in length of staple, or cotton of perished staple, or of immature staple, or cotton that is "gin cut" or reginned, or cotton that is "repacked" or "false packed" or "mixed packed" or "water packed," shall not be delivered on, under, or in settlement of such contract.

(6) PROVISIONS FOR TENDER IN FULL, NOTICE OF DELIVERY DATE, AND CERTIFICATE OF GRADE.—Provide that all tenders of cotton under such contract shall be the full number of bales involved therein, except that such variations of the number of bales may be permitted as is necessary to bring the total weight of the cotton tendered within the provisions of the contract as to weight; that, on the fifth business day prior to delivery, the person making the tender shall give to the person receiving the same written notice of the date of delivery, and that, on or prior to the date so fixed for delivery, and in advance of final settlement of the contract, the person making the tender shall furnish to the person receiving the same a written notice or certificate stating the grade of each individual bale to be delivered and, by means of marks or numbers, identifying each bale with its grade.

(7) PROVISION FOR TENDER AND SETTLEMENT IN ACCORDANCE WITH GOVERNMENT CLASSIFICATION.—Provide that all tenders of cotton and settlements therefor under such contract shall be in accordance with the classification thereof made under the regulations of the Secretary of Agriculture by such officer or officers of the Government as shall be designated for the purpose, and the costs of such classification shall be fixed, assessed, collected, and paid as provided in such regulations. All moneys collected as such costs may be used as a revolving fund for carrying out the purposes of this paragraph. The Secretary of Agriculture is authorized to prescribe regulations for carrying out the purposes of this paragraph, and the certificates of the officers of the Government as to the classification of any cotton for the purposes of this paragraph shall be accepted in the courts of the United States in all suits between the parties to such contract, or their privies, as prima facie evidence of the true classification of the cotton involved.

(b) INCORPORATION OF CONDITIONS IN CONTRACTS.—The provisions of the third, fourth, fifth, sixth, and seventh paragraphs of subsection (a) shall be deemed fully incorporated into any such contract if there

be written or printed thereon, or on the memoranda evidencing the same, at or prior to the time the same is signed, the phrase "subject to Internal Revenue Code, section 1922."

(c) DELIVERY ALLOWANCES.—For the purposes of this section the differences above or below the contract price which the receiver shall pay for cotton of grades above or below the basis grade in the settlement of a contract of sale for the future delivery of cotton shall be determined by the actual commercial differences in value thereof upon the sixth business day prior to the day fixed, in accordance with the sixth paragraph of subsection (a), for the delivery of cotton on the contract, established by the sale of spot cotton in the spot markets of not less than five places designated for the purpose from time to time by the Secretary of Agriculture, as such values were established by the sales of spot cotton, in such designated five or more markets: *Provided*, That for the purpose of this subsection such values in the said spot markets be based upon the standards for grades of cotton established by the Secretary of Agriculture: *And provided further*, That whenever the value of one grade is to be determined from the sale or sales of spot cotton of another grade or grades, such value shall be fixed in accordance with rules and regulations which shall be prescribed for the purpose by the Secretary of Agriculture.

SEC. 1923. EXEMPTION OF TENDERED GRADE CONTRACTS.

(a) CONDITIONS.—No tax shall be levied under this chapter on any contract of sale mentioned in section 1920 (a) if the contract—

(1) COMPLIANCE WITH SECTION 1922.—Comply with all the terms and conditions of section 1922 not inconsistent with this section; and

(2) PROVISION FOR CONTINGENT SPECIFIC PERFORMANCE.—Provide that, in case of cotton of grade or grades other than the basis grade specified in the contract shall be tendered in performance of the contract, the parties to such contract may agree, at the time of the tender, as to the price of the grade or grades so tendered, and that if they shall not then agree as to such price, then, and in that event, the buyer of said contract shall have the right to demand the specific fulfillment of such contract by the actual delivery of cotton of the basis grade named therein and at the price specified for such basis grade in said contract.

(b) INCORPORATION OF CONDITIONS IN CONTRACT.—Contracts made in compliance with this section shall be known as "Section 1923 Contracts." The provisions of this section shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the memorandum evidencing the same, at or prior to the time the same is signed, the phrase "Subject to Internal Revenue Code, section 1923."

(c) APPLICATION OF SECTION.—Nothing in this section shall be so construed as to relieve from the tax levied by section 1920 (a) of this chapter any contract in which, or in the settlement of or in respect to which, any device or arrangement whatever is resorted to, or any agreement is made, for the determination or adjustment of the price of the grade or grades tendered other than the basis grade specified in the contract by any "fixed difference" system, or by arbitration, or by any other method not provided for by this chapter.

SEC. 1924. EXEMPTION OF SPECIFIC GRADE CONTRACTS.

(a) CONDITIONS.—No tax shall be levied under this chapter on any contract of sale mentioned in section 1920 (a) if the contract comply with each of the following conditions:

(1) CONFORMITY WITH RULES AND REGULATIONS.—Conform to the rules and regulations made pursuant to this chapter.

(2) SPECIFICATION OF GRADE, PRICE, DATES OF SALE AND DELIVERY.—Specify the grade, type, sample, or description of the cotton in-

volved in the contract, the price per pound at which such cotton is contracted to be bought or sold, the date of the purchase or sale, and the time when shipment or delivery of such cotton is to be made.

(3) PROHIBITION OF DELIVERY OF OTHER THAN SPECIFIED GRADE.—Provide that cotton of or within the grade or of the type, or according to the sample or description, specified in the contract shall be delivered thereunder, and that no cotton which does not conform to the type, sample, or description, or which is not of or within the grade specified in the contract shall be tendered or delivered thereunder.

(4) PROVISION FOR SPECIFIC PERFORMANCE.—Provide that the delivery of cotton under the contract shall not be effected by means of "set-off" or "ring" settlement, but only by the actual transfer of the specified cotton mentioned in the contract.

(b) INCORPORATION OF CONDITIONS IN CONTRACT.—The provisions of the first, third, and fourth paragraphs of subsection (a) shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the document or memorandum evidencing the same, at or prior to the time the same is entered into, the words "subject to Internal Revenue Code, section 1924."

(c) APPLICATION OF SECTION.—This section shall not be construed to apply to any contract of sale made in compliance with section 1922 or section 1923.

SEC. 1925. FORM AND VALIDITY OF CONTRACTS.

(a) FORM.—Each contract of sale of cotton for future delivery mentioned in section 1920 (a) of this chapter shall be in writing plainly stating, or evidenced by written memorandum showing, the terms of such contract, including the quantity of the cotton involved and the names and addresses of the seller and buyer in such contract, and shall be signed by the party to be charged, or by his agent in his behalf. If the contract or memorandum specify in bales the quantity of the cotton involved, without giving the weight, each bale shall, for the purposes of this chapter, be deemed to weigh five hundred pounds.

(b) VALIDITY.—No contract of sale of cotton for future delivery mentioned in section 1920 (a) of this chapter, which does not conform to the requirements of subsection (a) and has not the necessary stamps affixed thereto as required by section 1920 (c) shall be enforceable in any court of the United States by, or on behalf of, any party to such contract or his privies.

SEC. 1926. COTTON STANDARDS.

(a) SOURCE AND DESCRIPTION.—Subject to the provisions of section 6 of the Act of March 4, 1923, 42 Stat. 1518 (U. S. C., Title 7, § 56), the Secretary of Agriculture is authorized, from time to time, to establish and promulgate standards of cotton by which its quality or value may be judged or determined, including its grade, length of staple, strength of staple, color, and such other qualities, properties, and conditions as may be standardized in practical form, which, for the purposes of this chapter shall be known as the "Official cotton standards of the United States": *Provided*, That any standard of any cotton established and promulgated under this chapter by the Secretary of Agriculture shall not be changed or replaced within a period less than one year from and after the date of the promulgation thereof by the Secretary of Agriculture: *Provided further*, That no change or replacement of any standard of any cotton established and promulgated under this chapter by the Secretary of Agriculture shall become effective until after one year's public notice thereof, which notice shall specify the date when same is to become effective.

(b) PRACTICAL FORMS.—

(1) PREPARATION, CERTIFICATION, AND DISTRIBUTION.—The Secretary of Agriculture is authorized and directed to prepare practical

forms of the official cotton standards which shall be established by him, and to furnish such practical forms from time to time, upon request, to any person, the cost thereof, as determined by the Secretary of Agriculture, to be paid by the person requesting the same, and to certify such practical forms under the seal of the Department of Agriculture and under the signature of the said Secretary, thereto affixed by himself or by some official or employee of the Department of Agriculture thereunto duly authorized by the said Secretary.

(2) DISPOSITION OF RECEIPTS FROM SALES.—All sums collected by the Secretary of Agriculture for furnishing practical forms under paragraph (1) shall be deposited and covered into the Treasury as miscellaneous receipts.

SEC. 1927. BONA FIDE SPOT MARKETS.

(a) DEFINITION.—For the purposes of this chapter the only markets which shall be considered bona fide spot markets shall be those which the Secretary of Agriculture shall, from time to time, after investigation, determine and designate to be such, and of which he shall give public notice.

(b) DETERMINATION.—In determining, pursuant to the provisions of this chapter, what markets are bona fide spot markets, the Secretary of Agriculture is directed to consider only markets in which spot cotton is sold in such volume and under such conditions as customarily to reflect accurately the value of middling cotton and the differences between the prices or values of middling cotton and of other grades of cotton for which standards shall have been established by the Secretary of Agriculture: *Provided*, That if there be not sufficient places, in the markets of which are made bona fide sales of spot cotton of grades for which standards are established by the Secretary of Agriculture, to enable him to designate at least five spot markets in accordance with section 1922 (c) of this chapter, he shall, from data as to spot sales collected by him, make rules and regulations for determining the actual commercial differences in the value of spot cotton of the grades established by him as reflected by bona fide sales of spot cotton, of the same or different grades, in the markets selected and designated by him, from time to time, for that purpose, and in that event, differences in value of cotton of various grades involved in contracts made pursuant to section 1922 (a) and (b) shall be determined in compliance with such rules and regulations: *Provided further*, That it shall be the duty of any person engaged in the business of dealing in cotton, when requested by the Secretary of Agriculture or any agent acting under his instructions, to answer correctly to the best of his knowledge, under oath or otherwise, all questions touching his knowledge of the number of bales, the classification, the price or bona fide price offered, and other terms of purchase or sale, of any cotton involved in any transaction participated in by him, or to produce all books, letters, papers, or documents in his possession or under his control relating to such matter.

SEC. 1928. COLLECTION AND ENFORCEMENT.

(a) RULES AND REGULATIONS.—The Secretary of the Treasury is authorized to make and promulgate such rules and regulations as he may deem necessary to collect the tax imposed by this chapter and otherwise to enforce its provisions.

(b) RECORDS AND RETURNS.—Further to effect the purpose of subsection (a), the Secretary shall require all persons coming within its provisions to keep such records and statements of account, and may require such persons to make such returns verified under oath or otherwise, as will fully and correctly disclose all transactions mentioned in section 1920 (a) of this chapter, including the making, execution, settlement, and fulfillment thereof; he may require all per-

sons who act in the capacity of a clearing house, clearing association, or similar institution for the purpose of clearing, settling, or adjusting transactions mentioned in section 1920 (a) of this chapter to keep such records and to make such returns as will fully and correctly disclose all facts in their possession relating to such transactions; and

(c) EMPLOYMENT OF AGENTS.—He may appoint agents to conduct the inspection necessary to collect said tax and otherwise to enforce this chapter and all rules and regulations made by him in pursuance hereof, and may fix the compensation of such agents.

SEC. 1929. PENALTIES.

(a) IN GENERAL.—

(1) NONPAYMENT OR EVASION OF TAX.—Any person liable to the payment of any tax imposed by this chapter who fails to pay, or evades, or attempts to evade the payment of such tax; and

(2) OTHER VIOLATIONS.—Any person who otherwise violates any provision of this chapter, or any rule or regulation made in pursuance hereof, upon conviction thereof, shall be fined not less than $100 nor more than $20,000, in the discretion of the court; and, in case of natural persons, may, in addition, be punished by imprisonment for not less than sixty days nor more than three years, in the discretion of the court.

(b) ADDITIONAL.—In addition to the foregoing punishment there shall be imposed, on account of each violation of this chapter, a penalty of $2,000, to be recovered in an action founded on this chapter in the name of the United States as plaintiff, and when so recovered one-half of said amount shall be paid over to the person giving the information upon which such recovery was based. It shall be the duty of United States attorneys, to whom satisfactory evidence of violations of this chapter is furnished, to institute and prosecute actions for the recovery of the penalties prescribed by this subsection.

(c) WITHHOLDING INFORMATION.—Any person engaged in the business of dealing in cotton who shall, within a reasonable time prescribed by the Secretary of Agriculture or any agent acting under his instructions, willfully fail or refuse to answer questions or to produce books, letters, papers, or documents, as required under section 1927 (b), or who shall willfully give any answer that is false or misleading, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $500.

SEC. 1930. IMMUNITY OF WITNESSES.

No person whose evidence is deemed material by the officer prosecuting on behalf of the United States in any case brought under any provision of this chapter shall withhold his testimony because of complicity by him in any violation of this chapter or of any regulation made pursuant to this chapter, but any such person called by such officer who testifies in such case shall be exempt from prosecution for any offense to which his testimony relates.

SEC. 1931. DEFINITIONS.

(a) CONTRACT OF SALE.—For the purposes of this chapter the term "contract of sale" shall be held to include sales, agreements of sale, and agreements to sell.

(b) PERSON.—The word "person," wherever used in this chapter, shall be construed to import the plural or singular, as the case demands, and shall include individuals, associations, partnerships, and corporations.

SEC. 1932. LIABILITY OF PRINCIPAL FOR ACTS OF AGENT.

When construing and enforcing the provisions of this chapter, the act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, or corporation within the scope of his employment or office, shall, in every case, also be

deemed the act, omission, or failure of such association, partnership, or corporation as well as that of the person.

SEC. 1933. REPORTS OF SECRETARY OF AGRICULTURE.

The Secretary of Agriculture is directed to publish from time to time the results of investigations made in pursuance of this chapter.

SEC. 1934. OTHER LAWS APPLICABLE.

The provisions of the internal revenue laws of the United States, so far as applicable, including section 3615 of this title, shall be extended, and made to apply, to this chapter.

SEC. 1935. OPERATION OF STATE LAWS.

The payment of any tax levied by this chapter shall not exempt any person from any penalty or punishment now or hereafter provided by the laws of any State for entering into contracts of sale of cotton for future delivery, nor shall the payment of any tax imposed by this chapter be held to prohibit any State or municipality from imposing a tax on the same transaction.

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CHAPTER 15—TOBACCO, SNUFF, CIGARS, AND CIGARETTES

SUBCHAPTER A—RATE AND PAYMENT OF TAX

SEC. 2000. RATE OF TAX.

(a) TOBACCO AND SNUFF.—Upon all tobacco and snuff manufactured in or imported into the United States, and sold by the manufacturer or importer, or removed for consumption or sale, there shall be levied, collected, and paid the following taxes:

(1) SNUFF.—On snuff, manufactured of tobacco or any substitute for tobacco, ground, dry, damp, pickled, scented, or otherwise, of all descriptions, when prepared for use, a tax of 18 cents per pound.

(2) TOBACCO.—On all chewing and smoking tobacco, fine-cut, cavendish, plug or twist, cut or granulated, of every description; on tobacco twisted by hand or reduced into a condition to be consumed, or in any manner other than the ordinary mode of drying and curing, prepared for sale or consumption, even if prepared without the use of any machine or instrument, and without being pressed or sweetened; and on all fine-cut shorts and refuse scraps, clippings, cuttings, and sweepings of tobacco, a tax of 18 cents per pound.

The tax imposed by this subsection shall be in addition to any import duties imposed upon imported tobacco and snuff.

(b) SNUFF FLOUR.—Snuff flour, when sold, or removed for use or consumption, shall be taxed as snuff.

(c) CIGARS AND CIGARETTES.—Upon cigars and cigarettes manufactured in or imported into the United States, which are sold by the manufacturer or importer, or removed for consumption or sale, there shall be levied, collected, and paid the following taxes:

(1) CIGARS.—On cigars of all descriptions made of tobacco, or any substitute therefor, and weighing not more than three pounds per thousand, 75 cents per thousand;

On cigars made of tobacco, or any substitute therefor, and weighing more than three pounds per thousand, if manufactured or imported to retail at not more than 5 cents each, $2 per thousand;

If manufactured or imported to retail at more than 5 cents each and not more than 8 cents each, $3 per thousand;

If manufactured or imported to retail at more than 8 cents each and not more than 15 cents each, $5 per thousand;

If manufactured or imported to retail at more than 15 cents each and not more than 20 cents each, $10.50 per thousand;

If manufactured or imported to retail at more than 20 cents each, $13.50 per thousand;

Whenever in this paragraph reference is made to cigars manufactured or imported to retail at not over a certain price each, then in determining the tax to be paid regard shall be had to the ordinary retail price of a single cigar in its principal market.

(2) CIGARETTES.—On cigarettes made of tobacco, or any substitute therefor, and weighing not more than three pounds per thousand, $3 per thousand;

Weighing more than three pounds per thousand, $7.20 per thousand; except that if more than 6½ inches in length they shall be taxable at the rate provided in the preceding paragraph, counting each 2¾ inches (or fraction thereof) of the length of each as one cigarette.

The tax imposed by this subsection shall be in addition to any import duties imposed upon imported cigars and cigarettes.

(d) CIGARETTE PAPER.—There shall be levied, collected, and paid upon cigarette paper made up into packages, books, sets, or tubes, made up in or imported into the United States and sold by the manufacturer or importer to any person (other than to a manufacturer of cigarettes for use by him in the manufacture of cigarettes), the following taxes:

On each package, book, or set containing more than twenty-five but not more than fifty papers, ½ cent;

Containing more than fifty but not more than one hundred papers, 1 cent;

Containing more than one hundred papers, ½ cent for each fifty papers or fractional part thereof; and

Upon tubes, 1 cent for each fifty tubes or fractional part thereof.

SEC. 2001. TAXPAYER.

(a) MANUFACTURER OR IMPORTER.—The taxes imposed by section 2000 shall be paid by the manufacturer or importer.

(b) MANUFACTURER ON COMMISSION, SHARES, OR CONTRACT.

(1) TOBACCO AND SNUFF.—Whenever tobacco or snuff of any description is manufactured, in whole or in part, upon commission or shares, or the material from which any such articles are made, or are to be made, is furnished by one person and made and manufactured by another, or the material is furnished or sold by one person with an understanding or agreement with another that the manufactured article is to be received in payment therefor or for any part thereof, the stamps required by law shall be affixed by the actual maker or manufacturer before the article passes from the place of making or manufacturing.

(2) CIGARS AND CIGARETTES.—Whenever cigars or cigarettes of any description are manufactured, in whole or in part, upon commission or shares, or the material is furnished by one party and manufactured by another, or the material is furnished or sold by one party with an understanding or agreement with another that the cigars or cigarettes are to be received in payment therefor, or for any part thereof, the stamps required by law shall be affixed by the actual maker before the cigars or cigarettes are removed from the place of manufacturing.

SEC. 2002. PAYMENT OF TAX.

(a) STAMP.—

(1) TOBACCO AND SNUFF.—The Commissioner shall cause to be prepared suitable and special stamps for the payment of the tax on tobacco and snuff, which shall indicate the weight and class of the article on which payment is to be made.

(2) SNUFF FLOUR.—Snuff flour, when sold or removed for use or consumption, shall be stamped in the same manner as snuff.

(3) CIGARS AND CIGARETTES.—The Commissioner shall cause to be prepared, for payment of the tax upon cigars and cigarettes, suitable stamps denoting the tax thereon.

(b) ASSESSMENT.—

(1) TOBACCO, SNUFF, CIGARS, AND CIGARETTES.—Whenever any manufacturer of tobacco, snuff, cigars, or cigarettes sells, or removes for sale or consumption, any tobacco, snuff, cigars, or cigarettes, upon which a tax is required to be paid by stamps, without the use of the proper stamps, it shall be the duty of the Commis-

sioner, subject to the limitations prescribed in section 3312, upon satisfactory proof, to estimate the amount of tax which has been omitted to be paid, and to make an assessment therefor, and certify the same to the collector. The tax so assessed shall be in addition to the penalties imposed by law for such sale or removal: *Provided, however*, That no such assessment shall be made until and after notice to the manufacturer of the alleged sale and removal to show cause against said assessment; and the Commissioner shall, upon a full hearing of all the evidence, determine what assessment, if any, should be made.

(2) SNUFF FLOUR.—

For provision taxing snuff flour as snuff, see section 2000 (b).

(c) OTHER METHODS.—Whether or not the method of collecting any tax imposed by section 2000 is specifically provided herein, any such tax may, under regulations prescribed by the Commissioner with the approval of the Secretary, be collected by stamp, coupon, serial-numbered ticket, or such other reasonable device or method as may be necessary or helpful in securing a complete and prompt collection of the tax. All administrative and penalty provisions of subchapters A, B, and C of chapter 11, in so far as applicable, shall apply to the collection of any tax which the Commissioner determines or prescribes shall be collected in such manner.

SEC. 2003. CROSS REFERENCES.

(a) TAX ON LEAF TOBACCO.—

For tax on leaf tobacco unlawfully sold, removed, or shipped, see section 2060.

(b) EXEMPTION AND DRAWBACK.—

For exemption and drawback in case of exportation, see sections 2135 and 2136.

SUBCHAPTER B—MANUFACTURERS, DEALERS, AND PEDDLERS

Part I—Definition and Requirements of Tobacco and Snuff Manufacturers

SEC. 2010. DEFINITION.

(a) "MANUFACTURER OF TOBACCO."—

(1) MANUFACTURER OF TOBACCO OR SNUFF.—Every person whose business it is to manufacture tobacco or snuff for himself, or who employs others to manufacture tobacco or snuff, whether such manufacture be by cutting, pressing, grinding, crushing, or rubbing of any raw or leaf tobacco, or otherwise preparing raw or leaf tobacco, or manufactured or partially manufactured tobacco or snuff, or the putting up for use or consumption of scraps, waste, clippings, stems, or deposits of tobacco resulting from any process of handling tobacco, or by the working or preparation of leaf tobacco, tobacco stems, scraps, clippings, or waste, by sifting, twisting, screening, or any other process, shall be regarded as a manufacturer of tobacco.

(2) SELLERS OF LEAF TOBACCO.—Every person shall also be regarded as a manufacturer of tobacco whose business it is to sell leaf tobacco in quantities less than a hogshead, case, or bale; or who sells directly to consumers, or to persons other than duly registered dealers in leaf tobacco, or duly registered manufacturers of tobacco, snuff, cigars, or cigarettes, or to persons who purchase in packages for export.

(b) FARMERS AND GROWERS.—Farmers and growers of tobacco who sell leaf tobacco of their own growth and raising shall not be regarded as manufacturers of tobacco.

SEC. 2011. REGISTRATION.

Every manufacturer of tobacco shall register with the collector of the district his name, or style, place of residence, trade, or business, and the place where such trade or business is to be carried on.

SEC. 2012. STATEMENT.

Every person before commencing the manufacture of tobacco or snuff, shall furnish, without previous demand therefor, to the collector of the district where the manufacture is to be carried on, a statement in duplicate, subscribed under oath, setting forth the place, and if in a city, the street and number of the street, where the manufacture is to be carried on; the number of cutting-machines, presses, snuff-mills, hand-mills, or other machines; the name, kind, and quality of the article manufactured or proposed to be manufactured; and when the same is manufactured by him as agent for any other person, or to be sold and delivered to any other person under a special contract, the name and residence and business or occupation of the person for whom the said article is to be manufactured, or to whom it is to be delivered.

SEC. 2013. BOND.

Every person, before commencing the manufacture of tobacco or snuff, shall give a bond, to be approved by the collector of the district, in the sum of not less than $2,000 nor more than $20,000, to be fixed by the collector of the district, according to the quantum of business proposed to be done by the manufacturer, with right of appeal by the manufacturer to the Commissioner in respect to the amount of said bond, conditioned that he shall not engage in any attempt, by himself or by collusion with others, to defraud the Government of any tax on his manufactures; that he shall render truly and completely all the returns, statements, and inventories prescribed by law or regulations; that whenever he adds to the number of cutting-machines, presses, snuff-mills, hand-mills, or other mills or machines enumerated in the statement required under section 2012, he shall immediately give notice thereof to the collector of the district; that he shall stamp, in accordance with law, all tobacco and snuff manufactured by him before he removes any part thereof from the place of manufacture; that he shall not knowingly sell, purchase, expose, or receive for sale, any manufactured tobacco or snuff which has not been stamped as required by law; and that he shall comply with all the requirements of law relating to the manufacture of tobacco or snuff. Additional sureties may be required by the collector from time to time.

SEC. 2014. CERTIFICATE.

Every manufacturer of tobacco shall obtain a certificate from the collector of the district, who is directed to issue the same, setting forth the kind and number of machines, presses, snuff-mills, hand-mills, or other mills and machines enumerated in the statement required under section 2012; which certificate shall be posted in a conspicuous place within the manufactory.

SEC. 2015. SIGN.

Every manufacturer of tobacco shall place and keep on the side or end of the building wherein his business is carried on, so that it can be distinctly seen, a sign, with letters thereon not less than three inches in length, painted in oil-colors or gilded, giving his full name and business.

SEC. 2016. FACTORY NUMBER.

Every collector shall cause the several manufactories of tobacco or snuff in his district to be numbered consecutively, which numbers shall not be thereafter changed, except for reasons satisfactory to himself and approved by the Commissioner.

SEC. 2017. INVENTORY.

Every person engaged in the manufacture of tobacco or snuff shall make and deliver to the collector of the district a true inventory, in such form as may be prescribed by the Commissioner, and verified by his own oath, of the quantity of each of the different kinds of tobacco, snuff-flour, snuff, stems, scraps, clippings, waste, tin-foil, licorice, sugar, gum, and other materials held or owned by him on the first day of January of each year, or at the time of commencing and at the time of concluding business, if before or after the 1st of January; setting forth what portion of said goods and materials, and what kinds were manufactured and produced by him and what was purchased from others. The collector shall make personal examination of the stock sufficient to satisfy himself as to the correctness of the inventory, and shall verify the fact of such examination by oath, to be indorsed on or affixed to the inventory.

SEC. 2018. BOOKS.

Every person engaged in the manufacture of tobacco or snuff shall keep a book or books, the forms of which shall be prescribed by the Commissioner, and enter therein daily an accurate account of all the articles referred to in section 2017 purchased by him, the quantity of tobacco, snuff, and snuff-flour, stems, scraps, clippings, waste, tin-foil, licorice, sugar, gum, and other material, of whatever description, manufactured, sold, consumed, or removed for consumption or sale, or removed from the place of manufacture in bond, and to what district removed; also the number of net pounds of lumps of plug tobacco made in the lump-room, and the number of packages and pounds thereof produced in the pressroom each day.

SEC. 2019. MONTHLY ABSTRACTS.

Every person engaged in the manufacture of tobacco or snuff, shall on or before the 10th day of each month, furnish to the collector a true and complete abstract from the book required under section 2018 to be kept, verifying the same by his oath, of all such purchases, sales, and removals made during the month next preceding.

SEC. 2020. CROSS REFERENCE.

For packing and selling requirements, see subchapter C.

Part II—Definition and Requirements of Cigar and Cigarette Manufacturers

SEC. 2030. DEFINITION.

Every person whose business it is to make or manufacture cigars or cigarettes for himself, or who employs others to make or manufacture cigars or cigarettes, shall be regarded as a manufacturer of cigars or cigarettes, respectively.

SEC. 2031. REGISTRATION.

Every manufacturer of cigars or cigarettes shall register with the collector of the district his name, or style, place of residence, trade, or business, and the place where such trade or business is to be carried on.

SEC. 2032. STATEMENT.

Every person before commencing the manufacture of cigars or cigarettes, shall furnish, without previous demand therefor, to the collector of the district a statement in duplicate, under oath, setting forth the place, and, if in a city, the street and number of the street, where the manufacture is to be carried on; and when the same are to be manufactured for, or to be sold and delivered to, any other person, the name and residence and business or occupation of the person for whom they are to be manufactured, or to whom they are to be delivered.

SEC. 2033. BOND.

Every person before commencing the manufacture of cigars or cigarettes, shall give bond, in conformity with the provisions of this chapter, in such penal sum as the collector may require, not less than $100, and the sum of said bond may be increased from time to time and additional sureties required, at the discretion of the collector, or under the instructions of the Commissioner. Said bond shall be conditioned that he shall not engage in any attempt, by himself or by collusion with others, to defraud the Government of any tax on his manufactures; that he shall render correctly all the returns, statements, and inventories prescribed; that he shall stamp, in accordance with law, all cigars or cigarettes manufactured by him before he offers the same or any part thereof for sale, and before he removes any part thereof from the place of manufacture; that he shall not knowingly sell, purchase, expose, or receive for sale, any cigars or cigarettes which have not been stamped as required by law; and that he shall comply with all the requirements of law relating to the manufacture of cigars or cigarettes.

SEC. 2034. SIGN.

Every cigar or cigarette manufacturer shall place and keep on the side or end of the building within which his business is carried on, so that it can be distinctly seen, a sign, with letters thereon not less than three inches in length, painted in oil-colors or gilded, giving his full name and business.

SEC. 2035. FACTORY NUMBER.

Every collector shall cause the several manufactories of cigars or cigarettes in his district to be numbered consecutively, which number shall not thereafter be changed.

SEC. 2036. INVENTORY.

Every person engaged in the manufacture of cigars or cigarettes shall make and deliver to the collector of the district a true inventory, in such form as may be prescribed by the Commissioner, of the quantity of leaf tobacco, cigars, cigarettes, stems, scraps, clippings, and waste, and of the number of cigar and cigarette boxes and the capacity of each box, held or owned by him on the first day of January of each year, or at the time of commencing and at the time of concluding business, if before or after the 1st of January; setting forth what portion and kinds of said goods were manufactured or produced by him, and what were purchased from others, and shall verify said inventory by his oath indorsed thereon. The collector shall make personal examination of the stock sufficient to satisfy himself as to the correctness of the inventory; and shall verify the fact of such examination by oath to be indorsed on the inventory.

SEC. 2037. BOOKS.

Every person engaged in the manufacture of cigars or cigarettes shall enter daily in a book, the form of which shall be prescribed by the Commissioner, an accurate account of all the articles enumerated in section 2036 purchased by him, the quantity of leaf-tobacco, cigars, cigarettes, stems, cigar or cigarette boxes, of whatever description, manufactured, sold, consumed or removed for consumption or sale, or removed from the place of manufacture.

SEC. 2038. MONTHLY ABSTRACTS.

Every person engaged in the manufacture of cigars or cigarettes shall, on or before the tenth day of each and every month, furnish to the collector of the district a true and accurate abstract from the book required under section 2037 verified by his oath, of all such purchases, sales, and removals made during the month next preceding.

SEC. 2039. ADDITIONAL REQUIREMENTS ON CIGARETTE MANUFACTURERS PURCHASING CIGARETTE TUBES.

Every manufacturer of cigarettes purchasing any cigarette paper made up into tubes shall—

(a) BOND.—Give bond in an amount and with sureties satisfactory to the Commissioner that he will use such tubes in the manufacture of cigarettes or pay thereon a tax equivalent to the tax imposed by section 2000 (d); and

(b) RECORDS AND RETURNS.—Keep such records and render under oath such returns as the Commissioner finds necessary to show the disposition of all tubes purchased or imported by such manufacturer of cigarettes.

SEC. 2040. PURCHASES OF LEAF TOBACCO FROM OTHER MANUFACTURERS OR DEALERS.

It shall be lawful for any licensed manufacturer of cigars or cigarettes to purchase leaf tobacco of any other licensed manufacturer or dealer in quantities less than the original package, for use in his own manufactory exclusively.

Part III—Definition and Requirements of Dealers in Leaf Tobacco

SEC. 2050. DEFINITION.

(a) GENERAL.—Every person shall be regarded as a dealer in leaf tobacco, whose business it is, for himself or on commission, to sell, or offer for sale, or consign for sale on commission, leaf tobacco.

(b) FARMERS, GROWERS, AND COOPERATIVE ASSOCIATIONS.—A farmer or grower of tobacco or a tobacco growers' cooperative association shall not be regarded as a dealer in leaf tobacco in respect to the leaf tobacco produced by him or handled by such association: *Provided*, That such cooperative associations shall be required to keep available records of all purchases and sales of tobacco, such records to be open to inspection by the agents of the Government. As used in this subsection the term "tobacco growers' cooperative association" means an association of farmers or growers of tobacco organized and operated as sales agent for the purpose of marketing the tobacco produced by its members and turning back to them the proceeds of sales, less the necessary selling expenses, on the basis of the quantity and quality of tobacco furnished by them.

SEC. 2051. REGISTRATION.

Every dealer in leaf tobacco shall register with the collector of the district his name, or style, place of residence, trade, or business, and the place where such trade or business is to be carried on.

SEC. 2052. STATEMENT OF LOCATION OF BUSINESS AND PLACES OF STORAGE.

Every dealer in leaf tobacco shall file with the collector of the district in which his business is carried on a statement in duplicate, subscribed under oath, setting forth the place, and, if in a city, the street and number of the street, where his business is to be carried on, and the exact location of each place where leaf tobacco is held by him on storage, and, whenever he adds to or discontinues any of his leaf tobacco storage places, he shall give immediate notice to the collector of the district in which he is registered.

SEC. 2053. BOND.

Every dealer in leaf tobacco shall give a bond with surety, satisfactory to, and to be approved by, the collector of the district, in such penal sum as the collector may require, not less than $500; and a new bond may be required in the discretion of the collector, or under instructions of the Commissioner.

SEC. 2054. CERTIFICATE AND NUMBER.

Every dealer in leaf tobacco shall be assigned a number by the collector of the district, which number shall appear in every inventory, invoice and report rendered by the dealer, who shall also obtain certificates from the collector of the district setting forth the place where his business is carried on and the places designated by the dealer as the places of storage of his tobacco, which certificates shall be posted conspicuously within the dealer's registered place of business, and within each designated place of storage.

SEC. 2055. INVENTORY.

Every dealer in leaf tobacco shall make and deliver to the collector of the district a true inventory of the quantity of the different kinds of tobacco held or owned, and where stored by him, on the first day of January of each year, or at the time of commencing and at the time of concluding business, if before or after the first day of January, such inventory to be made under oath and rendered in such form as may be prescribed by the Commissioner.

SEC. 2056. RECORDS AND INVOICES.

Every dealer in leaf tobacco shall render such invoices and keep such records as shall be prescribed by the Commissioner, and shall enter therein, day by day, and upon the same day on which the circumstance, thing or act to be recorded is done or occurs, an accurate account of the number of hogsheads, tierces, cases and bales, and quantity of leaf tobacco contained therein, purchased or received by him, on assignment, consignment, for storage, by transfer or otherwise, and of whom purchased or received, and the number of hogsheads, tierces, cases and bales, and the quantity of leaf tobacco contained therein, sold by him, with the name and residence in each instance of the person to whom sold, and if shipped, to whom shipped, and to what district; such records shall be kept at his place of business at all times and preserved for a period of two years, and the same shall be open at all hours for the inspection of any internal revenue officer or agent.

SEC. 2057. MONTHLY REPORTS.

Every dealer in leaf tobacco on or before the tenth day of each month, shall furnish to the collector of the district a true and complete report of all purchases, receipts, sales and shipments of leaf tobacco made by him during the month next preceding, which report shall be verified and rendered in such form as the Commissioner, with the approval of the Secretary, shall prescribe.

SEC. 2058. DEMAND STATEMENT OF SALES.

It shall be the duty of any dealer in leaf tobacco, or in any material used in manufacturing tobacco, snuff, cigars, or cigarettes, on demand of any officer of internal revenue, to render a true and complete statement, under oath, of the quantity and amount of such leaf tobacco or materials sold or delivered to any person named in such demand, and in case of refusal or neglect to render such statement, or if there is cause to believe such statement to be incorrect or fraudulent, the collector shall make an examination of persons, books, and papers, in the manner provided in relation to frauds and evasions.

SEC. 2059. RESTRICTIONS ON SALES OR SHIPMENTS.

Sales or shipments of leaf tobacco by a dealer in leaf tobacco shall be in quantities of not less than a hogshead, tierce, case, or bale, except loose leaf tobacco comprising the breaks on warehouse floors, and except to a duly registered manufacturer of cigars for use in his own manufactory exclusively.

Dealers in leaf tobacco shall make shipments of leaf tobacco only to other dealers in leaf tobacco, to registered manufacturers of tobacco, snuff, cigars, or cigarettes, or for export.

SEC. 2060. TAX FOR VIOLATING SECTIONS 2057 AND 2059.

Upon all leaf tobacco sold, removed or shipped by any dealer in leaf tobacco in violation of the provisions of section 2059 or in respect to which no report has been made by such dealer in accordance with the provisions of section 2057, there shall be levied, assessed, collected, and paid a tax equal to the tax then in force upon manufactured tobacco, such tax to be assessed and collected in the same manner as the tax on manufactured tobacco.

Part IV—Definition and Requirements of Peddlers of Tobacco

SEC. 2070. DEFINITION.

Any person who sells or offers to sell and deliver manufactured tobacco, snuff, cigars, or cigarettes, traveling from place to place, in the town or through the country, shall be regarded as a peddler of tobacco: *Provided*, That manufacturers of, jobbers, and wholesale dealers in, manufactured tobacco, snuff, cigars, and cigarettes, and the agents or salesmen of such manufacturers, jobbers, and wholesale dealers, traveling from place to place, in the town or through the country, and selling and delivering or offering to sell and deliver such products only to dealers, shall not be construed to be peddlers.

SEC. 2071. REGISTRATION.

Every peddler of tobacco shall register with the collector of the district his name, or style, place of residence, trade, or business, and the place where such trade or business is to be carried on.

SEC. 2072. STATEMENT.

Every peddler of tobacco, before commencing to peddle tobacco, snuff, cigars, or cigarettes, shall furnish to the collector of his district a statement accurately setting forth the place of his residence, and, if in a city, the street and number of the street where he resides; the State or States through which he proposes to travel; also whether he proposes to sell his own manufactures or the manufactures of others, and, if he sells for other parties, the person for whom he sells.

SEC. 2073. BOND.

Every peddler of tobacco shall give a bond in the sum of $500, to be approved by the collector of the district, conditioned that he shall not engage in any attempt, by himself or by collusion with others, to defraud the Government of any tax on tobacco, snuff, cigars, or cigarettes; that he shall neither sell, nor offer for sale, any tobacco, snuff, cigars, or cigarettes, except in original and full packages, as the law requires the same to be put up and prepared by the manufacturer for sale, or for removal for sale or consumption, and except such packages of tobacco, snuff, cigars, or cigarettes, as bear the manufacturer's label or caution notice, and his legal marks and brands, and genuine internal revenue stamps which have never before been used.

SEC. 2074. CERTIFICATE.

Every peddler of tobacco shall obtain a certificate from the collector of his collection district, who is authorized and directed to issue the same, giving the name of the peddler, his residence, and the fact of his having filed the required bond; and shall on demand of any officer of internal revenue produce and exhibit his certificate.

SEC. 2075. SIGN.

Every peddler of tobacco traveling with a wagon, shall affix and keep on the same, in a conspicuous place, a sign painted in oil-colors, or gilded, giving his full name, business, and collection district.

SEC. 2076. RESTRICTIONS ON SALES.

For restrictions on sales, see sections 2104 and 2170 (a) (2).

SUBCHAPTER C—PACKING, STAMPING, AND SELLING REQUIREMENTS

Part I—Tobacco and Snuff

SEC. 2100. PACKAGES.

All manufactured tobacco shall be put up and prepared by the manufacturer for sale, or removal for sale or consumption, in packages of the following description and in no other manner:

(a) SIZE.—

(1) SMOKING AND CHEWING TOBACCO AND SNUFF.—All smoking tobacco, snuff, fine-cut chewing tobacco, all cut and granulated tobacco, all shorts, the refuse of fine-cut chewing, which has passed through a riddle of thirty-six meshes to the square inch, and all refuse, scraps, clippings, cuttings, and sweepings of tobacco, and all other kinds of tobacco not otherwise provided for, in packages containing one-eighth of an ounce, three-eighths of an ounce, and further packages with a difference between each package and the one next smaller of one-eighth of an ounce up to and including two ounces, and further packages with a difference between each package and the one next smaller of one-fourth of an ounce up to and including four ounces, and further packages with a difference between each package and the one next smaller of one ounce up to and including sixteen ounces: *Provided*, That snuff may, at the option of the manufacturer, be put up in bladders and in jars containing not exceeding twenty pounds.

(2) CAVENDISH, PLUG, AND TWIST TOBACCO.—All cavendish, plug, and twist tobacco, in wooden packages not exceeding two hundred pounds net weight. And every such wooden package shall have printed or marked thereon the manufacturer's name and place of manufacture, the registered number of the manufactory, and the gross weight, the tare and the net weight of the tobacco in each package.

(b) MATERIAL.—Wood, metal, paper, or other materials may be used separately or in combination for packing tobacco and snuff under such regulations as the Commissioner may establish.

(c) EXCEPTIONS.—

(1) EXPORT PACKAGES.—The limitations and descriptions of packages contained in subsection (a) shall not apply to tobacco and snuff transported in bond for exportation and actually exported.

(2) LEAF TOBACCO SOLD BY PERSONS REGARDED AS MANUFACTURERS.—All tobacco sold in the manner described in section 2010 (a) (2) by persons defined as manufacturers of tobacco thereunder shall be regarded as manufactured tobacco and shall be put up and prepared by such manufacturer in such packages only as the Commissioner, with the approval of the Secretary, shall prescribe.

(d) ENCLOSURES AND DESIGNS.—No packages of manufactured tobacco or snuff, prescribed by law, shall be permitted to have packed in, or attached to, or connected with them, nor affixed to, branded, stamped, marked, written, or printed upon them, any paper, certificate, or instrument purporting to be or represent a ticket, chance, share or interest in, or dependent upon, the event of a lottery, nor any indecent or immoral picture, representation, print, or words; and any violation of the provisions of this subsection shall subject the offender to the penalties and punishment provided by section 2161 (m).

(e) LABEL.—Every manufacturer of tobacco or snuff shall, in addition to all other requirements of this title relating to tobacco, print on each package, or securely affix by pasting on each package con-

taining tobacco or snuff manufactured by or for him, a label on which shall be printed the number of the manufactory, the district and State in which it is situated, and these words:

"NOTICE.—The manufacturer of this tobacco has complied with all requirements of law. Every person is cautioned, under penalties of law, not to use this package for tobacco again."

This subsection shall not apply to tobacco or snuff transported in bond for exportation and actually exported.

SEC. 2101. TOBACCO IN BULK.

Perique tobacco, snuff flour, fine-cut shorts, the refuse of fine-cut chewing tobacco, refuse scraps, clippings, cuttings, and sweepings of tobacco, may be sold in bulk as material, and without the payment of tax, by one manufacturer directly to another manufacturer, or for export, under such restrictions, rules, and regulations as the Commissioner may prescribe.

SEC. 2102. SNUFF FLOUR.

Snuff flour, when sold, or removed for use or consumption, shall be put up in packages in the same manner as snuff.

SEC. 2103. STAMPS.

(a) AFFIXING AND CANCELING.—

(1) MODE.—The stamps provided for in section 2002 (a) (1) shall be affixed and canceled in the mode prescribed by the Commissioner, and stamps when used on any wooden package shall be canceled by sinking a portion of the same into the wood with a steel die.

(2) FURNISHING OF INSTRUMENTS.—The instruments or other means prescribed under section 3301 (a) for attaching, protecting, and canceling stamps for tobacco and snuff shall be furnished by the United States to the persons using the stamps to be affixed therewith, under such regulations as the Commissioner may prescribe.

(3) CROSS REFERENCE.—

For general provisions relating to the attachment and cancellation of stamps, see sections 3301 and 3303.

(b) ISSUE FOR RESTAMPING.—The Commissioner may, under regulations prescribed by him with the approval of the Secretary, issue stamps for restamping packages of tobacco and snuff which have been duly stamped but from which the stamps have been lost or destroyed by unavoidable accident.

(c) SUPPLY.—The stamps provided for under section 2002 (a) (1) shall be furnished to the collectors requiring them, and each collector shall keep at all times a supply equal in amount to three months' sale thereof, and shall sell the same only to the manufacturers of tobacco and snuff in their respective districts who have given bonds as required by law, and to owners or consignees of tobacco or snuff, upon the requisition of the proper customhouse officer having the custody of such tobacco or snuff.

(d) COLLECTOR'S ACCOUNT.—

(1) REQUIREMENT.—Every collector shall keep an account of the number, amount, and denominate values of stamps sold by him to each manufacturer or other person aforesaid.

(2) CREDIT IN CASE OF SALE UNDER DISTRAINT OR FORFEITURE.—Such stamps as may be required to stamp tobacco or snuff, sold under distraint by any collector, or for stamping any tobacco or snuff, which may have been abandoned, condemned, or forfeited, and sold by order of court or of any Government officer for the benefit of the United States, may, under such rules and regulations as the Commissioner shall prescribe, be used by the collector making such sale, or furnished by a collector to a United

States marshal, or to any other Government officer making such sale for the benefit of the United States, without making payment for said stamps so used or delivered; and any revenue collector using or furnishing stamps in manner as aforesaid, on presenting vouchers satisfactory to the Commissioner shall be allowed credit for the same in settling his stamp account with the Department.

(e) EMPTIED PACKAGES.—Whenever any stamped box, bag, vessel, wrapper, or envelope of any kind, containing tobacco or snuff, is emptied, the stamp or stamps thereon shall be destroyed by the person in whose hands the same may be.

(f) ABSENCE OF STAMPS.—The absence of the proper stamp on any package of manufactured tobacco or snuff shall be notice to all persons that the tax has not been paid thereon, and shall be prima facie evidence of the nonpayment thereof.

(g) CROSS REFERENCES.—

IMPORTED TOBACCO AND SNUFF.—For stamps in case of imported tobacco or snuff, see section 2130 (a).

REDEMPTION OF STAMPS.—For redemption of stamps, see sections 2198 and 3304.

GENERAL STAMP PROVISIONS.—For general provisions relating to stamps, see subchapter A of chapter 28.

SEC. 2104. SALES OF TOBACCO.

(a) LIMITATION AS TO PACKAGES.—No manufactured tobacco shall be sold or offered for sale unless put up in packages and stamped as prescribed in this chapter, except at retail by retail dealers from the packages authorized by section 2100.

(b) LIMITATION ON DEALERS IN LEAF TOBACCO.—

For restrictions on sales and shipments by dealers in leaf tobacco to manufacturers of tobacco, see section 2059.

(c) SALES OF LEAF TOBACCO TO CIGAR MANUFACTURERS.—

For authority of licensed manufacturers of cigars and cigarettes to purchase leaf tobacco from other registered manufacturers or registered dealers in small quantities, see section 2040.

Part II—Cigars and Cigarettes

SEC. 2110. CLASSIFICATION.

(a) CIGARS.—All rolls of tobacco, or any substitute therefor, wrapped with tobacco, shall be classed as cigars.

(b) CIGARETTES.—All rolls of tobacco, or any substitute therefor, wrapped in paper or any substance other than tobacco, shall be classed as cigarettes.

SEC. 2111. PACKAGES.

(a) SIZE.—

(1) CIGARS.—All cigars weighing more than three pounds per thousand shall be packed in boxes not before used for that purpose containing, respectively, three, five, seven, ten, twelve, thirteen, twenty, twenty-five, fifty, one hundred, two hundred, two hundred fifty, or five hundred cigars each.

(2) CIGARETTES AND SMALL CIGARS.—Every manufacturer of cigarettes (including small cigars weighing not more than three pounds per thousand) shall put up all the cigarettes and such small cigars that he manufactures or has manufactured for him, and sells or removes for consumption or sale, in packages or parcels containing five, eight, ten, twelve, fifteen, sixteen, twenty, twenty-four, forty, fifty, eighty, or one hundred cigarettes each.

(3) EXCEPTION IN CASE OF CIGARS OR CIGARETTES FOR EXPORT.—Cigars or cigarettes packed expressly for export, and which shall be exported to a foreign country under the restrictions and regulations prescribed by the Commissioner, and approved by the Secretary, shall be exempt from the provisions of this subsection.

(b) MATERIAL.—Wood, metal, paper, or other materials may be used separately or in combination for packing cigars or cigarettes, under such regulations as the Commissioner may establish.

(c) ENCLOSURES AND DESIGNS.—No package of cigars or cigarettes prescribed by law, shall be permitted to have packed in, or attached to, or connected with, them, nor affixed to, branded, stamped, marked, written, or printed upon them, any paper, certificate, or instrument purporting to be or represent a ticket, chance, share or interest in, or dependent upon, the event of a lottery, nor any indecent or immoral picture, representation, print, or words; and any violation of the provisions of this subsection shall subject the offender to the penalties and punishments provided by section 2180 (l).

(d) LABELS.—

(1) INDICATING COMPLIANCE WITH LAW.—Every manufacturer of cigars shall securely affix, by pasting on each box containing cigars manufactured by or for him, a label, on which shall be printed, besides the number of the manufactory and the district and State in which it is situated, these words:

"NOTICE.—The manufacturer of the cigars herein contained has complied with all the requirements of law. Every person is cautioned not to use either this box for cigars again, or the stamp thereon again, nor to remove the contents of this box without destroying said stamp, under the penalties provided by law in such cases."

Cigars packed expressly for export, and which shall be exported to a foreign country under the restrictions and regulations prescribed by the Commissioner, and approved by the Secretary, shall be exempt from the provisions of this subsection. Cigarettes shall be held to be cigars under the meaning of paragraph (1) of this subsection.

(2) INDICATING CLAUSE UNDER WHICH TAX PAID.—The Commissioner may, by regulation, require the manufacturer or importer to affix to each box, package, or container a conspicuous label indicating the clause of section 2000, under which the cigars therein contained have been tax-paid, which must correspond with the tax-paid stamp on such box or container.

(e) FACTORY BRAND.—

(1) REQUIREMENT.—Every box of cigars or cigarettes shall before removal from any manufactory or place where cigars or cigarettes are made have stamped, indented, burned, or impressed into each box, in a legible and durable manner, the number of the cigars or cigarettes contained therein, the number of the manufactory, and the number of the district and the State.

(2) EXCEPTION IN CASE OF EXPORT PACKAGES.—Cigars or cigarettes packed expressly for export, and which shall be exported to a foreign country under the restrictions and regulations prescribed by the Commissioner, and approved by the Secretary, shall be exempt from the provisions of this subsection.

(f) EXEMPTION IN CASE OF CIGARS OR CIGARETTES USED BY EMPLOYEES.—Each employee of a manufacturer of cigars or cigarettes shall be permitted to use, for personal consumption and for experimental purposes, not to exceed twenty-one cigars or cigarettes per week without the manufacturer of cigars or cigarettes being required to pack the same in boxes or to stamp or pay any internal revenue tax thereon, such exemption to be allowed under such rules and regulations as the Secretary may prescribe.

SEC. 2112. STAMPS.

(a) AFFIXING AND CANCELING.—

(1) MODE.—

(A) CIGARETTES AND SMALL CIGARS.—Every manufacturer of cigarettes (including small cigars weighing not more than three pounds per thousand) shall securely affix to each of the pack-

ages or parcels described in section 2111 (a) (2) a suitable stamp denoting the tax thereon and shall properly cancel the same prior to sale or removal for consumption or sale under such regulations as the Commissioner, with the approval of the Secretary, shall prescribe.

(B) CIGARS.—

For authority of Commissioner to prescribe the method for affixing and canceling cigar stamps, see sections 3301 and 3303.

(2) FURNISHING OF INSTRUMENTS.—The instruments or other means prescribed under section 3301 (a) for attaching, protecting, and cancelling stamps for cigars and cigarettes shall be furnished by the United States to the persons using the stamps to be affixed therewith under such regulations as the Commissioner may prescribe.

(b) ISSUE FOR RESTAMPING.—The Commissioner may, under regulations prescribed by him with the approval of the Secretary, issue stamps for restamping packages of cigars and cigarettes which have been duly stamped but from which the stamps have been lost or destroyed by unavoidable accident.

(c) SUPPLY.—The stamps provided for under section 2002 (a) (3) shall be furnished to collectors requiring them, and collectors shall, if there be any cigar or cigarette manufacturers within their respective districts, keep on hand at all times a supply equal in amount to two months' sales thereof, and shall sell the same only to the cigar or cigarette manufacturers who have given bonds, as required by law, in their districts respectively, and to importers of cigars or cigarettes who are required to affix the same to imported cigars or cigarettes in the custody of customs officers.

(d) COLLECTOR'S ACCOUNT.—

(1) REQUIREMENT.—Every collector shall keep an account of the number, amount, and denominate values of the stamps sold by him to each cigar or cigarette manufacturer, and to the importers described in subsection (c).

(2) CREDIT IN CASE OF SALE UNDER DISTRAINT OR FORFEITURE.—Such stamps as may be required to stamp cigars or cigarettes sold under distraint by any collector, or for stamping any cigars or cigarettes which may have been abandoned, condemned, or forfeited, and sold by order of court or of any Government officer for the benefit of the United States, may, under such rules and regulations as the Commissioner shall prescribe, be used by the collector making such sale, or furnished by a collector to a United States marshal, or to any other Government officer making such sale for the benefit of the United States, without making payment for said stamps so used or delivered; and any revenue collector using or furnishing stamps in manner as aforesaid, on presenting vouchers satisfactory to the Commissioner, shall be allowed credit for the same in settling his stamp account with the Department.

(e) DESTRUCTION ON EMPTIED PACKAGES.—Whenever any stamped box containing cigars or cigarettes is emptied, it shall be the duty of the persons in whose hands the same is to destroy utterly the stamps thereon.

(f) ABSENCE OF STAMPS.—The absence of the proper revenue stamp on any box of cigars or cigarettes sold, or offered for sale, or kept for sale, shall be notice to all persons that the tax has not been paid thereon, and shall be prima facie evidence of the nonpayment thereof.

(g) REDEMPTION OF STAMPS.—

For redemption of stamps, see sections 2198 and 3304.

SEC. 2113. SALES OF CIGARS AND CIGARETTES.

For limitation on sales of cigars and cigarettes, see section 2170.

SEC. 2114. CROSS REFERENCES.

(a) IMPORTED CIGARS AND CIGARETTES.—

For stamps in case of imported cigars and cigarettes, see subsections (b) and (c) of section 2130.

(b) GENERAL STAMP PROVISIONS.—

For general provisions relating to stamps, see subchapter A of chapter 28.

SUBCHAPTER D—IMPORTATION AND EXPORTATION

Part I—Importation

SEC. 2130. PACKING AND STAMPING.

(a) TOBACCO AND SNUFF.—All manufactured tobacco and snuff imported from foreign countries shall have the same stamps respectively affixed as in the case of like kinds of tobacco and snuff manufactured in the United States. Such stamps shall be affixed and canceled on all such articles so imported by the owner or importer thereof, while they are in the custody of the proper custom-house officers, and such articles shall not pass out of the custody of said officers until the stamps have been affixed and canceled. Such tobacco and snuff shall be put up in packages, as prescribed by law for like articles manufactured in the United States before the stamps are affixed; and the owner or importer shall be liable to all the penal provisions prescribed for manufacturers of tobacco and snuff manufactured in the United States. Whenever it is necessary to take any such articles, so imported, to any place for the purpose of repacking, affixing, and canceling such stamps, other than the public stores of the United States, the collector of customs of the port where they are entered shall designate a bonded warehouse to which they shall be taken, under the control of such customs officer as he may direct.

(b) CIGARS.—All cigars imported from foreign countries shall have the same stamps affixed as prescribed by law for cigars manufactured in the United States. The stamps shall be affixed and canceled by the owner or importer of the cigars while they are in the custody of the proper custom-house officers, and the cigars shall not pass out of the custody of such officers until the stamps have been so affixed and canceled, but shall be put up in boxes containing quantities as prescribed in this chapter for cigars manufactured in the United States, before the stamps are affixed. And the owner or importer of such cigars shall be liable to all the penal provisions of this title prescribed for manufacturers of cigars manufactured in the United States. Whenever it is necessary to take any cigars so imported to any place other than the public stores of the United States, for the purpose of affixing and canceling such stamps, the collector of customs of the port where such cigars are entered shall designate a bonded warehouse to which they shall be taken, under the control of such customs officer as such collector may direct.

(c) CIGARETTES.—All cigarettes imported from a foreign country shall be packed, stamped, and the stamps canceled in a like manner as in the case of cigarettes manufactured in the United States, in addition to the import stamp indicating inspection of the customhouse before they are withdrawn therefrom.

(d) SCRAPS, CUTTINGS, AND CLIPPINGS OF TOBACCO.—Scraps, cuttings, and clippings of tobacco imported from any foreign country may, after the proper customs duty has been paid thereon, be withdrawn in bulk without the payment of the internal revenue tax, and transferred as material directly to the factory of a manufacturer of tobacco or snuff, or of a cigar manufacturer, under such restrictions

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and regulations as shall be prescribed by the Commissioner and approved by the Secretary.

(e) CROSS REFERENCE.—

For duty upon reimportation of tax-free exports, see act of June 17, 1930, c. 497, § 314, 46 Stat. 695 (U. S. C., Title 19, § 1314).

Part II—Exportation

SEC. 2135. EXEMPTION FROM TAX.

(a) SHIPMENTS TO FOREIGN COUNTRIES AND POSSESSIONS OF THE UNITED STATES.—

(1) MANUFACTURES.—Manufactured tobacco, snuff, cigars or cigarettes may be removed for export to a foreign country or for shipment to a possession of the United States without payment of tax under such rules and regulations and the making of such entries, and the filing of such bonds and bills of lading as the Commissioner, with the approval of the Secretary, shall prescribe.

(2) MATERIALS.—Perique tobacco, snuff flour, fine-cut shorts, the refuse of fine-cut chewing tobacco, refuse scraps, clippings, cuttings, and sweepings of tobacco, may be sold in bulk as material, and without the payment of tax, for export under such restrictions, rules, and regulations as the Commissioner may prescribe.

(3) CIGARETTE PAPERS AND TUBES.—Under such rules and regulations as the Commissioner with the approval of the Secretary may prescribe, the taxes imposed by subsection (d) of section 2000 shall not apply in respect of cigarette papers or tubes sold for export or for shipment to a possession of the United States and in due course so exported or shipped.

(b) CROSS REFERENCES.—

For provisions relating to the exemption from any internal revenue tax of articles shipped from the United States to Puerto Rico, the Philippines, or the Virgin Islands, see sections 3341, 3351, and 3361.

For definition of exportation, see section 2197 (b).

For exportation free of internal revenue tax, see act of June 17, 1930, c. 497, § 317, 46 Stat. 696 (U. S. C., Title 19, § 1317).

SEC. 2136. DRAWBACK.

(a) IN GENERAL.—There shall be an allowance of drawback on tobacco, snuff, cigars, or cigarettes on which the tax has been paid by suitable stamps affixed thereto before removal from the place of manufacture, when the same are exported, equal in amount to the value of the stamps found to have been so affixed; the evidence that the stamps were so affixed, and the amount of tax so paid, and of the subsequent exportation of the said tobacco, snuff, cigars, or cigarettes, to be ascertained under such regulations as shall be prescribed by the Commissioner and approved by the Secretary. Any sums found to be due under the provisions of this section shall be paid out of annual appropriations from the general fund of the Treasury: *Provided*, That no claim for an allowance of drawback shall be entertained or allowed until a certificate from the collector of customs at the port from which the goods have been exported, or other evidence satisfactory to the Commissioner, has been furnished, that the stamps affixed to the tobacco, snuff, cigars, or cigarettes entered and cleared for export to a foreign country were totally destroyed before such clearance; nor until the claimant has filed a bond, with good and sufficient sureties, to be approved by the collector of the district from which the goods are shipped, in a penal sum double the amount of the tax for which said claim is made, that he will procure, within a reasonable time, evidence satisfactory to the Commissioner that said tobacco, snuff, cigars, or cigarettes have been landed at any port without the jurisdiction of the United States, or that after

shipment the same were lost at sea, and have not been relanded within the limits of the United States.

(b) SHIPMENTS TO PUERTO RICO AND PHILIPPINE ISLANDS.—

For provisions relating to the allowance of drawback of internal revenue tax on articles shipped to Puerto Rico or the Philippine Islands, see sections 3361 and 3341, respectively.

SEC. 2137. REFUND TO EXPORTER INSTEAD OF MANUFACTURER.

Under such rules and regulations as the Commissioner with the approval of the Secretary may prescribe, the amount of any internal revenue tax erroneously or illegally collected in respect of articles exported or shipped under section 2135 (a) (1) and (3) may be refunded to the exporter or shipper of the articles, instead of to the manufacturer, if the manufacturer waives any claim for the amount so to be refunded.

SUBCHAPTER E—PENALTIES AND FORFEITURES

Part I—Penalties and Forfeitures Common to Tobacco, Snuff, Cigars, and Cigarettes

SEC. 2150. FAILURE TO REGISTER, PENALTY.

Every dealer in leaf tobacco, manufacturer of tobacco, manufacturer of cigars or cigarettes, or peddler of tobacco who fails to register with the collector as required under sections 2051, 2011, 2031, and 2071, respectively, shall be subject to a penalty of $50.

SEC. 2151. FRAUDULENTLY STAMPED PACKAGES, POSSESSION, SALE OF, OR FROM, PENALTY.

Every manufacturer or other person who—

(a) Sells or offers for sale any box or other package of tobacco, snuff, cigars, or cigarettes, having affixed thereto any fraudulent, spurious, imitation, or counterfeit stamp, or stamp that has been previously used; or

(b) Sells from any such fraudulently stamped box or package; or

(c) Has in his possession any box or package as aforesaid, knowing the same to be fraudulently stamped;

shall, for each such offense, be fined not less than $100 nor more than $500, and imprisoned for not less than one year nor more than three years.

SEC. 2152. PEDDLING UNLAWFULLY, PENALTY.

Every person who—

(a) FAILURE TO OBTAIN CERTIFICATE.—Is found peddling tobacco, snuff, cigars, or cigarettes, without having previously obtained the collector's certificate as provided for in section 2074; or

(b) FAILURE TO GIVE BOND.—Is found peddling tobacco, snuff, cigars, or cigarettes, without having given the bond required under section 2073; or

(c) FAILURE TO AFFIX SIGN.—Fails to have affixed to his wagon, in a conspicuous place, a sign, painted in oil-colors, or gilded, giving his full name, business, and collection district; or

(d) SELLING IN UNAUTHORIZED PACKAGES.—Sells tobacco, snuff, cigars, or cigarettes otherwise than in full and original packages as put up by the manufacturer; or

(e) POSSESSION OF USED STAMPS.—Has in his possession any internal revenue stamp which has been removed from any box or other package of tobacco, snuff, cigars, or cigarettes; or

(f) POSSESSION OF BROKEN PACKAGES WITH UNDESTROYED STAMPS.—Has in his possession any empty or partially emptied box or other package which has been used for tobacco, snuff, cigars, or cigarettes, the stamp or stamps on which have not been destroyed;

shall for each such offense, be fined not less than $100 nor more than $500, or imprisoned not less than six months nor more than one year, or both, at the discretion of the court.

SEC. 2153. PEDDLER'S CERTIFICATE, REFUSAL TO PERMIT INSPECTION, PENALTY.

Refusal or failure to produce for inspection the collector's certificate for peddlers, when demanded by any internal revenue agent, shall subject the party guilty thereof to a fine of not more than $500 and to imprisonment not more than twelve months.

SEC. 2154. PEDDLERS, FORFEITURES RELATING TO.

(a) OFFENSES MENTIONED IN SECTION 2152.—Any collector or deputy collector finding any person peddling tobacco, snuff, cigars, or cigarettes, in the act of offending as to any of the offenses mentioned in section 2152, may seize the horse or horses, mule or mules, wagon and contents, or pack, bundle, or basket, of any such person; and the collector shall thereupon proceed upon such seizure as provided in subsection (b).

(b) REFUSAL TO PERMIT INSPECTION OF CERTIFICATE.—Whenever any peddler refuses to exhibit the collector's certificate for peddlers on demand of any officer of internal revenue, said officer may seize the horse or mule, wagon, and contents, or pack, bundle, or basket, of any person so refusing; and the collector of the district in which the seizure occurs may, on ten days' notice, published in any newspaper in the district, or served personally on the peddler, or at his dwelling house, require such peddler to show cause, if any he has, why the horses or mules, wagons, and contents, pack, bundle, or basket so seized shall not be forfeited. In case no sufficient cause is shown, proceedings for the forfeiture of the property seized shall be taken under the general provisions of the internal revenue laws relating to forfeitures.

SEC. 2155. RELANDING UNLAWFULLY WHEN SHIPPED FOR EXPORT, PENALTY AND FORFEITURE.

(a) PENALTY.—Every person who, with the intent to defraud the revenue laws of the United States, relands or causes to be relanded, within the jurisdiction of the United States, any manufactured tobacco, snuff, cigars, or cigarettes, which have been shipped for exportation under the provisions of section 2135, without properly entering such tobacco, snuff, cigars, or cigarettes at a customhouse, and paying the proper customs and internal revenue tax thereon, or who receives such relanded tobacco, snuff, cigars, or cigarettes, and every person who aids or abets in such relanding or receiving such tobacco, snuff, cigars, or cigarettes, shall, on conviction, be fined not exceeding $5,000, or imprisoned not more than three years; and

(b) FORFEITURE.—All tobacco, snuff, cigars, cigarettes so relanded shall be forfeited to the United States.

SEC 2156. INFORMATION, RETURNS, AND PAYMENT OF TAX, VIOLATIONS RELATING TO; PENALTIES

(a) Any person required under this chapter to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this chapter who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(b) Any person required under this chapter to collect, account for and pay over any tax imposed by this chapter, who willfully fails

to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this chapter or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony, and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(c) Any person who willfully fails to pay, collect, or truthfully account for and pay over, any tax imposed by this chapter, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty of the amount of the tax evaded, or not paid, collected or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected. No penalty shall be assessed under this subsection for any offense for which a penalty may be assessed under authority of section 3612.

(d) The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

Part II—Penalties and Forfeitures of Special Application to Tobacco and Snuff

SEC. 2160. PERSONS IN GENERAL.

(a) REMOVAL FROM FACTORY IMPROPERLY PACKED OR STAMPED, PENALTY.—Every person who removes from any manufactory, or from any place where tobacco or snuff is made, any manufactured tobacco or snuff without the same being put up in proper packages, or without the proper stamp for the amount of tax thereon being affixed and canceled, as required by law, except for export as provided in section 2135, shall for each such offense, respectively, be fined not less than $1,000 nor more than $5,000, and be imprisoned not less than six months nor more than two years.

(b) USE, SALE, OR POSSESSION WITHOUT PROPER STAMPS, PENALTY.—Every person who—

(1) Uses, sells, or offers for sale, or has in possession, except in the manufactory, or while in transfer under bond from any manufactory for exportation to a foreign country, any manufactured tobacco or snuff, without proper stamps for the amount of tax thereon being affixed and canceled; or

(2) Sells, or offers for sale, for consumption in the United States, any manufactured tobacco or snuff, or uses, or has in possession, except in the manufactory, or while in transfer under bond from any manufactory for exportation to a foreign country, any manufactured tobacco or snuff which has been inspected and removed for export;

shall for each such offense, respectively, be fined not less than $1,000 nor more than $5,000, and be imprisoned not less than six months nor more than two years.

(c) SALE WHEN IMPROPERLY PACKED OR STAMPED, PENALTY.—Every person who sells or offers for sale any snuff or any kind of manufactured tobacco not put up in packages and stamped as prescribed in this chapter, except at retail as provided in section 2104, shall be fined not less than $500 nor more than $5,000, and imprisoned not less than six months nor more than two years.

(d) PURCHASE OR RECEIPT FOR SALE WITHOUT PROPER BRANDS OR STAMPS, PENALTY.—Every person who purchases, or receives for sale, any manufactured tobacco or snuff which has not been branded or stamped according to law shall be liable to a penalty of $50 for each offense.

(e) AFFIXING FALSE OR USED STAMPS, PENALTY.—Every person who affixes to any package containing tobacco or snuff, any false, forged, fraudulent, spurious, or counterfeit stamp, or a stamp which has been before used, shall be deemed guilty of a felony, and shall be fined not less than $1,000 nor more than $5,000, and imprisoned not less than two years nor more than five years.

(f) WILLFUL NEGLECT OR REFUSAL TO DESTROY STAMPS ON EMPTIED PACKAGES, PENALTY.—Every person who willfully neglects or refuses to destroy the stamp or stamps on any empty box, bag, vessel, wrapper, or envelope of any kind which contained tobacco or snuff, as required in section 2103 (e), shall for each such offense be fined $50 and imprisoned not less than ten days nor more than six months.

(g) REUSE OF STAMPS OR EMPTIED STAMPED PACKAGES, PENALTY.—Every manufacturer or other person who—

(1) Puts tobacco or snuff into any box, bag, vessel, wrapper, or envelope which contained tobacco or snuff, the same having been either emptied or partially emptied; or

(2) Has in his possession any stamp which has been previously used; or

(3) Affixes to any box or other package any stamp which has been previously used;

shall for each offense be fined not less than $100 nor more than $500 and imprisoned for not less than one year nor more than three years.

(h) ABSENCE OF STAMP, FORFEITURE.—Manufactured tobacco or snuff contained in any package from which the proper stamp is absent shall be forfeited to the United States.

(i) TRAFFICKING IN USED STAMPS OR EMPTIED STAMPED PACKAGES, PENALTY.—Every person who sells or gives away, or who buys or accepts from another any empty stamped box, bag, vessel, wrapper, or envelope of any kind, which contained tobacco or snuff, or the stamp or stamps taken from any such empty box, bag, vessel, wrapper, or envelope of any kind, shall, for each such offense, be fined $100 and imprisoned for not less than twenty days, and not more than one year.

(j) FRAUDULENT CLAIM FOR DRAWBACK, PENALTY.—If any person or persons shall fraudulently claim or seek to obtain an allowance or drawback of taxes on any manufactured tobacco, or shall fraudulently claim any greater allowance or drawback thereon than the tax actually paid, such person or persons shall forfeit triple the amount wrongfully or fraudulently claimed or sought to be obtained, or the sum of $500, at the election of the Secretary, to be recovered as in other cases of forfeiture provided for in the internal revenue laws.

SEC. 2161. MANUFACTURERS.

(a) MANUFACTURING WITHOUT BOND, PENALTY.—Every person who manufactures tobacco or snuff of any description without first giving bond as required under section 2013, shall be fined not less than $1,000 nor more than $5,000, and imprisoned for not less than one nor more than five years.

(b) SELLING OR REMOVING WITHOUT BOND, FORFEITURE.—Every manufacturer of tobacco who removes, otherwise than as provided by law, or sells any tobacco or snuff, without having given bond as required by law, shall, in addition to the penalties elsewhere provided by law for such offenses forfeit to the United States all the raw material and manufactured or partly manufactured tobacco and snuff, and all machinery, tools, implements, apparatus, fixtures, boxes, and barrels, and all other materials which may be found in his possession, in his manufactory, or elsewhere.

(c) NEGLECT OR REFUSAL TO OBTAIN CERTIFICATE, PENALTY.—Every manufacturer of tobacco who neglects or refuses to obtain the certifi-

cate required under section 2014, or to keep the same posted as provided in that section, shall be fined not less than $100 nor more than $500.

(d) NEGLECT TO PUT UP SIGN, PENALTY.—Every manufacturer of tobacco who neglects to place and keep on the side or end of the building wherein his business is carried on, so that it can be distinctly seen, the sign required under section 2015 shall be fined not less than $100 or more than $500.

(e) REFUSAL OR WILLFUL NEGLECT TO DELIVER INVENTORY, PENALTY.—Whenever any person engaged in the manufacture of tobacco or snuff refuses or willfully neglects to deliver the inventory required under section 2017, he shall be fined not less than $500 nor more than $5,000, and imprisoned not less than 6 months nor more than 3 years.

(f) REFUSAL OR WILLFUL NEGLECT TO KEEP BOOKS, PENALTY.—Whenever any person engaged in the manufacture of tobacco or snuff refuses or willfully neglects to keep the accounts required in section 2018, he shall be fined not less than $500 nor more than $5,000, and imprisoned not less than six months nor more than three years.

(g) REFUSAL OR WILLFUL NEGLECT TO FURNISH MONTHLY ABSTRACT, PENALTY.—Whenever any person engaged in the manufacture of tobacco or snuff refuses or willfully neglects to furnish the abstract required under section 2019, he shall be fined not less than $500 nor more than $5,000, and imprisoned not less than six months nor more than three years.

(h) FALSE OR FRAUDULENT ENTRIES OF MANUFACTURES, SALES OR PURCHASES, FORFEITURE.—Every manufacturer of tobacco who makes false or fraudulent entries of manufactures or sales of tobacco or snuff, or makes false or fraudulent entries of the purchase or sales of leaf-tobacco, tobacco stems, or other material, shall in addition to the penalties provided by law for such offenses, forfeit to the United States all the raw material and manufactured or partly manufactured tobacco and snuff, and all machinery, tools, implements, apparatus, fixtures, boxes, and barrels, and all other materials which may be found in his possession, in his manufactory, or elsewhere.

(i) REMOVAL UNLAWFULLY OR SALE WITHOUT PROPER STAMPS.—

(1) FORFEITURE.—Every manufacturer of tobacco who removes, otherwise than as provided by law, or sells, without the proper stamps denoting the tax thereon, any tobacco or snuff, shall, in addition to the penalties elsewhere provided by law for such offenses, forfeit to the United States all the raw material and manufactured or partly manufactured tobacco and snuff, and all machinery, tools, implements, apparatus, fixtures, boxes and barrels, and all other materials which may be found in his possession, in his manufactory, or elsewhere.

(2) PENALTY.—

For penalties for such offenses, see section 2160.

(j) AFFIXING FALSE OR USED STAMPS.—

(1) FORFEITURE.—Every manufacturer of tobacco who affixes any false, forged, fraudulent, spurious, or counterfeit stamp, or imitation of any stamp required by law, or any stamp required by law which has been previously used, to any box or package containing any tobacco or snuff, shall, in addition to the penalties elsewhere provided by law for such offenses, forfeit to the United States all the raw material and manufactured or partly manufactured tobacco and snuff, and all machinery, tools, implements, apparatus, fixtures, boxes, and barrels, and all other materials which may be found in his possession, in his manufactory, or elsewhere.

(2) PENALTY.—

For penalties for such offenses, see section 2160 (e).

(k) OMISSION OR REMOVAL OF LABEL, PENALTY.—Every manufacturer of tobacco who neglects to print on or affix the label required under section 2100 (e) to any package containing tobacco or snuff manufactured by or for him, or sold or offered for sale by or for him, and every person who removes any such label so affixed from any such package, shall be fined $50 for each package in respect to which such offense shall be committed.

(l) COLLUSION IN CASE OF MANUFACTURE ON COMMISSION, SHARES, OR CONTRACT.—In case of fraud on the part of either of the persons referred to in section 2001 (b) (1) or of any collusion on their part with intent to defraud the revenue—

(1) FORFEITURE.—Such material and manufactured articles shall be forfeited to the United States; and

(2) PENALTY.—Each party to such fraud or collusion shall be deemed guilty of a misdemeanor, and be fined not less than $100 nor more than $5,000, and imprisoned for not less than six months nor more than three years.

(m) OFFENSES NOT SPECIFICALLY COVERED.—If any manufacturer of tobacco shall knowingly or willfully omit, neglect, or refuse to do or cause to be done any of the things required by law in the carrying on or conducting of his business, or shall do anything by this chapter prohibited, if there be no specific penalty or punishment imposed by any other section of this chapter for the neglecting, omitting, or refusing to do, or for the doing, or causing to be done the thing required or prohibited—

(1) PENALTY.—He shall pay a penalty of $1,000; and

(2) FORFEITURE.—All tobacco found in his manufactory shall be forfeited to the United States.

SEC. 2162. DEALERS IN LEAF TOBACCO, PENALTIES.

(a) Every dealer in leaf tobacco who neglects or refuses to—

(1) STATEMENT.—Furnish the statement required under section 2052; or

(2) BOND.—Give the bond required under section 2053; or

(3) INVENTORY.—File the inventory required under section 2055; or

(4) RECORDS AND INVOICES.—Keep the records and render the invoices required under section 2056; or

(5) MONTHLY REPORTS.—Render the returns or reports required under section 2057; or

(6) STORAGE NOTICE.—Notify the collector of the district of additions to his places of storage as required under section 2052;

shall be fined not less than $100 or more than $500, or imprisoned not more than one year, or both.

(b) Every dealer in leaf tobacco who—

(1) UNLAWFUL SHIPMENT OR DELIVERY.—Ships or delivers leaf tobacco, except as provided in section 2059; or

(2) FRAUDULENT OMISSION TO ACCOUNT.—Fraudulently omits to account for tobacco purchased, received, sold or shipped,

shall be fined not less than $100 nor more than $500 or imprisoned not more than one year, or both.

SEC. 2163. CUSTOMS OFFICERS.

Every officer of customs who permits any manufactured tobacco or snuff imported from foreign countries to pass out of his custody or control without compliance by the owner or importer thereof with the provisions of section 2130 (a), shall be fined not less than $1,000 nor more than $5,000, and imprisoned not less than six months nor more than three years.

Part III—Penalties and Forfeitures of Special Application to Cigars or Cigarettes

Subpart A—Persons in General

SEC. 2170. UNLAWFUL BOXING, PENALTY AND FORFEITURE.

(a) Penalty.—Every person who—

(1) Packing incorrect number.—Packs in any box any cigars or cigarettes in excess of or less than the number provided by law to be put in each box respectively; or

(2) Sale or delivery in unauthorized boxes.—Sells, or offers for sale, delivers or offers to deliver, any cigars or cigarettes in any other form than in new boxes as described in section 2111 (a), except at retail by retail dealers from boxes packed, stamped, and branded in the manner prescribed by law; or

(3) False branding.—Falsely brands any box; or

(4) Stamps showing incorrect tax.—Affixes a stamp on any box denoting a less amount of tax than that required by law;

shall be fined for each offense not more than $1,000 and be imprisoned not more than two years.

(b) Forfeiture.—Whenever any cigars or cigarettes are sold, or offered for sale, not properly boxed and stamped, they shall be forfeited to the United States: *Provided*, That cigars or cigarettes packed expressly for export, and which shall be exported to a foreign country under the restrictions and regulations prescribed by the Commissioner, and approved by the Secretary, shall be exempt from the provisions of this subsection.

SEC. 2171. UNLAWFUL REMOVAL FROM MANUFACTORY, FORFEITURE AND PENALTY.

(a) Forfeiture.—Whenever any cigars or cigarettes are removed from any manufactory, or place where cigars or cigarettes are made, without—

(1) Packing.—Being packed in boxes as required by the provisions of this chapter; or

(2) Stamping.—The proper stamp thereon denoting the tax; or

(3) Branding.—Stamping, indenting, burning, or impressing, into each box, in a legible and durable manner, the number of the cigars or cigarettes contained therein, the number of the manufactory, and the number of the district and the State; or

(4) Affixing and canceling stamp.—Properly affixing to the box and canceling the stamp denoting the tax;

they shall be forfeited to the United States.

(b) Penalty.—

(1) Boxing and stamping.—Every person who removes from the place of manufacture any cigars or cigarettes not properly boxed and stamped as required by law, shall be deemed guilty of a felony, and shall be fined not less than $100 nor more than $1,000, and imprisoned not less than six months nor more than three years.

(2) Other acts.—Every person who commits any of the offenses described in subsection (a) of this section or subsection (b) of section 2170 shall be fined for each such offense not less than $100 nor more than $1,000, and imprisoned not less than six months nor more than two years.

(c) Exemption in Case of Exportation.—Cigars or cigarettes packed expressly for export and which shall be exported to a foreign country under the restrictions and regulations prescribed by the Commissioner, and approved by the Secretary, shall be exempt from the provisions of this section.

SEC. 2172. FRAUDULENT USE OF STAMPS, PENALTY.

Every person who—

(a) PACKING IN BOXES BEARING FALSE STAMPS.—Packs cigars or cigarettes in any box bearing a false or fraudulent or counterfeit stamp; or

(b) AFFIXING FALSE STAMPS.—Affixes to any box containing cigars or cigarettes a stamp in the similitude or likeness of any stamp required to be used by the laws of the United States, whether the same be a customs or internal revenue stamp; or

(c) REMOVAL OF STAMPS.—Removes, or causes to be removed, from any box any stamp denoting the tax on cigars, or cigarettes, with intent to use the same; or

(d) REUSE OF STAMPS.—Uses or permits any other person to use any stamp so removed; or

(e) TRAFFICKING IN USED STAMPS.—Receives, buys, sells, gives away, or has in his possession any stamp so removed; or

(f) OTHER FRAUDULENT USES.—Makes any other fraudulent use of any stamp intended for cigars or cigarettes,

shall be deemed guilty of a felony, and shall be fined not less than $100 nor more than $1,000, and imprisoned not less than six months nor more than three years.

SEC. 2173. UNLAWFUL PURCHASE, RECEIPT, POSSESSION, OR SALE, PENALTIES.

(a) CIGARS NOT TAX-PAID.—Every person who buys, receives, or has in his possession any cigars or cigarettes on which the tax to which they are liable has not been paid, shall be deemed guilty of a felony and shall be fined not less than $100 nor more than $1,000, and imprisoned not less than six months nor more than three years.

(b) CIGARS NOT PROPERLY BRANDED OR STAMPED.—Every person who purchases or receives for sale any cigars or cigarettes which have not been branded or stamped according to law, shall be liable to a penalty of $50 for each such offense.

SEC. 2174. SALE OF IMPORTED CIGARS IMPROPERLY PACKED AND STAMPED, PENALTY.

Every person who sells or offers for sale any imported cigars or cigarettes, or cigars or cigarettes purporting or claimed to have been imported, not put in packages and stamped as provided by this chapter, shall be fined not less than $500 nor more than $5,000, and be imprisoned not less than six months nor more than two years.

SEC. 2175. ABSENCE OF STAMP, FORFEITURE.

In case of the absence of the proper revenue stamp on any box of cigars or cigarettes sold, or offered for sale, or kept for sale, such cigars or cigarettes shall be forfeited to the United States.

SEC. 2176. EMPTY BOXES.

(a) PENALTIES.—

(1) DESTRUCTION OF STAMPS.—Any person who willfully neglects or refuses to destroy, as required in section 2112 (e), the stamps on any empty stamped box which contained cigars or cigarettes, shall, for each such offense, be fined not exceeding $50 and imprisoned not less than ten days nor more than six months.

(2) TRAFFICKING.—Any person who fraudulently gives away or accepts from another, or who sells or buys for packing cigars or cigarettes, any empty stamped box which contained cigars or cigarettes, shall, for each such offense, be fined not exceeding $100 and be imprisoned not more than one year.

(3) REFILLING.—Any person who uses for packing cigars or cigarettes any empty stamped box which contained cigars or cigarettes, shall, for each such offense, be fined not exceeding $100 and be imprisoned not more than one year.

(b) DESTRUCTION.—Any revenue officer may destroy any emptied cigar or cigarette box upon which a cigar or cigarette stamp is found.

SEC. 2177. FRAUDULENT CLAIM FOR DRAWBACK, PENALTY.

For penalty imposed in the case of fraudulent claims for drawback, see section 3326.

SUBPART B—MANUFACTURERS AND CUSTOMS OFFICERS

SEC. 2180. MANUFACTURERS.

(a) MANUFACTURING WITHOUT BOND, PENALTY.—Every person who manufactures cigars or cigarettes of any description without first giving bond as required in section 2033, shall be fined not less than $100 nor more than $5,000, and imprisoned not less than three months nor more than five years.

(b) SELLING OR REMOVING WITHOUT BOND, FORFEITURE.—Every manufacturer of cigars or cigarettes who removes or sells any cigars or cigarettes without having given bond as such manufacturer, shall, in addition to the penalties elsewhere provided in this chapter for such offenses, forfeit to the United States all raw material and manufactured or partly manufactured tobacco, cigars, and cigarettes, and all machinery, tools, implements, apparatus, fixtures, boxes, barrels, and all other materials which shall be found in his possession, or in his manufactory, and used in his business as such manufacturer, together with his estate or interest in the building or factory, and the lot or tract of ground on which such building or factory is located, and all appurtenances thereunto belonging.

(c) NEGLECT TO PUT UP SIGN, PENALTY.—Any manufacturer of cigars or cigarettes neglecting to place and keep on the side or end of the building within which his business is carried on, so that it can be distinctly seen, the sign required under section 2034 shall, on conviction, be fined not less than $100 nor more than $500.

(d) REFUSAL OR WILLFUL NEGLECT TO DELIVER INVENTORY, PENALTY.—In case any person engaged in the manufacture of cigars or cigarettes refuses or willfully neglects to deliver the inventory required under section 2036, he shall be fined not less than $500 nor more than $5,000, and imprisoned not less than six months nor more than three years.

(e) REFUSAL OR WILLFUL NEGLECT TO KEEP BOOKS, PENALTY.—In case any person engaged in the manufacture of cigars or cigarettes refuses or willfully neglects to keep the account required under section 2037, he shall be fined not less than $500 nor more than $5,000, and imprisoned not less than six months nor more than three years.

(f) REFUSAL OR WILLFUL NEGLECT TO FURNISH A MONTHLY ABSTRACT, PENALTY.—In case any person engaged in the manufacture of cigars or cigarettes refuses or willfully neglects to furnish the abstract required under section 2038, he shall be fined not less than $500 nor more than $5,000, and imprisoned not less than six months nor more than three years.

(g) SALE OR REMOVAL WITHOUT PROPER STAMPS.—

(1) FORFEITURE.—Every manufacturer of cigars or cigarettes who removes or sells any cigars or cigarettes without the proper stamps denoting the tax thereon shall, in addition to the penalties elsewhere provided in this chapter for such offenses, forfeit to the United States all raw material and manufactured or partly manufactured tobacco, cigars and cigarettes, and all machinery, tools, implements, apparatus, fixtures, boxes, barrels, and all other materials which shall be found in his possession or in his manufactory, and used in his business as such manufacturer, together with his estate or interest in the building or factory, and the lot or tract of ground on which such building or factory is located, and all appurtenances thereunto belonging.

(2) PENALTY.—

For penalties for such offenses, see section 2171 (b).

(h) FALSE ENTRIES, FORFEITURE.—Every manufacturer of cigars or cigarettes who makes false or fraudulent entries of the manufacture or sale of any cigars or cigarettes, or makes false or fraudulent entries of the purchase or sale of leaf tobacco, tobacco stems, or other material used in the manufacture of cigars or cigarettes, shall, in addition to the penalties elsewhere provided in this title for such offenses, forfeit to the United States all raw material and manufactured or partly manufactured tobacco, cigars and cigarettes, and all machinery, tools, implements, apparatus, fixtures, boxes, barrels, and all other materials which shall be found in his possession, or in his manufactory, and used in his business as such manufacturer, together with his estate or interest in the building or factory, and the lot or tract of ground on which such building or factory is located, and all appurtenances thereunto belonging.

(i) AFFIXING FALSE OR FRAUDULENT STAMPS.—

(1) FORFEITURE.—Every manufacturer of cigars or cigarettes who affixes any false, forged, spurious, fraudulent, or counterfeit stamp, or imitation of any stamp, required by law to any box containing any cigars or cigarettes, shall, in addition to the penalties elsewhere provided for such offenses, forfeit to the United States all raw material and manufactured or partly manufactured tobacco, cigars, and cigarettes, and all machinery, tools, implements, apparatus, fixtures, boxes, barrels, and all other materials which shall be found in his possession, or in his manufactory, and used in his business as such manufacturer, together with his estate or interest in the building or factory, and the lot or tract of ground on which such building or factory is located, and all appurtenances thereunto belonging.

(2) PENALTY.—

For penalty for such offense, see section 2172 (b).

(j) OMISSION OR REMOVAL OF LABEL, PENALTY.—Every manufacturer of cigars or cigarettes who neglects to affix the label required under section 2111 (d) (1) to any box containing cigars or cigarettes made by or for him, or sold or offered for sale by or for him, and every person who removes any such label, so affixed, from any such box, shall be fined $50 for each box in respect to which such offense is committed.

(k) COLLUSION IN CASE OF MANUFACTURE ON COMMISSION, SHARES, OR CONTRACT.—In case of fraud on the part of either of the persons referred to in section 2001 (b) (2), or of any collusion on their part with intent to defraud the revenue—

(1) FORFEITURE.—Such material, cigars, or cigarettes shall be forfeited to the United States; and

(2) PENALTY.—Every person engaged in such fraud or collusion shall be fined not less than $100 nor more than $5,000, and imprisoned for not less than six months nor more than three years.

(l) OFFENSES NOT SPECIFICALLY COVERED.—If any manufacturer of cigars or cigarettes shall knowingly or willfully omit, neglect, or refuse to do or cause to be done any of the things required by law in the carrying on or conducting of his business, or shall do anything by this title prohibited, if there be no specific penalty or punishment imposed by any other section of this chapter for the neglecting, omitting, or refusing to do, or for the doing or causing to be done the thing required or prohibited—

(1) PENALTY.—He shall pay a penalty of $1,000; and

(2) FORFEITURE.—All tobacco, cigars, or cigarettes found in his manufactory shall be forfeited to the United States.

SEC. 2181. CUSTOMS OFFICERS.

Every officer of customs who permits any cigars or cigarettes imported into the United States from foreign countries to pass out of his custody or control, without compliance by the owner or importer thereof with the provisions of section 2130 (b), shall be fined not less than $1,000 nor more than $5,000, and imprisoned not less than six months nor more than three years.

SUBCHAPTER F—MISCELLANEOUS PROVISIONS

SEC. 2190. DISPOSAL OF FORFEITED TOBACCO, SNUFF, CIGARS, AND CIGARETTES.

In case it shall appear that any abandoned, condemned, or forfeited tobacco, snuff, cigars, or cigarettes, when offered for sale, will not bring a price equal to the tax due and payable thereon, such goods shall not be sold for consumption in the United States; and upon application made to the Commissioner, he is authorized to order the destruction of such tobacco, snuff, cigars, or cigarettes by the officer in whose custody and control the same may be at the time, and in such manner and under such regulations as the Commissioner may prescribe, or he may, under such regulations, order delivery of such tobacco, snuff, cigars, or cigarettes, without payment of any tax, to any hospital maintained by the United States for the use of present or former members of the military or naval forces of the United States.

SEC. 2191. INSPECTION OF CIGARS AND CIGARETTES.

The Commissioner may prescribe such regulations for the inspection of cigars and cigarettes and the collection of the tax thereon, as he may deem most effective for the prevention of frauds in the payment of such tax.

SEC. 2192. INSPECTION OF PEDDLER'S CERTIFICATE.

Any internal revenue agent may demand production of and inspect the collector's certificate for peddlers.

SEC. 2193. RECORD OF MANUFACTURERS.

(a) TOBACCO AND SNUFF.—Every collector shall keep a record, in a book or books provided for that purpose, to be open to the inspection of only the proper officers of internal revenue, including deputy collectors and internal revenue agents, of the name and residence of every person engaged in the manufacture of tobacco or snuff in his district, the place where such manufacture is carried on, and the number of the manufactory; and he shall enter in said record, under the name of each manufacturer, a copy of every inventory required by law to be made by such manufacturer, and an abstract of his monthly returns.

(b) CIGARS AND CIGARETTES.—Every collector shall keep a record, in a book provided for that purpose, to be open to the inspection of only the proper officers of internal revenue, including deputy collectors and internal revenue agents, of the name and residence of every person engaged in the manufacture of cigars or cigarettes in his district, the place where such manufacture is carried on, and the number of the manufactory; and he shall enter in said record, under the name of each manufacturer an abstract of his inventory and monthly returns.

SEC. 2194. RECORDS, STATEMENTS, AND RETURNS.

Every person liable to any tax imposed by this chapter, or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner with the approval of the Secretary, may from time to time prescribe.

SEC. 2195. RULES AND REGULATIONS.

For authority of the Commissioner, with the approval of the Secretary, to prescribe and publish all needful rules and regulations for the enforcement of this chapter, see section 3791.

SEC. 2196. OTHER LAWS APPLICABLE.

All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, shall be extended to and made a part of this chapter.

SEC. 2197. TERRITORIAL EXTENT OF LAW.

(a) IN GENERAL.—The internal revenue laws imposing taxes on tobacco, snuff, cigars, or cigarettes shall be held to extend to such articles produced anywhere within the exterior boundaries of the United States, whether the same be within a collection district or not.

(b) EXPORTATION FREE OF INTERNAL REVENUE TAX.—The shipment or delivery of manufactured tobacco, snuff, cigars, or cigarettes, for consumption beyond the jurisdiction of the internal revenue laws of the United States, as defined by subsection (a), shall be deemed exportation within the meaning of the internal revenue laws applicable to the exportation of such articles without payment of internal revenue tax.

SEC. 2198. REDEMPTION OF STAMPS ON PACKAGES WITHDRAWN FROM MARKET.

Internal-revenue stamps affixed to packages of tobacco, snuff, cigars, or cigarettes which, after removal from factory or customhouse for consumption or sale, the manufacturer or importer withdraws from the market, may, under regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, be redeemed if issued after December 31, 1931, and if claim for their redemption is presented by the manufacturer or importer within three years after the year of issue as indicated by the number or symbol printed thereon by the Government, irrespective of the date of their purchase. Stamps of any issue shall not be sold until those of the previous year's issue have been disposed of or later than one year after the year of issue.

SEC. 2199. CROSS REFERENCES.

For general provisions relating to stamps, information and returns, assessment, collection, and refunds, see sections 3300 to 3313 and chapters 34 to 37, inclusive.

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CHAPTER 16—OLEOMARGARINE, ADULTERATED BUTTER, AND PROCESS OR RENOVATED BUTTER

SUBCHAPTER A—OLEOMARGARINE

SEC. 2300. OLEOMARGARINE DEFINED.

For the purposes of this chapter, and of sections 3200 and 3201, certain manufactured substances, certain extracts, and certain mixtures and compounds, including such mixtures and compounds with butter, shall be known and designated as "oleomargarine," namely: All substances known prior to August 2, 1886, as oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine, and neutral; all mixtures and compounds of oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine, and neutral; all lard extracts and tallow extracts; and all mixtures and compounds of tallow, beef fat, suet, lard, lard oil, fish oil or fish fat, vegetable oil, annatto, and other coloring matter, intestinal fat, and offal fat;—if (1) made in imitation or semblance of butter, or (2) calculated or intended to be sold as butter or for butter, or (3) churned, emulsified, or mixed in cream, milk, water, or other liquid, and containing moisture in excess of 1 per centum or common salt. This section shall not apply to puff-pastry shortening not churned or emulsified in milk or cream, and having a melting point

of one hundred and eighteen degrees Fahrenheit or more, nor to any of the following containing condiments and spices: salad dressings, mayonnaise dressings, or mayonnaise products nor to liquid emulsion, pharmaceutical preparations, oil meals, liquid preservatives, illuminating oils, cleansing compounds, or flavoring compounds.

SEC. 2301. TAX.

(a) RATE.—

(1) Upon oleomargarine which shall be manufactured and sold, or removed for consumption or use, there shall be assessed and collected a tax at the rate of one-fourth of 1 cent per pound; except that such tax shall be at the rate of 10 cents per pound in the case of oleomargarine which is yellow in color.

(2) For the purposes of paragraph (1), oleomargarine shall be held to be yellow in color when it has a tint or shade containing more than one and six-tenths degrees of yellow, or of yellow and red collectively, but with an excess of yellow over red, measured in the terms of the Lovibond tintometer scale or its equivalent. Such measurements shall be made under regulations prescribed by the Commissioner, with the approval of the Secretary, and such regulations shall provide that the measurements shall be applied in such manner and under such conditions as will, in the opinion of the Commissioner, insure as nearly as practicable that the result of the measurement will show the color of the oleomargarine under the conditions under which it is customarily offered for sale to the consumer.

(b) BY WHOM PAID.—The tax levied by subsection (a) shall be paid by the manufacturer.

(c) HOW PAID.—

(1) STAMPS.—The tax levied by subsection (a) shall be represented by coupon stamps.

(2) ASSESSMENT.—Whenever any manufacturer of oleomargarine sells, or removes for sale or consumption, any oleomargarine upon which the tax is required to be paid by stamps, without the use of the proper stamps, it shall be the duty of the Commissioner, subject to the limitations prescribed in section 3312, upon satisfactory proof, to estimate the amount of tax which has been omitted to be paid, and to make an assessment therefor and certify the same to the collector. The tax so assessed shall be in addition to the penalties imposed by law for such sale or removal.

(d) SPECIAL TAX.—

For special tax on manufacturers, wholesale and retail dealers, see section 3200.

(e) IMPORTED OLEOMARGARINE.—

For tax on imported oleomargarine, see section 2306.

SEC. 2302. MANUFACTURERS.

(a) DEFINITION.—Every person who manufactures oleomargarine for sale shall be deemed a manufacturer of oleomargarine. And any person that sells, vends, or furnishes oleomargarine for the use and consumption of others, except to his own family table without compensation, who shall add to or mix with such oleomargarine any substance which causes such oleomargarine to be yellow in color, determined as provided in paragraph 2 of section 2301 (a), shall also be held to be a manufacturer of oleomargarine within the meaning of this chapter or section 3200 or 3201 of chapter 27, and subject to the provisions thereof.

(b) PACKING REQUIREMENTS.—

(1) KIND AND WEIGHT OF PACKAGES.—All oleomargarine shall be packed by the manufacturer thereof in firkins, tubs, or other wooden, tin-plate, or paper packages, not before used for that purpose, containing, or encased in a manufacturer's package made from any of such materials of, not less than ten pounds.

(2) MARKS AND STAMPS.—The packages described in paragraph (1) shall be marked, stamped, and branded as the Commissioner, with the approval of the Secretary, shall prescribe; and all sales made by manufacturers of oleomargarine shall be in original stamped packages.

(3) CAUTION LABEL.—Every manufacturer of oleomargarine shall securely affix, by pasting, on each package containing oleomargarine manufactured by him, a label on which shall be printed, besides the number of the manufactory and the district and State in which it is situated, these words: "NOTICE.—The manufacturer of the oleomargarine herein contained has complied with all the requirements of law. Every person is cautioned not to use either this package again or the stamp thereon again, nor to remove the contents of this package without destroying said stamp, under the penalty provided by law in such cases."

(c) BOOKS AND RETURNS.—Every manufacturer of oleomargarine shall file with the collector of the district in which his manufactory is located such notices, inventories, shall keep such books, and render such returns of materials and products, and conduct his business under such surveillance of officers and agents as the Commissioner, with the approval of the Secretary, may, by regulation, require.

(d) FACTORY NUMBER AND SIGNS.—Every manufacturer of oleomargarine shall put up such signs and affix such number to his factory as the Commissioner, with the approval of the Secretary, may, by regulation, require.

(e) BONDS.—Every manufacturer of oleomargarine shall file with the collector of the district in which his manufactory is located such bonds as the Commissioner, with the approval of the Secretary, may, by regulation, require. But the bond required of such manufacturer shall be with sureties satisfactory to the collector, and in a penal sum of not less than $5,000; and the sum of said bond may be increased from time to time, and additional sureties required at the discretion of the collector, or under instructions of the Commissioner.

SEC. 2303. WHOLESALE DEALERS.

(a) DEFINITION.—Every person who sells or offers for sale oleomargarine in the original manufacturer's packages shall be deemed a wholesale dealer in oleomargarine.

(b) SELLING REQUIREMENTS.—All sales made by wholesale dealers in oleomargarine shall be in original stamped packages.

(c) BOOKS AND RETURNS.—Wholesale dealers in oleomargarine shall keep such books and render such returns in relation thereto as the Commissioner, with the approval of the Secretary, may, by regulation, require; and such books shall be open at all times to the inspection of any internal revenue officer or agent.

SEC. 2304. RETAIL DEALERS.

(a) DEFINITION.—Every person who sells oleomargarine in less quantities than ten pounds at one time shall be regarded as a retail dealer in oleomargarine.

(b) PACKING AND SELLING REQUIREMENTS.—Retail dealers in oleomargarine must sell only from original stamped packages, in quantities not exceeding ten pounds, and shall pack, or cause to be packed, the oleomargarine sold by them in suitable wooden, tin-plate, or paper packages which shall be marked and branded as the Commissioner, with the approval of the Secretary, shall prescribe.

SEC. 2305. STAMPS ON EMPTIED PACKAGES.

Whenever any stamped package containing oleomargarine is emptied, it shall be the duty of the person in whose hands the same is to destroy utterly the stamps thereon. Any revenue officer may destroy any emptied oleomargarine package upon which the tax-paid stamp is found.

SEC. 2306. IMPORTATION.

All oleomargarine imported from foreign countries shall, in addition to any import duty imposed on the same, pay an internal revenue tax of 15 cents per pound, such tax to be represented by coupon stamps as in the case of oleomargarine manufactured in the United States. The stamps shall be affixed and canceled by the owner or importer of the oleomargarine while it is in the custody of the proper customhouse officers; and the oleomargarine shall not pass out of the custody of said officers until the stamps have been so affixed and canceled, but shall be put up in wooden packages, each containing not less than ten pounds, as prescribed in this chapter for oleomargarine manufactured in the United States, before the stamps are affixed; and the owner or importer of such oleomargarine shall be liable to all the penal provisions of this chapter prescribed for manufacturers of oleomargarine manufactured in the United States. Whenever it is necessary to take any oleomargarine so imported to any place other than the public stores of the United States for the purpose of affixing and canceling such stamps, the collector of customs of the port where such oleomargarine is entered shall designate a bonded warehouse to which it shall be taken, under the control of such customs officer as such collector may direct.

SEC. 2307. EXPORTATION.

Oleomargarine may be removed from the place of manufacture for export to a foreign country without payment of tax or affixing stamps thereto, under such regulations and the filing of such bonds and other security as the Commissioner, with the approval of the Secretary, may prescribe. Every person who shall export oleomargarine shall brand upon every tub, firkin, or other package containing such article the word "Oleomargarine", in plain Roman letters not less than one-half inch square.

SEC. 2308. PENALTIES.

(a) FALSE BRANDING; SELLING, PACKING, OR STAMPING IN VIOLATION OF LAW.—Every person who knowingly sells or offers for sale, or delivers or offers to deliver, any oleomargarine in any other form than in new wooden, tin-plate, or paper packages as described in section 2302 (b) (1) and (2) or who packs in any package any oleomargarine in any manner contrary to law, or who falsely brands any package or affixes a stamp on any package denoting a less amount of tax than that required by law shall be fined for each offense not more than $1,000, and be imprisoned not more than two years.

(b) OMISSION OR REMOVAL OF LABEL.—Every manufacturer of oleomargarine who neglects to affix the label described in section 2302 (b) (3) to any package containing oleomargarine made by him, or sold or offered for sale by or for him, and every person who removes any such label so affixed from any such package, shall be fined $50 for each package in respect to which such offense is committed.

(c) REMOVAL OR DEFACEMENT OF STAMPS, MARKS, OR BRANDS.—Any person who shall willfully remove or deface the stamps, marks, or brands on a package containing oleomargarine taxed as provided in this subchapter shall be guilty of a misdemeanor, and shall be punished by a fine of not less than $100 nor more than $2,000, and by imprisonment for not less than thirty days nor more than six months.

(d) FRAUD BY MANUFACTURERS.—Whenever any person engaged in carrying on the business of manufacturing oleomargarine defrauds, or attempts to defraud, the United States of the tax on the oleomargarine produced by him, or any part thereof, he shall be fined not less than $500 nor more than $5,000, and be imprisoned not less than six months, nor more than three years.

(e) PURCHASING WHEN NOT PROPERLY BRANDED OR STAMPED.—Every person who knowingly purchases or receives for sale any

oleomargarine which has not been branded or stamped according to law shall be liable to a penalty of $50 for each such offense.

(f) PURCHASING FROM MANUFACTURER WHO HAS NOT PAID SPECIAL TAX.—Every person who knowingly purchases or receives for sale any oleomargarine from any manufacturer who has not paid the special tax required under subsection (a) of section 3200 of chapter 27 shall be liable for each offense to a penalty of $100.

(g) EMPTY PACKAGES.—

(1) FAILURE TO DESTROY STAMPS.—Any person who willfully neglects or refuses to destroy utterly the stamps on any empty package which contained oleomargarine shall for each such offense be fined not exceeding $50, and imprisoned not less than ten days nor more than six months; and

(2) TRAFFICKING.—Any person who fraudulently gives away or accepts from another, or who sells, buys, or uses for packing oleomargarine, any such stamped package, shall for each such offense be fined not exceeding $100, and be imprisoned not more than one year.

(h) FAILURE OF WHOLESALE DEALERS TO KEEP OR PERMIT INSPECTION OF BOOKS, OR TO RENDER RETURNS.—Any person who willfully violates any of the provisions of subsection (c) of section 2303 shall for each such offense be fined not less than $50 and not exceeding $500, and imprisoned not less than thirty days nor more than six months.

(i) IMPORTED OLEOMARGARINE.—

(1) FAILURE OF CUSTOMS OFFICER TO COMPLY WITH LAW.—Every officer of customs who permits any imported oleomargaraine to pass out of his custody or control without compliance by the owner or importer thereof with the provisions of section 2306 relating thereto, shall be fined not less than $1,000 nor more than $5,000, and imprisoned not less than six months nor more than three years.

(2) SALE WHEN IMPROPERLY PACKED OR STAMPED.—Every person who sells or offers for sale any imported oleomargarine, or oleomargarine purporting or claimed to have been imported, not put up in packages and stamped as provided by this subchapter, shall be fined not less than $500 nor more than $5,000, and be imprisoned not less than six months nor more than two years.

(j) OFFENSES NOT SPECIFICALLY COVERED.—If any manufacturer of oleomargarine, any dealer therein or any importer or exporter thereof shall knowingly or willfully omit, neglect, or refuse to do, or cause to be done, any of the things required by law in the carrying on or conducting of his business, or shall do anything by this subchapter or chapter 27 prohibited, if there be no specific penalty or punishment imposed by any other provision of this subchapter or chapter 27 for the neglecting, omitting, or refusing to do, or for the doing or causing to be done, the things required or prohibited, he shall pay a penalty of $1,000.

SEC. 2309. FORFEITURES.

(a) SPECIAL TAX ON MANUFACTURER UNPAID.—Every person who knowingly purchases or receives for sale any oleomargarine from any manufacturer who has not paid the special tax required under subsection (a) of section 3200 shall be liable for each offense to a forfeiture of all articles so purchased or received, or of the full value thereof.

(b) PACKAGES UNSTAMPED, UNMARKED, OR DELETERIOUS.—All packages of oleomargarine subject to tax under this subchapter, that shall be found without stamps or marks as herein provided, and all oleomargarine intended for human consumption which contains ingredients adjudged, as provided in section 2311, to be deleterious to the public health, shall be forfeited to the United States.

(c) FRAUD BY MANUFACTURER.—Whenever any person engaged in carrying on the business of manufacturing oleomargarine defrauds, or

attempts to defraud, the United States of the tax on the oleomargarine produced by him, or any part thereof, he shall forfeit the factory and manufacturing apparatus used by him, and all oleomargarine and all raw material for the production of oleomargarine found in the factory and on the factory premises.

(d) OFFENSES NOT SPECIFICALLY COVERED.—If any manufacturer of or wholesale dealer in oleomargarine shall knowingly or willfully omit, neglect, or refuse to do, or cause to be done, any of the things required by law in the carrying on or conducting of his business, or shall do anything by this subchapter or chapter 27 prohibited, all the oleomargarine owned by him, or in which he has any interest as owner, shall be forfeited to the United States.

SEC. 2310. RECOVERY OF PENALTIES AND FORFEITURES.

All fines, penalties, and forfeitures imposed by this subchapter or section 3201 may be recovered in any court of competent jurisdiction.

SEC. 2311. COMMISSIONER'S DECISIONS.

(a) TAXABILITY.—The Commissioner is authorized to decide what substances, extracts, mixtures, or compounds which may be submitted for his inspection in contested cases are to be taxed under this subchapter; and his decision in matters of taxation under this subchapter shall be final.

(b) DELETERIOUS INGREDIENTS.—The Commissioner may also decide whether any substance made in imitation or semblance of butter, and intended for human consumption, contains ingredients deleterious to the public health.

(c) APPEAL.—In case of doubt or contest the decisions of the Commissioner in the class of cases under subsection (b) may be appealed from to a board constituted for the purpose, and composed of the Surgeon General of the Army, the Surgeon General of the Navy, and the Secretary of Agriculture; and the decisions of this board shall be final in the premises.

SEC. 2312. CHEMISTS AND MICROSCOPISTS.

For the appointment and employment of chemists and miscroscopists, see subchapter E of chapter 39.

SEC. 2313. TOBACCO STAMP LAWS APPLICABLE.

The provisions of law governing the engraving, issue, sale, accountability, effacement, and destruction of stamps relating to tobacco and snuff, as far as applicable, shall apply to stamps provided for by section 2301 (c) (1).

SEC. 2314. REGULATIONS.

For authority of the Commissioner, with the approval of the Secretary, to make all needful regulations for the carrying into effect of this subchapter and sections 3200 and 3201, see section 3791.

SUBCHAPTER B—ADULTERATED AND PROCESS OR RENOVATED BUTTER

SEC. 2320. DEFINITIONS.

(a) BUTTER.—For the purpose of this chapter and sections 3206, and 3207, the word "butter" shall be understood to mean the food product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter.

(b) ADULTERATED BUTTER.—"Adulterated butter" is defined to mean a grade of butter produced by mixing, reworking, rechurning in milk or cream, refining, or in any way producing a uniform, purified, or improved product from different lots or parcels of melted or unmelted butter or butter fat, in which any acid, alkali, chemical, or any substance whatever is introduced or used for the purpose or with the effect of deodorizing or removing therefrom rancidity, or any butter or butter fat with which there is mixed any substance foreign to

butter as defined in subsection (a), with intent or effect of cheapening in cost the product or any butter in the manufacture or manipulation of which any process or material is used with intent or effect of causing the absorption of abnormal quantities of water, milk, or cream.

(c) PROCESS OR RENOVATED BUTTER.—"Process butter" or "renovated butter" is defined to mean butter which has been subjected to any process by which it is melted, clarified or refined and made to resemble genuine butter, always excepting "adulterated butter" as defined by subsection (b).

SEC. 2321. TAX.

(a) RATE.—

(1) ADULTERATED BUTTER.—Upon adulterated butter, when manufactured or sold or removed for consumption or use, there shall be assessed and collected a tax of 10 cents per pound, and any fractional part of a pound shall be taxed as a pound.

(2) PROCESS OR RENOVATED BUTTER.—Upon process or renovated butter, when manufactured or sold or removed for consumption or use, there shall be assessed and collected a tax of one-fourth of 1 cent per pound, and any fractional part of a pound shall be taxed as a pound.

(b) BY WHOM PAID.—The tax to be levied by subsection (a) shall be paid by the manufacturer.

(c) HOW PAID.—

(1) STAMPS.—The tax to be levied by subsection (a) shall be represented by coupon stamps.

(2) ASSESSMENT.—

For assessment in case of omitted taxes, see section 3311.

(d) SPECIAL TAX.—

(1) MANUFACTURERS OF ADULTERATED AND PROCESS OR RENOVATED BUTTER.—

For special tax on manufacturers of adulterated and process or renovated butter, see subsection (a) of section 3206.

(2) WHOLESALE DEALERS AND RETAIL DEALERS IN ADULTERATED BUTTER.—

For special tax on wholesale dealers and retail dealers in adulterated butter, see subsections (b) and (c) of section 3206.

SEC. 2322. MANUFACTURERS.

(a) DEFINITION.—Every person who engages in the production of process or renovated butter or adulterated butter as a business shall be considered to be a manufacturer thereof.

(b) PACKING, STAMPING, AND SELLING REQUIREMENTS.—

(1) ADULTERATED BUTTER.—All adulterated butter shall be packed by the manufacturer thereof in firkins, tubs, or other wooden, tinplate, or paper packages not before used for that purpose, containing, or encased in a manufacturer's package made from any of such materials of, not less than ten pounds, and marked, stamped, and branded as the Commissioner, with the approval of the Secretary, shall prescribe, and all sales made by manufacturers of adulterated butter shall be in original, stamped packages. Every manufacturer of adulterated butter shall securely affix, by pasting, on each package containing adulterated butter manufactured by him a label on which shall be printed, besides the number of the manufactory and the district and State in which it is situated, these words: "Notice.—That the manufacturer of the adulterated butter herein contained has complied with all the requirements of law. Every person is cautioned not to use either this package again or the stamp thereon, nor to remove the contents of this package without destroying said stamp, under the penalty provided by law in such cases."

(2) PROCESS OR RENOVATED BUTTER.—

For marking process or renovated butter, see section 2325.

(c) BOOKS AND RETURNS.—Every manufacturer of process or renovated butter or adulterated butter shall file with the collector of the district in which his manufactory is located such notices and inventories, shall keep such books and render such returns of material and products, and conduct his business under such surveillance of officers and agents as the Commissioner, with the approval of the Secretary, may by regulation require.

(d) FACTORY NUMBER AND SIGNS.—Every manufacturer of process or renovated butter or adulterated butter shall put up such signs and affix such number to his factory as the Commissioner, with the approval of the Secretary, may by regulation require.

(e) BONDS.—Every manufacturer of process or renovated butter or adulterated butter shall file with the collector of the district in which his manufactory is located such bonds as the Commissioner, with the approval of the Secretary, may by regulation require. But the bond required of such manufacturer shall be with sureties satisfactory to the collector, and in a penal sum of not less than $500; and the sum of said bond may be increased from time to time and additional sureties required at the discretion of the collector or under instructions of the Commissioner.

SEC. 2323. DEALERS IN ADULTERATED BUTTER.

(a) DEALER DEFINED.—Every person who sells adulterated butter shall be regarded as a dealer in adulterated butter.

(b) RETAIL DEALER DEFINED.—Every person who sells adulterated butter in less quantities than ten pounds at one time shall be regarded as a retail dealer in adulterated butter.

(c) SELLING REQUIREMENTS.—Dealers in adulterated butter must sell only original or from original stamped packages, and when such original stamped packages are broken the adulterated butter sold from same shall be placed in suitable wooden, tin-plate, or paper packages, which shall be marked and branded as the Commissioner, with the approval of the Secretary, shall prescribe.

SEC. 2324. BOOKS AND RETURNS OF WHOLESALE DEALERS IN ADULTERATED AND PROCESS OR RENOVATED BUTTER.

Wholesale dealers in process, renovated, or adulterated butter shall keep such books and render such returns in relation thereto as the Commissioner, with the approval of the Secretary, may, by regulation, require; and such books shall be open at all times to the inspection of any internal revenue officer or agent.

SEC. 2325. INSPECTION, MANUFACTURE, STORAGE, AND MARKING OF PROCESS OR RENOVATED BUTTER.

The Secretary of Agriculture is authorized and required to cause a rigid sanitary inspection to be made, at such times as he may deem proper or necessary, of all factories and storehouses where process or renovated butter is manufactured, packed, or prepared for market, and of the products thereof and materials going into the manufacture of the same. All process or renovated butter and the packages containing the same shall be marked with the words "Renovated Butter" or "Process Butter" and by such other marks, labels, or brands and in such manner as may be prescribed by the Secretary of Agriculture, and no process or renovated butter shall be shipped or transported from its place of manufacture into any other State or Territory or the District of Columbia, or to any foreign country, until it has been marked as provided in this section. The Secretary of Agriculture shall make all needful regulations for carrying this section and sections 2326 (c) and 2327 (b) into effect and shall cause to be ascertained and reported from time to time the quantity and quality of process or renovated butter manufactured, and the character and the condition of the material from which it is made. And he shall also have power to ascertain whether or not materials used in the manufacture of said process or renovated butter are deleterious to health or un-

wholesome in the finished product, and in case such deleterious or unwholesome materials are found to be used in product intended for exportation or shipment into other States or in course of exportation or shipment he shall have power to confiscate the same.

SEC. 2326. PENALTIES.

(a) ADULTERATED BUTTER.—

(1) FALSE BRANDING; SALE, PACKING, OR STAMPING IN VIOLATION OF LAW.—Every person who knowingly sells or offers for sale, or delivers or offers to deliver, any adulterated butter in any other form than in new wooden, tin-plate, or paper packages as described in subsection (c) of section 2323, or who packs in any package any adulterated butter in any manner contrary to law, or who falsely brands any package or affixes a stamp on any package denoting a less amount of tax than that required by law, shall be fined for each offense not more than $1,000 and be imprisoned not more than two years.

(2) OMISSION OR REMOVAL OF LABEL.—Every manufacturer of adulterated butter who neglects to affix the label required under paragraph (1) of subsection (b) of section 2322 to any package containing adulterated butter made by him, or sold or offered for sale for or by him, and every person who removes any such label so affixed from any such package shall be fined $50 for each package in respect to which such offense is committed.

(b) FAILURE OF WHOLESALE DEALERS TO KEEP OR PERMIT INSPECTION OF BOOKS, OR TO RENDER RETURNS.—Any person who willfully violates any of the provisions of section 2324 shall for each such offense be fined not less than $50 and not exceeding $500, and imprisoned not less than thirty days nor more than six months.

(c) FAILURE TO COMPLY WITH PROVISIONS RELATING TO THE MANUFACTURE, STORAGE, AND MARKING OF PROCESS OR RENOVATED BUTTER.—Any person, firm, or corporation violating any of the provisions of section 2325 shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than $50 nor more than $500 or by imprisonment not less than one month nor more than six months, or by both said punishments, in the discretion of the court.

SEC. 2327. OTHER LAWS APPLICABLE.

(a) OLEOMARGARINE.—The provisions of sections 2301 (c) (2), 2305 to 2311 inclusive (except subsections (a), (b), and (h) of section 2308), and section 3791 (a) (1), shall apply to manufacturers of adulterated butter to an extent necessary to enforce the marking, branding, identification, and regulation of the exportation and importation of adulterated butter.

(b) INSPECTION OF LIVE CATTLE AND MEAT.—All parts of an act providing for an inspection of meats for exportation, approved August 30, 1890, c. 839, 26 Stat. 414, and of an Act to provide for the inspection of live cattle, hogs, and the carcasses and products thereof which are the subjects of interstate commerce, approved March 3, 1891, c. 555, 26 Stat. 1089, and of amendment thereto approved March 2, 1895, c. 169, § 1, 28 Stat. 732, which are applicable to the subjects and purposes described in section 2325 shall apply to process or renovated butter.

(c) SLAUGHTERING AND MEAT CANNING.—The sanitary provisions for slaughtering, meat canning, or similar establishments as set forth in the act of June 30, 1906, c. 3913, 34 Stat. 676, shall be extended to cover renovated butter factories as defined in this subchapter, under such regulations as the Secretary of Agriculture may prescribe.

(d) TOBACCO AND SNUFF.—The provisions of law governing the engraving, issuing, sale, accountability, effacement, and destruction of stamps relating to tobacco and snuff, as far as applicable, shall apply to the stamps provided in section 2321 (c) (1).

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CHAPTER 17—FILLED CHEESE

SEC. 2350. DEFINITIONS.

For the purpose of this chapter and sections 3210 and 3211—

(a) CHEESE.—The word "cheese" shall be understood to mean the food product known as cheese, and which is made from milk or cream and without the addition of butter, or any animal, vegetable, or other oils or fats foreign to such milk or cream, with or without additional coloring matter.

(b) FILLED CHEESE.—Certain substances and compounds shall be known and designated as "filled cheese," namely: All substances made of milk or skimmed milk, with the admixture of butter, animal oils or fats, vegetable or any other oils, or compounds foreign to such milk, and made in imitation or semblance of cheese. Substances and compounds, consisting principally of cheese with added edible oils, which are not sold as cheese or as substitutes for cheese but are primarily useful for imparting a natural cheese flavor to other foods shall not be considered "filled cheese" within the meaning of this chapter.

SEC. 2351. TAX.

(a) RATE.—Upon all filled cheese which shall be manufactured there shall be assessed and collected a tax of 1 cent per pound; and any fractional part of a pound in a package shall be taxed as a pound.

(b) BY WHOM PAID.—The tax levied by subsection (a) shall be paid by the manufacturer.

(c) HOW PAID.—

(1) STAMPS.—The tax levied by subsection (a) shall be represented by coupon stamps.

(2) ASSESSMENT.—Whenever any manufacturer of filled cheese sells or removes for sale or consumption any filled cheese upon which the tax is required to be paid by stamps, without paying such tax, it shall be the duty of the Commissioner, subject to the limitations prescribed in section 3312, upon satisfactory proof, to estimate the amount of tax which has been omitted to be paid and to make an assessment therefor and certify the same to the collector. The tax so assessed shall be in addition to the penalties imposed by law for such sale or removal.

(d) SPECIAL TAX.—

For special tax on manufacturers and dealers, see section 3210.

(e) IMPORTED FILLED CHEESE.—

For tax on imported filled cheese, see section 2356.

SEC. 2352. MANUFACTURERS.

(a) DEFINITION.—Every person, firm, or corporation who manufactures filled cheese for sale shall be deemed a manufacturer of filled cheese.

(b) PACKING REQUIREMENTS.—

(1) MARKS, STAMPS, AND PACKAGES.—Filled cheese shall be packed by the manufacturers in wooden packages only, not before used for that purpose, and marked, stamped, and branded with the words "filled cheese" in black-faced letters not less than two inches in length, in a circle in the center of the top and bottom of the cheese; and in black-faced letters of not less than two inches in length in line from the top to the bottom of the cheese, on the side in four places equidistant from each other; and the package containing such cheese shall be marked in the same manner, and in the same number of places, and in the same description of letters as above provided for the marking of the cheese; and all sales or consignments made by manufacturers of filled cheese to wholesale dealers in filled cheese or to exporters of filled cheese shall be in original stamped packages.

(2) LABEL.—Every manufacturer of filled cheese shall securely affix, by pasting on each package containing filled cheese manufactured by him, a label on which shall be printed, besides the number of the manufactory and the district and State in which it is situated, these words: "NOTICE.—The manufacturer of the filled cheese herein contained has complied with all the requirements of the law. Every person is cautioned not to use either this package again or the stamp thereon again, nor to remove the contents of this package without destroying said stamp, under the penalty provided by law in such cases."

(c) BOOKS AND RETURNS.—Every manufacturer of filled cheese shall file with the collector of the district in which his manufactory is located such notices and inventories, shall keep such books and render such returns of materials and products, and conduct his business under such surveillance of officers and agents as the Commissioner, with the approval of the Secretary, may by regulation require.

(d) FACTORY NUMBER AND SIGNS.—Every manufacturer of filled cheese shall put up such signs and affix such number to his factory as the Commissioner, with the approval of the Secretary, may by regulation require.

(e) BONDS.—Every manufacturer of filled cheese shall file with the collector of the district in which his manufactory is located such bonds as the Commissioner, with the approval of the Secretary, may by regulation require. But the bond required of such manufacturer shall be with sureties satisfactory to the collector, and in a penal sum of not less than $5,000; and the amount of said bond may be increased from time to time, and additional sureties required, at the discretion of the collector or under instructions of the Commissioner.

SEC. 2353. WHOLESALE DEALERS.

(a) DEFINITION.—Every person, firm, or corporation who sells or offers for sale filled cheese, in the original manufacturer's packages for resale, or to retail dealers as defined in section 2354 (a), shall be deemed a wholesale dealer in filled cheese.

(b) SIGNS.—All wholesale dealers in filled cheese shall display in a conspicuous place in his or their salesroom a sign bearing the words "Filled cheese sold here" in black-faced letters not less than six inches in length, upon a white ground, with the name and number of the revenue district in which his or their business is conducted.

SEC. 2354. RETAIL DEALERS.

(a) DEFINITION.—Every person who sells filled cheese at retail, not for resale, and for actual consumption, shall be regarded as a retail dealer in filled cheese.

(b) SELLING REQUIREMENTS.—Retail dealers in filled cheese shall sell only from original stamped packages, and shall pack the filled cheese when sold in suitable wooden or paper packages, which shall be marked and branded in accordance with rules and regulations to be prescribed by the Commissioner with the approval of the Secretary.

(c) SIGNS.—All retail dealers in filled cheese shall display in a conspicuous place in his or their salesroom, a sign bearing the words "Filled cheese sold here" in black-faced letters not less than six inches in length, upon a white ground, with the name and number of the revenue district in which his or their business is conducted.

SEC. 2355. STAMPS ON EMPTIED PACKAGES.

Whenever any stamped package containing filled cheese is emptied it shall be the duty of the person in whose hands the same is to destroy the stamps thereon.

SEC. 2356. IMPORTATION.

All filled cheese as defined in section 2350 (b) imported from foreign countries shall, in addition to any import duty imposed on the same, pay an internal revenue tax of 8 cents per pound, such tax to be represented by coupon stamps; and such imported filled cheese and the packages containing the same shall be stamped, marked, and branded, as in the case of filled cheese manufactured in the United States.

SEC. 2357. PENALTIES.

(a) FAILURE TO COMPLY WITH SECTION 2352 (c) TO (e).—Any manufacturer of filled cheese who fails to comply with the provisions of subsections (c), (d), and (e) of section 2352, or with the regulations therein authorized, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than $500 nor more than $1,000.

(b) FALSE BRANDING; SALE, PACKING, OR STAMPING IN VIOLATION OF LAW.—Every person who knowingly sells or offers to sell, or delivers or offers to deliver, filled cheese in any other form than in new wooden or paper packages, marked and branded as provided for and described in subsection (b) of section 2354, or who packs in any package or packages filled cheese in any manner contrary to law, or who falsely brands any package or affixes a stamp on any package denoting a less amount of tax than that required by law, shall upon conviction thereof be fined for each and every offense not less than $50 and not more than $500 or be imprisoned not less than thirty days nor more than one year.

(c) FAILURE OF WHOLESALE AND RETAIL DEALERS TO DISPLAY SIGNS.—Any wholesale or retail dealer in filled cheese who fails or neglects to comply with the provisions of sections 2353 (b) and 2354 (c) shall be deemed guilty of a misdemeanor, and shall on conviction thereof be fined for each and every offense not less than $50 and not more than $200.

(d) OMISSION OR REMOVAL OF LABEL.—Every manufacturer of filled cheese who neglects to affix the label provided for in paragraph (2) of section 2352 (b) to any package containing filled cheese made by him or sold or offered for sale by or for him, and every person who removes any such label so affixed from any such package, shall be fined $50 for each package in respect to which such offense is committed.

(e) PURCHASING WHEN SPECIAL TAX NOT PAID.—Every person who knowingly purchases or receives for sale any filled cheese from any manufacturer or importer who has not paid the special tax provided for in section 3210 of chapter 27 shall be liable, for each offense, to a penalty of $100.

(f) PURCHASING WHEN NOT STAMPED, BRANDED, OR MARKED ACCORDING TO LAW.—Any person who knowingly purchases or receives for sale any filled cheese which has not been branded or stamped ac-

cording to law, or which is contained in packages not branded or marked according to law, shall be liable to a penalty of $50 for each such offense.

(g) FAILURE TO DESTROY STAMPS ON EMPTIED PACKAGES.—Any person who willfully neglects or refuses to destroy the stamps on any empty package which contained filled cheese shall, for each such offense, be fined not exceeding $50 or imprisoned not less than ten days nor more than six months.

SEC. 2358. FORFEITURES.

(a) PURCHASING WHEN SPECIAL TAX NOT PAID.—Every person who knowingly purchases or receives for sale any filled cheese from any manufacturer or importer who has not paid the special tax provided for in section 3210 of chapter 27 shall be liable, for each offense, to a forfeiture of all articles so purchased or received, or of the full value thereof.

(b) PACKAGES UNSTAMPED, UNMARKED, OR DELETERIOUS.—All packages of filled cheese subject to tax under this chapter that shall be found without stamps or marks as herein provided, and all filled cheese intended for human consumption which contains ingredients adjudged as hereinafter provided to be deleterious to the public health, shall be forfeited to the United States.

SEC. 2359. RECOVERY OF PENALTIES AND FORFEITURES.

All fines, penalties, and forfeitures imposed by this chapter or section 3211 may be recovered in any court of competent jurisdiction.

SEC. 2360. COMMISSIONER'S DECISIONS.

(a) DELETERIOUS INGREDIENTS.—The Commissioner is authorized to have applied scientific tests, and to decide whether any substances used in the manufacture of filled cheese contain ingredients deleterious to health.

(b) APPEAL.—In case of doubt or contest the decision of the Commissioner in the class of cases referred to in subsection (a) may be appealed from to a board constituted for the purpose, and composed of the Surgeon General of the Army, the Surgeon General of the Navy, and the Secretary of Agriculture, and the decision of this board shall be final in the premises.

SEC. 2361. TOBACCO STAMP LAWS APPLICABLE.

The provisions of law governing the engraving, issue, sale, accountability, effacement, and destruction of stamps relating to tobacco and snuff, as far as applicable, shall apply to stamps provided for by paragraph (1) of subsection (c) of section 2351.

SEC. 2362. REGULATIONS.

For authority of the Commissioner, with the approval of the Secretary, to make all needful regulations for the carrying into effect of the provisions of this chapter and sections 3210 and 3211, see section 3791 (a) (1).

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CHAPTER 18—MIXED FLOUR

SEC. 2380. MIXED FLOUR DEFINED.

For the purposes of this chapter and section 3215, the words "mixed flour" shall be taken and construed to mean the food product resulting from the grinding or mixing together of wheat, or wheat flour, as the principal constituent in quantity, with any other grain, or the product of any other grain, or other material, except such material, and not the product of any grain, as is commonly used for baking purposes: *Provided*, That when the product resulting from the grinding or mixing together of wheat or wheat flour with any other grain, or the product of any other grain, of which wheat or wheat flour is not the principal constituent as specified in the foregoing definition, is intended for sale, or is sold, or offered for sale as wheat flour, such product shall be held to be mixed flour within the meaning of this chapter and section 3215.

SEC. 2381. TAX.

(a) RATE.—Upon the manufacture and sale of mixed flour there shall be levied a tax of 4 cents per barrel or other package containing one hundred and ninety-six pounds or more than ninety-eight pounds; 2 cents on every half barrel or other package containing ninety-eight pounds or more than forty-nine pounds; 1 cent on every quarter barrel or other package containing forty-nine pounds or more than twenty-four and one-half pounds; and one-half cent on every one-eighth barrel or other package containing twenty-four and a half pounds or less.

(b) BY WHOM PAID.—The tax levied by subsection (a) shall be paid by the person, firm, or corporation making or packing mixed flour.

(c) HOW PAID.—

(1) STAMPS.—The tax levied by subsection (a) shall be represented by coupon stamps.

(2) ASSESSMENT.—Whenever any person, firm, or corporation sells, consigns, or removes for sale, consignment, or consumption any mixed flour upon which the tax required by this chapter has not been paid, it shall be the duty of the Commissioner, subject to the limitations prescribed in section 3312, upon satisfactory proof, to estimate the amount of tax which should have been paid, and to make an assessment therefor and certify the same to the collector

of the proper district. The tax so assessed shall be in addition to the penalties imposed by this chapter for an unauthorized sale or removal.

(d) IMPORTED MIXED FLOUR.—

For tax on imported mixed flour, see section 2384.

(e) EXEMPTION, REPACKED FLOUR.—

For exemption of repacked flour from tax, see section 2382 (b) (1).

(f) SPECIAL TAX.—

For special tax on manufacturers and packers, see section 3215.

SEC. 2382. REQUIREMENTS ON MANUFACTURERS OR PACKERS.

(a) PACKAGES.—

(1) WEIGHT.—Barrels or other packages in which mixed flour may be packed shall contain not to exceed one hundred and ninety-six pounds.

(2) REUSE.—All sales and consignments of mixed flour shall be in packages not before used for that purpose.

(3) MARKS AND BRANDS.—Every person, firm, or corporation making, packing, or repacking mixed flour shall plainly mark or brand each package containing the same with the words "mixed flour" in plain black letters not less than two inches in length, together with the true weight of such package, the names of the ingredients composing the same, the name of the maker or packer, and the place where made or packed.

(4) CONTENTS CARD.—In addition to the requirements under paragraph (3), the maker or packer shall place in each package a card not smaller than two inches in width by three inches in length, upon which shall be printed the words "mixed flour," together with the names of the ingredients composing the same, and the name of the maker or packer, and the place where made or packed.

(5) LABEL.—In addition to the branding and marking of mixed flour as provided in this chapter, there shall be affixed to the packages containing the same a label in the following words: "NOTICE.—The (manufacturer or packer, as the case may be) of the mixed flour herein contained has complied with all the requirements of law. Every person is cautioned not to use this package or label again or to remove the contents without destroying the revenue stamp thereon, under the penalty prescribed by law in such cases."

(b) REPACKING.—

(1) EXEMPTION FROM TAX.—When mixed flour, on the manufacture and sale of which the tax imposed by this chapter has been paid, is sold and then repacked without the addition of any other material, such repacked flour shall not be liable to any additional tax.

(2) MARKS, BRANDS, AND CONTENTS CARDS.—The packages containing the repacked flour referred to in paragraph (1) of this subsection shall be branded and marked as required by paragraph (3) of subsection (a), and shall contain the card provided for in paragraph (4) of subsection (a).

(3) NOTICE.—In addition to the requirements under paragraphs (1) and (2), the person, firm, or corporation repacking mixed flour shall place on the packages containing the same a label in the following words: "NOTICE.—The contents of this package have been taken from a regular statutory package, upon which the tax has been duly paid."

SEC. 2383. STAMPS ON EMPTIED PACKAGES.

Whenever any package containing mixed flour is emptied it shall be the duty of the person in whose possession it is to destroy the stamp thereon.

SEC. 2384. IMPORTATION.

All mixed flours, imported from foreign countries, shall, in addition to any import duties imposed thereon, pay an internal revenue tax equal in amount to the tax imposed under subsection (a) of section 2381, such tax to be represented by coupon stamps, and the packages containing such imported mixed flour shall be marked, branded, labeled, and stamped as in the case of mixed flour made or packed in the United States.

SEC. 2385. EXPORTATION.

Mixed flour may be removed from the place of manufacture or from the place where packed for export to a foreign country without payment of tax or affixing stamps or label thereto, under such regulation and the filing of such bond and other security as the Commissioner, with the approval of the Secretary, may prescribe. Every person, firm, or corporation who shall export mixed flour shall plainly mark on each package containing the same the words "mixed flour," and the names of the ingredients composing the same, the name of the maker or packer, and the place where made or packed, in accordance with the provisions of this chapter.

SEC. 2386. PENALTIES.

(a) OMISSION OF MARKS, BRANDS, OR CONTENTS CARDS.—Any person, firm, or corporation making, packing, or repacking mixed flour, failing to comply with the provisions of paragraphs (3) and (4) of subsection (a) of section 2382, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than $250 and not more than $500, or be imprisoned not less than sixty days nor more than one year.

(b) OMISSION OR REMOVAL OF LABELS.—Every person, firm, or corporation failing or neglecting to affix the label required by paragraph (5) of subsection (a) of section 2382 to any package containing mixed flour made or packed by him or them, or who removes from any such package any label so affixed, shall, upon conviction thereof, be fined not less than $50 for each label so removed.

(c) SALE OR PACKING IN VIOLATION OF LAW; FALSIFICATION OR UNLAWFUL REMOVAL OF BRANDS.—Every person, firm, or corporation knowingly selling or offering for sale any mixed flour in other than marked and branded packages, as required by the provisions of this chapter, or who packs in any package or packages any mixed flour in any manner contrary to the provisions of this chapter, or who falsely marks or brands any package or packages containing mixed flour, or unlawfully removes such marks or brands, shall, for each such offense, be punished by a fine of not less than $250 and not more than $500, or by imprisonment not less than thirty days nor more than one year.

(d) FAILURE TO PAY TAX; EXCESSIVE WEIGHT; IMPROPER MARKING OR BRANDING ON REPACKING.—Any person violating the provisions of section 2381 (b) and (c) (1) or section 2382 (a) (1) and (b), shall, upon conviction thereof, be punished by a fine of not less than $250 and not more than $500, or by imprisonment not to exceed one year.

(e) PURCHASING WHEN TAX NOT PAID.—Any person, firm, or corporation knowingly purchasing or receiving for sale or for repacking and resale any mixed flour from any maker, packer, or importer, who has not paid the tax provided in this chapter, or section 3215 (a), shall, for each offense, be fined not less than $50, and forfeit to the United States all the articles so purchased or received, or the full value thereof.

(f) PURCHASING IMPORTED FLOUR WITHOUT BRANDS, LABELS, OR STAMPS.—Any person, firm, or corporation purchasing or receiving for sale or repacking any mixed flour imported from foreign countries, which has not been branded, labeled, or stamped, as required

by this chapter, or which is contained in packages which have not been marked, branded, labeled, or stamped, as required by this chapter shall, upon conviction, be fined not less than $50 nor more than $500.

(g) FAILURE TO DESTROY STAMPS OR MARKS ON EMPTY PACKAGES.—Any person disposing of an empty package which contained mixed flour without first having destroyed the stamp or mark or marks thereon, shall, upon conviction, be punished by a fine not exceeding the sum of $25.

(h) SECOND OFFENSE.—Any person, firm, or corporation found guilty of a second or any subsequent violation of any of the provisions of this chapter or of section 3215, shall, in addition to the penalties imposed by this chapter, be imprisoned not less than thirty days nor more than ninety days.

SEC. 2387. RECOVERY OF PENALTIES AND FORFEITURES.

All fines, penalties, and forfeitures imposed by section 2386 or 3215 may be recovered in any court of competent jurisdiction.

SEC. 2388. TOBACCO STAMP LAWS APPLICABLE.

(a) The provisions of law governing the engraving, issue, sale, accountability, effacement, and destruction of stamps relating to tobacco and snuff shall, so far as applicable, be made to apply to stamps provided in section 2381 (c) (1).

(b) All administrative, special, or stamp provisions of law, including the laws in relation to assessment of taxes, not specifically repealed, shall be applicable to this chapter and to section 3215.

SEC. 2389. REGULATIONS.

For authority of the Commissioner, with the approval of the Secretary, to make all needful rules and regulations for carrying into effect the provisions of this chapter and of section 3215, see section 3791 (a) (1).

SEC. 2390. CONTRACTS FOR STAMPS.

The Commissioner, with the approval of the Secretary, is authorized to procure any of the stamps provided in this chapter by contract whenever such stamps can not be speedily prepared by the Bureau of Engraving and Printing, and said contracts shall be awarded under such terms, restrictions, and regulations as may be prescribed by the Commissioner, with the approval of the Secretary.

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CHAPTER 21—COCONUT AND OTHER VEGETABLE OILS

SEC. 2470. TAX.

(a) RATE.—

(1) IN GENERAL.—There shall be imposed upon the first domestic processing of coconut oil, palm oil, palm-kernel oil, fatty acids derived from any of the foregoing oils, salts of any of the foregoing (whether or not such oils, fatty acids, or salts have been refined, sulphonated, sulphated, hydrogenated, or otherwise processed), or any combination or mixture containing a substantial quantity of any one or more of such oils, fatty acids, or salts, a tax of 3 cents per pound to be paid by the processor.

(2) ADDITIONAL RATE ON COCONUT OIL.—There shall be imposed (in addition to the tax imposed by the preceding paragraph) a tax of 2 cents per pound, to be paid by the processor, upon the first domestic processing of coconut oil or of any combination or mixture containing a substantial quantity of coconut oil with respect to which oil there has been no previous first domestic processing, except that the tax imposed by this sentence shall not apply when it is established, in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, that such coconut oil (whether or not contained in such a combination or mixture), (A) is wholly the production of the Philippine Islands or any other possession of the United States, or (B) was produced wholly from materials the growth or production of the Philippine Islands or any other possession of the United States, or (C) was brought into the United States on or before June 9, 1934, or produced from materials brought into the United States on or before June 9, 1934, or (D) was purchased under a bona fide contract entered into prior to April 26, 1934, or produced from materials purchased under a bona fide contract entered into prior to April 26, 1934.

(b) EXEMPTION.—The tax under subsection (a) shall not apply (1) with respect to any fatty acid or salt resulting from a previous first domestic processing taxed under this section or upon which an import tax has been paid under chapter 22, or (2) with respect to any combination or mixture by reason of its containing an oil, fatty acid, or salt with respect to which there has been a previous

first domestic processing or upon which an import tax has been paid under chapter 22.

(c) IMPORTATIONS PRIOR TO AUGUST 21, 1936.—Notwithstanding the provisions of subsections (a) and (b) of this section, the first domestic processing of sunflower oil or sesame oil (or any combination or mixture containing a substantial quantity of sunflower oil or sesame oil), if such oil or such combination or mixture or such oil contained therein was imported prior to August 21, 1936, shall be taxed in accordance with the provisions of section 602½ of the Revenue Act of 1934, 48 Stat. 763, in force on June 22, 1936.

SEC. 2471. RETURNS.

Each processor required to pay the tax imposed by section 2470 shall make monthly returns under oath in duplicate and pay the tax to the collector for the district in which is located his principal place of business, or if he has no principal place of business in the United States, then to the collector at Baltimore, Maryland. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

SEC. 2472. PAYMENT OF TAX.

The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable by the processor to the collector for the district in which is located his principal place of business, or if he has no principal place of business in the United States, then to the collector at Baltimore, Maryland, at the time so fixed for filing the return.

SEC. 2473. SALES TO STATES OR POLITICAL SUBDIVISIONS.

Subject to such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe, any person who has sold to a State, or a political subdivision thereof, for use in the exercise of an essential governmental function any article containing any such oil, combination, or mixture, upon the processing of which a tax has been paid under section 2470 shall be entitled to a credit or refund of the tax paid with respect to the quantity of such oil, combination, or mixture contained in such article.

SEC. 2474. EXPORTATION.

Upon the exportation to any foreign country or to a possession of the United States of any article wholly or in chief value of an article with respect to the processing of which a tax has been paid under this chapter, the exporter thereof shall be entitled to a refund of the amount of such tax. Upon the giving of bond satisfactory to the Secretary for faithful observance of the provisions of this chapter requiring the payment of taxes, any person shall be entitled, without payment of the tax, to process for such exportation any article with respect to which a tax is imposed by section 2470.

SEC. 2475. ADDITION TO THE TAX IN CASE OF NONPAYMENT.

If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 6 per centum per annum from the time the tax became due until paid.

SEC. 2476. COLLECTIONS COVERED INTO THE PHILIPPINE TREASURY.

All taxes collected under this chapter with respect to coconut oil wholly of Philippine production or produced from materials wholly of Philippine growth or production, shall be held as a separate fund and paid to the Treasury of the Philippine Islands, but if at any time the Philippine Government provides by any law for any subsidy to be paid to the producers of copra, coconut oil, or allied products, no further payments to the Philippine Treasury shall be made under this section.

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SEC. 2477. FIRST DOMESTIC PROCESSING DEFINED.

For the purposes of this chapter the term "first domestic processing" means the first use in the United States, in the manufacture or production of an article intended for sale, of the article with respect to which the tax is imposed, but does not include the use of palm oil in the manufacture of tin plate or terne plate, or any subsequent use of palm oil residue resulting from the manufacture of tin plate or terne plate.

SEC. 2478. CONTRACTS PRIOR TO JANUARY 26, 1934.

If (1) any person has, prior to January 26, 1934, made a bona fide contract for the sale on or after May 10, 1934, of any article wholly or in chief value of an article with respect to which a tax is imposed by this chapter or of any article with respect to which a tax is imposed by this section, and if (2) such contract does not permit the addition to the amount to be paid thereunder of the whole of such tax, then (unless the contract expressly prohibits such addition) the vendee shall pay so much of the tax as is not permitted to be added to the contract price. Taxes payable by the vendee shall be paid to the vendor at the time the sale is consummated and shall be returned and paid to the United States by the vendor in the same manner as other taxes under this chapter. In case of failure or refusal by the vendee to pay such taxes to the vendor, the vendor shall report the facts to the Commissioner, who shall cause collection of such taxes to be made from the vendee.

SEC. 2479. OTHER LAWS APPLICABLE.

All provisions of law (including penalties) applicable in respect of taxes imposed by section 2700, shall, insofar as applicable and not inconsistent with this chapter, be applicable in respect of the taxes imposed by this chapter.

SEC. 2480. COVERING OF COLLECTIONS INTO THE TREASURY.

All collections except as provided in section 2476 shall, notwithstanding any other provisions of law, be covered into the general fund of the Treasury of the United States.

SEC. 2481. EFFECTIVE DATE OF CHAPTER.

This chapter shall take effect on the first day of that calendar month occurring next after the enactment of this title.

SEC. 2482. PUBLICITY OF RETURNS.

For provisions with respect to publicity of returns under this chapter, see subsection (a) (2) of section 55.

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CHAPTER 22—FISH, ANIMAL, AND VEGETABLE OILS

SEC. 2490. IMPOSITION OF TAX.

In addition to any other tax or duty imposed by law, there shall be imposed upon the following articles imported into the United States, unless treaty provisions of the United States otherwise provide, a tax at the rates set forth in section 2491, to be paid by the importer.

SEC. 2491. RATE OF TAX.

(a) Whale oil (except sperm oil), fish oil (except cod oil, cod-liver oil, and halibut-liver oil), marine-animal oil, tallow, inedible animal oils, inedible animal fats, inedible animal greases, fatty acids derived from any of the foregoing, and salts of any of the foregoing; all the foregoing, whether or not refined, sulphonated, sulphated, hydrogenated, or otherwise processed, 3 cents per pound: *Provided*, That no whale oil (except sperm oil), fish oil, or marine animal oil of any kind (whether or not refined, sulphonated, sulphated, hydrogenated or otherwise processed), or fatty acids derived therefrom, shall be admitted to entry, after June 30, 1939, free from the tax herein provided unless such oil was produced on vessels of the United States or in the United States or its possessions, from whales, fish, or marine animals or parts thereof taken and captured by vessels of the United States;

(b) Sesame oil provided for in paragraph 1732 of the Tariff Act of 1930, sunflower oil, rapeseed oil, kapok oil, hempseed oil, perilla oil, fatty acids derived from any of the foregoing or from linseed oil, and salts of any of the foregoing; all the foregoing, whether or not refined, sulphonated, sulphated, hydrogenated, or otherwise processed, 4½ cents per pound;

(c) Any article, merchandise, or combination (except oils specified in section 2470), 10 per centum or more of the quantity by weight of which consists of, or is derived directly or indirectly from, one or more of the products specified above in this paragraph or of the oils, fatty acids, or salts specified in section 2470, a tax at the rate or rates per pound equal to that proportion of the rate or rates prescribed in this paragraph or such section 2470 in respect of such product or products which the quantity by weight of the imported article, merchandise, or combination, consisting of or derived from such product or products, bears to the total weight of the imported article, merchandise, or combination; but there shall not be taxable under this subparagraph any article, merchandise, or combination (other than an oil, fat, or grease, and other than products resulting from processing seeds without full commercial extraction of the oil

content), by reason of the presence therein of an oil, fat, or grease which is a natural component of such article, merchandise, or combination and has never had a separate existence as an oil, fat, or grease;

(d) Hempseed, 1.24 cents per pound; perilla seed, 1.38 cents per pound; kapok seed, 2 cents per pound; rapeseed, 2 cents per pound; and sesame seed, 1.18 cents per pound;

(e) The tax on the articles described in this section shall apply only with respect to the importation of such articles after May 10, 1934.

(f) The tax imposed under subsection (b) shall not apply to rapeseed oil imported to be used in the manufacture of rubber substitutes or lubricating oil, and the Commissioner of Customs shall, with the approval of the Secretary, prescribe methods and regulations to carry out this subsection.

(g) The taxes imposed by section 2490 shall not apply to any article, merchandise, or combination, by reason of the presence therein of any coconut oil produced in Guam or American Samoa, or any direct or indirect derivative of such oil.

SEC. 2492. CONSTRUCTION OF TAXING PROVISION.

Nothing in section 2491 shall be construed as imposing a tax in contravention of an obligation undertaken in any trade agreement entered into prior to August 21, 1936, under the authority of section 350 of the Tariff Act of 1930, as amended, c. 474, 48 Stat. 943 (U. S. C., Title 19, § 1351), or as imposing a tax on the importation of glycerin or stearine pitch or on the importation of any article by reason of any component of such article derived directly or indirectly from a waste not named in section 2491.

SEC. 2493. ASSESSMENT AND PAYMENT.

The tax imposed under section 2490 shall be levied, assessed, collected, and paid in the same manner as a duty imposed by the Tariff Act of 1930, and shall be treated for the purposes of all provisions of law relating to the customs revenue as a duty imposed by such Act, except that—

(1) the value on which such tax shall be based shall be the sum of (A) the dutiable value (under section 503 of such Act) of the article, plus (B) the customs duties, if any, imposed thereon under any provision of law;

(2) for the purposes of section 489 of such Act (relating to additional duties in certain cases of undervaluation) such tax shall not be considered an ad valorem rate of duty or a duty based upon or regulated in any manner by the value of the article, and for the purposes of section 336 of such Act (the so-called flexible tariff provision) such tax shall not be considered a duty;

(3) such tax (except as specifically provided in section 2491 (g) with reference to certain products of Guam and American Samoa) shall be imposed in full notwithstanding any provision of law granting exemption from or reduction of duties to products of any possession of the United States.

SEC. 2494. REGULATIONS.

The Secretary shall prescribe and publish all needful rules and regulations for the enforcement of this chapter.

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CHAPTER 23—NARCOTICS

SUBCHAPTER A—OPIUM AND COCA LEAVES

SEC. 2550. TAX.

(a) RATE.—There shall be levied, assessed, collected, and paid upon opium, coca leaves, any compound, salt, derivative, or preparation thereof, produced in or imported into the United States, and sold, or removed for consumption or sale, an internal revenue tax at the rate of 1 cent per ounce, and any fraction of an ounce in a package

shall be taxed as an ounce. The tax imposed by this subsection shall be in addition to any import duty imposed on the aforesaid drugs.

(b) BY WHOM PAID.—The tax imposed by subsection (a) shall be paid by the importer manufacturer, producer, or compounder.

(c) How PAID.—

(1) STAMPS.—The tax imposed by subsection (a) shall be represented by appropriate stamps, to be provided by the Secretary.

(2) ASSESSMENT.—

For assessment in case of omitted taxes payable by stamp, see section 3311 and section 3640.

(3) OTHER METHODS.—Whether or not the method of collecting any tax imposed by this section or by section 3220 is specifically provided therein, any such tax may, under regulations prescribed by the Secretary, be collected by stamp, coupon, serial-numbered ticket, or such other reasonable device or method as may be necessary or helpful in securing a complete and prompt collection of the tax. All administrative and penalty provisions of subchapters A, B and C of chapter 11, in so far as applicable, shall apply to the collection of any tax which the Secretary determines or prescribes shall be collected in such manner.

(4) CROSS REFERENCE.—

For authority of the Secretary to delegate such powers and duties, see subchapter D.

(d) REGISTRATION AND SPECIAL TAX.—

For requirements on importers, manufacturers, producers, dealers and practitioners to register and pay special tax, see part V of subchapter A of chapter 27.

SEC. 2551. EXEMPTIONS.

(a) PREPARATIONS OF LIMITED NARCOTIC CONTENT.—The provisions of this subchapter and part V of subchapter A of chapter 27 shall not be construed to apply to the manufacture, sale, distribution, giving away, dispensing, or possession of preparations and remedies which do not contain more than two grains of opium, or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them in one fluid ounce, or, if a solid or semisolid preparation, in one avoirdupois ounce; or to liniments, ointments, or other preparations which are prepared for external use, only, except liniments, ointments, and other preparations which contain cocaine or any of its salts or alpha or beta eucaine or any of their salts or any synthetic substitute for them: *Provided*, That such remedies and preparations are manufactured, sold, distributed, given away, dispensed, or possessed as medicines and not for the purpose of evading the intentions and provisions of this subchapter and said part V: *Provided further*, That any manufacturer, producer, compounder, or vendor (including dispensing physicians) of the preparations and remedies mentioned in this section lawfully entitled to manufacture, produce, compound, or vend such preparations and remedies, shall keep a record of all sales, exchanges, or gifts of such preparations and remedies in such manner as the Secretary shall direct. Such record shall be preserved for a period of two years in such a way as to be readily accessible to inspection by any officer, agent or employee of the Treasury Department duly authorized for that purpose, and the State, Territorial, District, municipal, and insular officers named in section 2556, and every such person so possessing or disposing of such preparations and remedies shall register as required in section 3221 and, if he is not paying a tax under section 3220, he shall pay a special tax of $1 for each year, or fractional part thereof, in which he is engaged in such occupation, to the collector of the district in which he carries on such occupation as provided in part V of subchapter A of chapter 27.

(b) DECOCAINIZED COCA LEAVES.—The provisions of this subchapter and part V of subchapter A of chapter 27 shall not apply to decocainized coca leaves or preparations made therefrom, or to other preparations of coca leaves which do not contain cocaine.

(c) GOVERNMENT AND STATE OFFICIALS.—

(1) STAMPING DRUGS.—Officials of the United States, Territorial, District of Columbia, or insular possessions, State or municipal governments, who in the exercise of their official duties engage in any of the business described in part V of subchapter A of chapter 27, shall not be required to stamp the drugs mentioned in section 2550 (a), as hereinafter prescribed, but their right to this exemption shall be evidenced in such manner as the Secretary may by regulations prescribe.

(2) REGISTRATION AND PAYMENT OF TAX.—

For exemption of officials of the United States, Territorial, District of Columbia, or insular possessions, State or municipal governments from the requirements as to registration and the payment of special taxes, see subsection (b) of section 3222.

(3) CROSS REFERENCE.—

For authority of the Secretary to delegate such powers and duties, see subchapter D.

SEC. 2552. STAMPS.

(a) AFFIXING.—The stamps provided in subsection (c) (1) of section 2550 shall be so affixed to the bottle or other container as to securely seal the stopper, covering, or wrapper thereof.

(b) OTHER LAWS APPLICABLE.—All the provisions of law relating to the engraving, issuance, sale, accountability, cancellation, and destruction of tax-paid stamps provided for in the internal revenue laws shall, in so far as necessary, be extended and made to apply to the stamps provided in subsection (c) (1) of section 2550.

(c) CROSS REFERENCE.—

For general provisions relating to stamps, see part I of subchapter A of chapter 28.

SEC. 2553. PACKAGES.

(a) GENERAL REQUIREMENT.—It shall be unlawful for any person to purchase, sell, dispense, or distribute any of the drugs mentioned in section 2550 (a) except in the original stamped package or from the original stamped package; and the absence of appropriate tax-paid stamps for any of the aforesaid drugs shall be prima facie evidence of a violation of this subsection by the person in whose possession same may be found; and the possession of any original stamped package containing any of the aforesaid drugs by any person who has not registered and paid special taxes as required by sections 3221 and 3220 shall be prima facie evidence of liability to such special tax.

(b) EXCEPTIONS IN CASE OF REGISTERED PRACTITIONERS.—The provisions of subsection (a) shall not apply—

(1) PRESCRIPTIONS.—To any person having in his or her possession any of the drugs mentioned in section 2550 (a) which have been obtained from a registered dealer in pursuance of a prescription, written for legitimate medical uses, issued by a physician, dentist, veterinary surgeon, or other practitioner registered under section 3221; and where the bottle or other container in which such drug may be put up by the dealer upon said prescription bears the name and registry number of the druggist, serial number of prescription, name and address of the patient, and name, address, and registry number of the person writing said prescription; or

(2) DISPENSATIONS DIRECT TO PATIENTS.—To the dispensing, or administration, or giving away of any of the aforesaid drugs to a patient by a registered physician, dentist, veterinary surgeon, or other practitioner in the course of his professional practice,

and where said drugs are dispensed or administered to the patient for legitimate medical purposes, and the record kept as required by this subchapter of the drugs so dispensed, administered, distributed, or given away.

SEC. 2554. ORDER FORMS.

(a) GENERAL REQUIREMENT.—It shall be unlawful for any person to sell, barter, exchange, or give away any of the drugs mentioned in section 2550 (a) except in pursuance of a written order of the person to whom such article is sold, bartered, exchanged, or given, on a form to be issued in blank for that purpose by the Secretary.

(b) EXCEPTION IN CASE OF VIRGIN ISLANDS.—The President is authorized and directed to issue such Executive orders as will permit those persons in the Virgin Islands of the United States lawfully entitled to sell, deal in, dispense, prescribe, and distribute the drugs mentioned in section 2550 (a), to obtain said drugs from persons registered under section 3221 within the continental United States for legitimate medical purposes, without regard to the order forms described in this section.

(c) OTHER EXCEPTIONS.—Nothing contained in this section, section 2563, or section 2564 shall apply—

(1) USE OF DRUGS IN PROFESSIONAL PRACTICE.—To the dispensing or distribution of any of the drugs mentioned in section 2550 (a) to a patient by a physician, dentist, or veterinary surgeon registered under section 3221 in the course of his professional practice only: *Provided*, That such physician, dentist, or veterinary surgeon shall keep a record of all such drugs dispensed or distributed, showing the amount dispensed or distributed, the date, and the name and address of the patient to whom such drugs are dispensed or distributed, except such as may be dispensed or distributed to a patient upon whom such physician, dentist, or veterinary surgeon shall personally attend; and such record shall be kept for a period of two years from the date of dispensing or distributing such drugs, subject to inspection, as provided in section 2556.

(2) PRESCRIPTIONS.—To the sale, dispensing, or distribution of any of the drugs mentioned in section 2550 (a) by a dealer to a consumer under and in pursuance of a written prescription issued by a physician, dentist, or veterinary surgeon registered under section 3221: *Provided*, *however*, That such prescription shall be dated as of the day on which signed and shall be signed by the physician, dentist, or veterinary surgeon who shall have issued the same: *And provided further*, That such dealer shall preserve such prescription for a period of two years from the day on which such prescription is filled in such a way as to be readily accessible to inspection by the officers, agents, employees, and officials mentioned in section 2556.

(3) EXPORTATION.—To the sale, exportation, shipment, or delivery of any of the drugs mentioned in section 2550 (a) by any person within the United States or any Territory or the District of Columbia or any of the insular possessions of the United States to any person in any foreign country, regulating their entry in accordance with such regulations for importation thereof into such foreign country as are prescribed by said country, such regulations to be promulgated from time to time by the Secretary of State of the United States.

(4) GOVERNMENT AND STATE OFFICIALS.—To the sale, barter, exchange, or giving away of any of the drugs mentioned in section 2550 (a) to any officer of the United States Government or of any State, Territorial, district, county, or municipal or insular government lawfully engaged in making purchases thereof for the vari-

ous departments of the Army and Navy, the Public Health Service, and for Government, State, Territorial, district, county, or municipal or insular hospitals or prisons.

(d) PRESERVATION.—Every person who shall accept any order required under subsection (a), and in pursuance thereof shall sell, barter, exchange, or give away any of the drugs mentioned in section 2550 (a), shall preserve such order for a period of two years in such a way as to be readily accessible to inspection by any officer, agent, or employee of the Treasury Department duly authorized for that purpose, and the State, Territorial, District, municipal, and insular officials named in section 2556.

(e) DUPLICATES.—Every person who shall give an order as provided in this section to any other person for any of the drugs mentioned in section 2550 (a) shall, at or before the time of giving such order, make or cause to be made a duplicate thereof on a form to be issued in blank for that purpose by the Secretary, and in case of the acceptance of such order, shall preserve such duplicate for said period of two years in such a way as to be readily accessible to inspection by the officers, agents, employees, and officials mentioned in section 2556.

(f) SUPPLY.—The Secretary shall cause suitable forms to be prepared for the purposes above mentioned, and shall cause the same to be distributed to collectors for sale by them to those persons who shall have registered and paid the special tax as required by sections 3221 and 3220 in their districts, respectively; and no collector shall sell any of such forms to any persons other than a person who has registered and paid the special tax as required by said sections in his district. The price at which such forms shall be sold by said collectors shall be fixed by the Secretary but shall not exceed the sum of $1 per hundred. Every collector shall keep an account of the number of such forms sold by him, the names of the purchasers, and the number of such forms sold to each of such purchasers. Whenever any collector shall sell any of such forms, he shall cause the name of the purchaser thereof to be plainly written or stamped thereon before delivering the same; and no person other than such purchaser shall use any of said forms bearing the name of such purchaser for the purpose of procuring any of the aforesaid drugs, or furnish any of the forms bearing the name of such purchaser to any person with intent thereby to procure the shipment or delivery of any of the aforesaid drugs.

(g) UNLAWFUL USE.—It shall be unlawful for any person to obtain by means of said order forms any of the aforesaid drugs for any purpose other than the use, sale, or distribution thereof by him in the conduct of a lawful business in said drugs or in the legitimate practice of his profession.

(h) CROSS REFERENCES.—

(1) ISSUANCE IN PUERTO RICO AND THE PHILIPPINE ISLANDS.—

For issuance of order forms in Puerto Rico and the Philippine Islands, see subsection (a) of section 2564.

(2) TRANSFER OF DUTIES.—

For the authority of the Secretary to delegate such powers and duties, see subchapter D.

SEC. 2555. RECORDS, STATEMENTS, AND RETURNS.

(a) GENERAL REQUIREMENT.—Every person liable to any tax imposed by this subchapter or section 3220, or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Secretary may from time to time prescribe.

(b) BOOKS AND MONTHLY RETURNS OF IMPORTERS, MANUFACTURERS, AND WHOLESALE DEALERS.—Importers, manufacturers, and wholesale dealers shall keep such books and records and render such monthly returns in relation to the transactions in the aforesaid drugs as the Secretary may by regulations require.

(c) RETURNS BY REGISTRANTS OF DRUGS RECEIVED.—

(1) REQUIREMENT.—Any person who shall be registered in any internal revenue district under the provisions of section 3221 shall, whenever required so to do by the collector of the district, render to the said collector a true and correct statement or return, verified by affidavit, setting forth the quantity of the aforesaid drugs received by him in said internal revenue district during such period immediately preceding the demand of the collector, not exceeding three months, as the said collector may fix and determine; the names of the persons from whom the said drugs were received; the quantity in each instance received from each of such persons, and the date when received.

(2) CROSS REFERENCE.—

For authority of the Secretary to delegate such powers and duties, see subchapter D.

SEC. 2556. INSPECTION AND COPIES OF RETURNS, DUPLICATE ORDER FORMS, AND PRESCRIPTIONS.

(a) REQUIREMENTS.—The duplicate order forms and the prescriptions required to be preserved under the provisions of section 2554 (c) (2) and (e), and the statements or returns filed in the office of the collector of the district, under the provisions of section 2555 (c), shall be open to inspection by officers, agents, and employees of the Treasury Department duly authorized for that purpose; and such officials of any State or Territory, or of any organized municipality therein, or of the District of Columbia, or any insular possession of the United States, as shall be charged with the enforcement of any law or municipal ordinance regulating the sale, prescribing, dispensing, dealing in, or distribution of the aforesaid drugs. Each collector is authorized to furnish, upon written request, certified copies of any of the said statements or returns filed in his office to any of such officials of any State or Territory or organized municipality therein, or the District of Columbia, or any insular possession of the United States, as shall be entitled to inspect the said statements or returns filed in the office of the said collector, upon the payment of a fee of $1 for each one hundred words or fraction thereof in the copy or copies so requested.

(b) CROSS REFERENCE.—

For authority of the Secretary to delegate such powers and duties, see subchapter D.

SEC. 2557. PENALTIES.

(a) UNLAWFUL DISCLOSURE OF INFORMATION ON RETURNS OR ORDER FORMS.—Any person who shall disclose the information contained in the statements or returns required under subsection (c) of section 2555 or in the duplicate order forms required in subsection (e) of section 2554, except as expressly provided in section 2556, and except for the purpose of enforcing the provisions of this subchapter or part V of subchapter A of chapter 27, or for the purpose of enforcing any law of any State or Territory or the District of Columbia, or any insular possession of the United States, or ordinance of any organized municipality therein, regulating the sale, prescribing, dispensing, dealing in, or distribution of the drugs mentioned in section 2550 (a), shall, on conviction, be fined or imprisoned as provided by subsection (b) (1).

(b) VIOLATIONS IN GENERAL.—

(1) Any person who violates or fails to comply with any of the requirements of this subchapter or part V of subchapter A of chapter 27, shall, on conviction, be fined not more than $2,000 or be imprisoned not more than five years, or both, in the discretion of the court.

(2) Any person required under this subchapter or section 3220 to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any informa-

tion, for the purposes of the computation, assessment, or collection of any tax imposed by this subchapter or section 3220, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(3) Any person required under this subchapter or section 3220 of chapter 27 to collect, account for and pay over any tax imposed by this subchapter or said section 3220, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this subchapter or section 3220 or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(4) Any person who willfully fails to pay, collect, or truthfully account for and pay over, any tax imposed by this subchapter or section 3220 or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty of the amount of the tax evaded, or not paid, collected or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected. No penalty shall be assessed under this paragraph for any offense for which a penalty may be assessed under authority of section 3612.

(5) A person who, after having been convicted of selling, importing, or exporting, or conspiring to sell, import, or export, opium, coca leaves, cocaine, or any salt, derivative, or preparation of opium, coca leaves, or cocaine, again sells, imports, or exports, or conspires to sell, import, or export, any of the said narcotic drugs, in violation of the laws of the United States, shall, upon conviction of such second offense, be fined not more than $5,000 or imprisoned in a Federal penitentiary for not more than ten years, or both, in the discretion of the court, whenever the fact of such previous conviction is established in the manner prescribed in paragraph 7 of this subsection.

(6) A person who, after having been two times convicted of selling, importing, or exporting, or conspiring to sell, import, or export, opium, coca leaves, cocaine, or any salt, derivative, or preparation of opium, coca leaves, or cocaine, again sells, imports, or exports or conspires to sell, import, or export, any of the said narcotic drugs, in violation of the laws of the United States, shall, upon conviction of such third offense, or any offense subsequent thereto, be fined not more than $10,000 or imprisoned in a Federal penitentiary for not more than twenty years, or both, in the discretion of the court, whenever the fact of such previous convictions is established in the manner prescribed in paragraph 7 of this subsection.

(7) Whenever it shall appear, after conviction and before or after sentence, that a person convicted of unlawfully selling, importing, or exporting, or conspiring unlawfully to sell, import, or export, any of the narcotic drugs enumerated in paragraph (5) has previously been convicted of unlawfully selling, importing, or exporting, or conspiring unlawfully to sell, import, or export, any of said narcotic drugs, in violation of the laws of the United States, it shall be the duty of the United States district attorney for the district in which such subsequent conviction was had to file an information alleging that the defendant has previously been so convicted, and further alleging the number of such previous convictions. The

court in which the defendant was convicted shall cause the said defendant, whether confined in prison or otherwise, to appear before it and shall apprise him of the allegations of the information and of his right to a trial by jury as to the truth thereof. The court shall inquire of the defendant whether he is the person who has previously been convicted. If the defendant states he is not such person, or if he refuses to answer or remains silent, a plea of not guilty shall be entered by the court, and a jury shall be empaneled to determine whether the defendant is the person alleged in the information to have previously been convicted, and the number of such previous convictions. If after a trial on the sole issue of the truth of such allegations the jury determines that the defendant is in fact the person previously convicted as charged in the information, or if he acknowledges in open court, after being duly cautioned as to his rights, that he is such person, he shall be punished as prescribed in paragraphs 5 or 6 of this subsection, as the case may be, and the previous sentence of the court, if any, shall be vacated and there shall be deducted from the new sentence the amount of time actually served under the sentence so vacated.

(8) The term "person" as used in paragraphs (2) (3) and (4) includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(c) CROSS REFERENCES.—

For definition of "person" as used generally in this subchapter, see subsection (a) of section 3228.

For general penalty provisions, see part III of subchapter A of chapter 28 and section 3793 of chapter 38.

SEC. 2558. FORFEITURES.

(a) UNSTAMPED PACKAGES.—All unstamped packages of the drugs mentioned in section 2550 (a) found in the possession of any person, except as provided in this subchapter, shall be subject to seizure and forfeiture, and all the provisions of internal revenue laws relating to searches, seizures, and forfeiture of unstamped articles shall be extended to and made to apply to the articles taxed under this subchapter and the persons upon whom the taxes under this subchapter or part V of subchapter A of chapter 27 are imposed.

(b) SEIZED OPIUM—CONFISCATION AND DISPOSAL.—

(1) PROCEDURE.—All opium, its salts, derivatives, and compounds, and coca leaves, salts, derivatives, and compounds thereof, seized by the United States Government from any person or persons charged with any violation of this chapter or part V of subchapter A of chapter 27, or the Act of February 9, 1909, c. 100, 35 Stat. 614 as amended by the act of Jan. 17, 1914, c. 9, 38 Stat. 275 (U. S. C., Title 21, §§ 171–184), shall upon conviction of the person or persons from whom seized be confiscated by and forfeited to the United States; and the Secretary is authorized to deliver for medical or scientific purposes to any department, bureau, or other agency of the United States Government, upon proper application therefor under such regulation as may be prescribed by the Secretary, any of the drugs so seized, confiscated, and forfeited to the United States. The provisions of this paragraph shall also apply to any of the aforesaid drugs seized or coming into the possesion of the United States in the enforcement of this chapter, part V of subchapter A of chapter 27, or any of the above mentioned acts where the owner or owners thereof are unknown. None of the aforesaid drugs coming into possesion of the United States under the operation of said chapter, part, or acts, or the provisions of this paragraph, shall be destroyed without certification by a committee appointed by the Secretary that they are of no value for medical or scientific purposes.

(2) CROSS REFERENCE.—

For authority of the Secretary to delegate such powers and duties, see subchapter D.

(c) CROSS REFERENCE.—

For general forfeiture provisions, see part III of subchapter A of chapter 28 and section 3793 of chapter 38.

SEC. 2559. REGULATIONS.

(a) MAKING AND PUBLISHING.—The Secretary shall make, prescribe, and publish all needful rules and regulations for carrying the provisions of this subchapter and part V of subchapter A of chapter 27 into effect.

(b) CROSS REFERENCE.—

For authority of the Secretary to delegate such powers and duties, see subchapter D.

SEC. 2560. PERSONNEL.

(a) APPOINTMENT.—The Secretary is authorized to appoint such agents, deputy collectors, inspectors, chemists, assistant chemists, clerks, and messengers in the field and in the Bureau of Internal Revenue in the District of Columbia as may be necessary to enforce the provisions of this subchapter and part V of subchapter A of chapter 27.

(b) CROSS REFERENCE.—

For authority of the Secretary to delegate such powers and duties, see subchapter D.

SEC. 2561. LAWS UNAFFECTED.

Nothing contained in this subchapter or part V of subchapter A of chapter 27 shall be construed to impair, alter, amend, or repeal any of the provisions of the Act of Congress approved June thirtieth, nineteen hundred and six, entitled "An Act for preventing the manufacture, sale, or transportation of adulterated or misbranded, or poisonous, or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes," c. 3915, 34 Stat. 768 (U. S. C., Title 21, §§ 1–15), and any amendment thereof, or of the Act approved February ninth, nineteen hundred and nine, entitled "An Act to prohibit the importation and use of opium for other than medicinal purposes," c. 100, 35 Stat. 614 (U. S. C., Title 21; §§ 171–185), and any amendment thereof.

SEC. 2562. OTHER LAWS APPLICABLE.

(a) GENERAL.—All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, shall be extended to and made a part of this subchapter and sections 3220, 3221, 3222, and subsection (a) of section 3224 of chapter 27.

(b) CROSS REFERENCE.—

For provisions making applicable the internal revenue laws relating to the engraving, issuance, sale, accountability, cancellation, and destruction of tax-paid stamps, see subsection (b) of section 2552.

SEC. 2563. TERRITORIAL EXTENT OF LAW.

The provisions of this subchapter and part V of subchapter A of chapter 27 shall apply to the United States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, the insular possessions of the United States, and the Canal Zone.

SEC. 2564. ADMINISTRATION IN INSULAR POSSESSIONS AND CANAL ZONE.

(a) PUERTO RICO AND THE PHILIPPINE ISLANDS.—In Puerto Rico and the Philippine Islands the administration of this subchapter and part V of subchapter A of chapter 27, the collection of the special tax imposed by section 3220 of chapter 27, and the issuance of the order forms specified in section 2554 shall be performed by the appropriate internal revenue officers of those governments, and all revenues col-

lected thereunder in Puerto Rico and the Philippine Islands shall accrue intact to the general governments thereof, respectively. The courts of first instance in the Philippine Islands shall possess and exercise jurisdiction in all cases arising in said islands under this subchapter and said part V of chapter 27.

(b) CANAL ZONE.—The President is authorized and directed to issue such Executive orders as will carry into effect in the Canal Zone the intent and purpose of this subchapter and part V of subchapter A of chapter 27 by providing for the registration and the imposition of a special tax upon all persons in the Canal Zone who produce, import, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations.

(c) VIRGIN ISLANDS.—

For authority of the President to exempt persons in the Virgin Islands from the order form requirements, see subsection (b) of section 2554.

SEC. 2565. DEFINITIONS.

For definitions of the following, see the subsections of section 3228 indicated below:

PERSON.—

Subsection (a).

IMPORTER, MANUFACTURER, OR PRODUCER.—

Subsection (b).

WHOLESALE DEALER.—

Subsection (c).

RETAIL DEALER.—

Subsection (d).

SUBCHAPTER B—OPIUM FOR SMOKING

SEC. 2567. TAX.

(a) RATE.—An internal revenue tax of $300 per pound shall be levied and collected upon all opium manufactured in the United States for smoking purposes.

(b) HOW PAID.—

(1) STAMPS.—All opium prepared for smoking manufactured in the United States shall be duly stamped in such a permanent manner as to denote the payment of the internal revenue tax thereon.

(2) ASSESSMENT.—

For assessment in case of omitted taxes payable by stamp, see section 3311 of chapter 28 and section 3640 of chapter 35.

SEC. 2568. STAMPS.

The provisions of law covering the engraving, issue, sale, accountability, effacement, cancellation, and the destruction of stamps relating to tobacco and snuff, as far as applicable, shall apply to stamps provided for by paragraph (1) of subsection (b) of the preceding section.

SEC. 2569. MANUFACTURERS.

(a) DEFINITION.—Every person who prepares opium suitable for smoking purposes from crude gum opium, or from any preparation thereof, or from the residue of smoked or partially smoked opium, commonly known as yen shee, or from any mixture of the above, or any of them, shall be regarded as a manufacturer of smoking opium within the meaning of this subchapter.

(b) BOND.—Every manufacturer of opium suitable for smoking purposes shall file with the collector of the district in which his manufactory is located such bonds as the Secretary may by regulation require. But the bond required of such manufacturer shall be with sureties satisfactory to the collector, and in a penal sum of not less than $100,000; and the sum of said bond may be increased from time

to time and additional sureties required, at the discretion of the collector or under instructions of the Secretary. No person shall engage in such manufacture who has not given the bond required by the Secretary.

(c) CITIZENSHIP.—No person shall engage in the manufacture of opium suitable for smoking purposes who is not a citizen of the United States.

(d) OTHER REQUIREMENTS.—Every manufacturer of opium suitable for smoking purposes shall—

(1) NOTICES AND INVENTORIES.—File with the collector of the district in which his manufactory is located such notices and inventories,

(2) BOOKS AND RETURNS.—Keep such books and render such returns of material and products,

(3) SIGNS AND FACTORY NUMBER.—Put up such signs and affix such number to his factory, and

(4) CONDUCT OF BUSINESS.—Conduct his business under such surveillance of officers and agents as the Secretary may by regulation require.

(5) CROSS REFERENCE.—

For authority of the Secretary to delegate such powers and duties, see subchapter D.

SEC. 2570. PENALTY.

A penalty of not less than $10,000 or imprisonment for not less than five years, or both, in the discretion of the court, shall be imposed for each and every violation of this subchapter relating to opium by any person or persons.

SEC. 2571. FORFEITURE.

All opium prepared for smoking wherever found within the United States without the stamps required by this subchapter shall be forfeited and destroyed.

SUBCHAPTER C—MARIHUANA

SEC. 2590. TAX.

(a) RATE.—There shall be levied, collected, and paid upon all transfers of marihuana which are required by section 2591 to be carried out in pursuance of written order forms taxes at the following rates:

(1) TRANSFERS TO SPECIAL TAXPAYERS.—Upon each transfer to any person who has paid the special tax and registered under sections 3230 and 3231, $1 per ounce of marihuana or fraction thereof.

(2) TRANSFERS TO OTHERS.—Upon each transfer to any person who has not paid the special tax and registered under sections 3230 and 3231, $100 per ounce of marihuana or fraction thereof.

(b) BY WHOM PAID.—Such tax shall be paid by the transferee at the time of securing each order form and shall be in addition to the price of such form. Such transferee shall be liable for the tax imposed by this section but in the event that the transfer is made in violation of section 2591 without an order form and without payment of the transfer tax imposed by this section, the transferor shall also be liable for such tax.

(c) HOW PAID.—

(1) STAMPS.—Payment of the tax herein provided shall be represented by appropriate stamps to be provided by the Secretary.

(2) ASSESSMENT.—

For assessment in case of omitted taxes payable by stamp, see section 3311 and section 3640.

(d) REGISTRATION AND SPECIAL TAX.—

For requirements as to registration and special tax, see part VI of subchapter A of chapter 27.

SEC. 2591. ORDER FORMS.

(a) GENERAL REQUIREMENT.—It shall be unlawful for any person, whether or not required to pay a special tax and register under sections 3230 and 3231, to transfer marihuana, except in pursuance of a written order of the person to whom such marihuana is transferred, on a form to be issued in blank for that purpose by the Secretary.

(b) EXCEPTIONS.—Subject to such regulations as the Secretary may prescribe, nothing contained in this section shall apply—

(1) PROFESSIONAL PRACTICE.—To a transfer of marihuana to a patient by a physician, dentist, veterinary surgeon, or other practitioner registered under section 3231, in the course of his professional practice only: *Provided*, That such physician, dentist, veterinary surgeon, or other practitioner shall keep a record of all such marihuana transferred, showing the amount transferred and the name and address of the patient to whom such marihuana is transferred, and such record shall be kept for a period of two years from the date of the transfer of such marihuana, and subject to inspection as provided in section 2595.

(2) PRESCRIPTIONS.—To a transfer of marihuana, made in good faith by a dealer to a consumer under and in pursuance of a written prescription issued by a physician, dentist, veterinary surgeon, or other practitioner registered under section 3231: *Provided*, That such prescription shall be dated as of the day on which signed and shall be signed by the physician, dentist, veterinary surgeon, or other practitioner who issues the same: *Provided further*, That such dealer shall preserve such prescription for a period of two years from the day on which such prescription is filled so as to be readily accessible for inspection by the officers, agents, employees, and officials mentioned in section 2595.

(3) EXPORTATION.—To the sale, exportation, shipment, or delivery of marihuana by any person within the United States, any Territory, the District of Columbia, or any of the insular possessions of the United States, to any person in any foreign country regulating the entry of marihuana, if such sale, shipment, or delivery of marihuana is made in accordance with such regulations for importation into such foreign country as are prescribed by such foreign country, such regulations to be promulgated from time to time by the Secretary of State of the United States.

(4) GOVERNMENT AND STATE OFFICIALS.—To a transfer of marihuana to any officer or employee of the United States Government or of any State, Territorial, District, county, or municipal or insular government lawfully engaged in making purchases thereof for the various departments of the Army and Navy, the Public Health Service, and for Government, State, Territorial, District, county, or municipal or insular hospitals or prisons.

(5) CERTAIN SEEDS.—To a transfer of any seeds of the plant Cannabis sativa L. to any person registered under section 3231.

(c) SUPPLY.—The Secretary shall cause suitable forms to be prepared for the purposes before mentioned and shall cause them to be distributed to collectors for sale. The price at which such forms shall be sold by said collectors shall be fixed by the Secretary, but shall not exceed 2 cents each. Whenever any collector shall sell any of such forms he shall cause the date of sale, the name and address of the proposed vendor, the name and address of the purchaser, and the amount of marihuana ordered to be plainly written or stamped thereon before delivering the same.

(d) PRESERVATION.—Each such order form sold by a collector shall be prepared by him and shall include an original and two copies, any one of which shall be admissible in evidence as an original. The original and one copy shall be given by the collector to the purchaser thereof. The original shall in turn be given by the pur-

chaser thereof to any person who shall, in pursuance thereof, transfer marihuana to him and shall be preserved by such person for a period of two years so as to be readily accessible for inspection by any officer, agent, or employee mentioned in section 2595. The copy given to the purchaser by the collector shall be retained by the purchaser and preserved for a period of two years so as to be readily accessible to inspection by any officer, agent, or employee mentioned in section 2595. The second copy shall be preserved in the records of the collector.

SEC. 2592. STAMPS.

(a) AFFIXING.—The stamps provided in section 2590 (c) (1) shall be affixed by the collector or his representative to the original order form.

(b) OTHER LAWS APPLICABLE.—All provisions of law relating to the engraving, issuance, sale, accountability, cancelation, and destruction of tax-paid stamps provided for in the internal-revenue laws shall, insofar as applicable and not inconsistent with this subchapter, be extended and made to apply to stamps provided for in section 2590 (c) (1).

(c) CROSS REFERENCE.—

For general provisions relating to stamps, see part I of subchapter A of chapter 28.

SEC. 2593. UNLAWFUL POSSESSION.

(a) PERSONS IN GENERAL.—It shall be unlawful for any person who is a transferee required to pay the transfer tax imposed by section 2590 (a) to acquire or otherwise obtain any marihuana without having paid such tax; and proof that any person shall have had in his possession any marihuana and shall have failed, after reasonable notice and demand by the collector, to produce the order form required by section 2591 to be retained by him, shall be presumptive evidence of guilt under this section and of liability for the tax imposed by section 2590 (a).

(b) GOVERNMENT AND STATE OFFICIALS.—No liability shall be imposed by virtue of this section upon any duly authorized officer of the Treasury Department engaged in the enforcement of this subchapter and part VI of subchapter A of chapter 27 or upon any duly authorized officer of any State, or Territory, or of any political subdivision thereof, or the District of Columbia, or of any insular possession of the United States, who shall be engaged in the enforcement of any law or municipal ordinance dealing with the production, sale, prescribing, dispensing, dealing in, or distributing of marihuana.

SEC. 2594. RECORDS, STATEMENTS AND RETURNS.

(a) GENERAL REQUIREMENT.—Every person liable to any tax imposed by this subchapter or part VI of subchapter A of chapter 27 shall keep such books and records, render under oath such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

(b) RETURN BY REGISTRANTS OF MARIHUANA.—

For returns by registrants of marihuana, see section 3233 (a) of chapter 27.

SEC. 2595. INSPECTION OF RETURNS, ORDER FORMS AND PRESCRIPTIONS.

The order forms and copies thereof and the prescriptions and records required to be preserved under the provisions of section 2591, and the statements or returns filed in the office of the collector of the district under the provisions of section 3233 shall be open to inspection by officers, agents, and employees of the Treasury Department duly authorized for that purpose, and such officers of any State, or Territory, or of any political subdivision thereof, or the District of Columbia, or of any insular possession of the United

States as shall be charged with the enforcement of any law or municipal ordinance regulating the production, sale, prescribing, dispensing, dealing in, or distributing of marihuana. Each collector shall be authorized to furnish, upon written request, copies of any of the said statements or returns filed in his office to any of such officials of any State or Territory, or political subdivision thereof, or the District of Columbia, or any insular possession of the United States as shall be entitled to inspect the said statements or returns filed in the office of the said collector, upon the payment of a fee of $1 for each 100 words or fraction thereof in the copy or copies so requested.

SEC. 2596. PENALTIES.

Any person who is convicted of a violation of any provision of this subchapter or part VI of subchapter A of chapter 27 shall be fined not more than $2,000 or imprisoned not more than five years, or both, in the discretion of the court.

SEC. 2597. BURDEN OF PROOF.

It shall not be necessary to negative any exemptions set forth in this subchapter or part VI of subchapter A of chapter 27 in any complaint, information, indictment, or other writ or proceeding laid or brought under this subchapter or part VI of subchapter A of chapter 27 and the burden of proof of any such exemption shall be upon the defendant. In the absence of the production of evidence by the defendant that he has complied with the provisions of section 3231 relating to registration or that he has complied with the provisions of section 2591 relating to order forms, he shall be presumed not to have complied with such provisions of such sections, as the case may be.

SEC. 2598. FORFEITURES.

(a) UNLAWFUL IMPORTATION, MANUFACTURE, OR TRANSFER.—Any marihuana which has been imported, manufactured, compounded, transferred, or produced in violation of any of the provisions of this subchapter or part VI of subchapter A of chapter 27 shall be subject to seizure and forfeiture and, except as inconsistent with the provisions of such subchapter and part, all the provisions of internal-revenue laws relating to searches, seizures, and forfeitures are extended to include marihuana.

(b) OWNERSHIP BY VIOLATORS.—Any marihuana which may be seized by the United States Government from any person or persons charged with any violation of this subchapter or part VI of subchapter A of chapter 27 shall upon conviction of the person or persons from whom seized be confiscated by and forfeited to the United States.

(c) UNKNOWN OWNERSHIP.—Any marihuana seized or coming into the possession of the United States in the enforcement of this subchapter or part VI of subchapter A of chapter 27, the owner or owners of which are unknown, shall be confiscated by and forfeited to the United States.

(d) DISPOSAL.—The Secretary is hereby directed to destroy any marihuana confiscated by and forfeited to the United States under this section or to deliver such marihuana to any department, bureau, or other agency of the United States Government, upon proper application therefor under such regulations as may be prescribed by the Secretary.

SEC. 2599. REGULATIONS.

The Secretary is authorized to make, prescribe, and publish all necessary rules and regulations for carrying out the provisions of this subchapter and part VI of subchapter A of chapter 27.

SEC. 2600. DELEGATION OF POWERS.

The Secretary is authorized to confer or impose any of the rights, privileges, powers, and duties conferred or imposed upon him by

this subchapter or part VI of subchapter A of chapter 27 upon such officers or employees of the Treasury Department as he shall designate or appoint.

SEC. 2601. OTHER LAWS APPLICABLE.

All provisions of law (including penalties) applicable in respect of the taxes imposed by section 2550 of this chapter and section 3220 of chapter 27, shall, insofar as not inconsistent with this subchapter and part VI of subchapter A of chapter 27, be applicable in respect of the taxes imposed by such subchapter and part.

SEC 2602. TERRITORIAL EXTENT OF LAW.

The provisions of this subchapter and part VI of subchapter A of chapter 27 shall apply to the several States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, and the insular possessions of the United States, except the Philippine Islands.

SEC. 2603. ADMINISTRATION IN INSULAR POSSESSIONS.

(a) PUERTO RICO.—In Puerto Rico the administration of this subchapter and part VI of subchapter A of chapter 27, the collection of the special taxes and transfer taxes, and the issuance of the order forms provided for in section 2591 shall be performed by the appropriate internal-revenue officers of that government, and all revenues collected under this subchapter and part VI of subchapter A of chapter 27 in Puerto Rico shall accrue intact to the general government thereof.

(b) VIRGIN ISLANDS.—The President shall be authorized and directed to issue such Executive orders as will carry into effect in the Virgin Islands the intent and purpose of this subchapter and part VI of subchapter A of chapter 27 by providing for the registration with appropriate officers and the imposition of the special and transfer taxes upon all persons in the Virgin Islands who import, manufacture, produce, compound, sell, deal in, dispense, prescribe, administer, or give away marihuana.

SEC. 2604. DEFINITIONS.

For definitions of the following, see the subsections of section 3238 indicated below:

PERSON.—
Subsection (a).

PRODUCER.—
Subsection (c).

MARIHUANA.—
Subsection (b).

TRANSFER OR TRANSFERRED.—
Subsection (d).

SUBCHAPTER D—DELEGATION OF POWERS AND DUTIES BY THE SECRETARY

SEC. 2606. AUTHORIZATION.

The Secretary is authorized to confer or impose any of the rights, privileges, powers, and duties in respect of narcotic drugs conferred upon him by subchapters A and B of this chapter and part V of subchapter A of chapter 27 upon the Commissioner of Narcotics, or any officer or employee of the Bureau of Narcotics, and to confer or impose upon the Commissioner of Internal Revenue, or any of the officers or employees of the Bureau of Internal Revenue, any of such rights, privileges, powers, and duties which, in the opinion of the Secretary, may be necessary in connection with internal revenue taxes.

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CHAPTER 24—WHITE PHOSPHORUS MATCHES

SEC. 2650. WHITE PHOSPHORUS DEFINED.

For the purposes of this chapter the words "white phosphorus" shall be understood to mean the common poisonous white or yellow phosphorus used in the manufacture of matches and not to include the nonpoisonous forms or the nonpoisonous compounds of white or yellow phosphorus.

SEC. 2651. TAX.

(a) RATE.—Upon white phosphorus matches manufactured, sold, or removed there shall be levied and collected a tax at the rate of 2 cents per one hundred matches.

(b) BY WHOM PAID.—The tax imposed by subsection (a) shall be paid by the manufacturer.

(c) HOW PAID.—

(1) STAMPS.—The tax imposed by subsection (a) shall be represented by adhesive stamps.

(2) ASSESSMENT.—Whenever any manufacturer of white phosphorus matches sells or removes any such matches without the use of the stamps required by this chapter, it shall be the duty of the Commissioner, subject to the limitations prescribed in section 3312, upon satisfactory proof, to estimate the amount of tax which has been omitted to be paid, and to make an assessment therefor and certify the same to the collector, who shall collect the same according to law. The tax so assessed shall be in addition to the penalties imposed by law for such sale or removal.

SEC. 2652. STAMPS.

(a) PREPARED BY COMMISSIONER.—The Commissioner shall cause to be prepared suitable and special stamps for payment of the tax on white phosphorus matches provided for by this chapter.

(b) FURNISHED BY COLLECTOR.—Such stamps shall be furnished to collectors, who shall sell the same only to duly qualified manufacturers.

(c) ACCOUNT KEPT BY COLLECTOR.—Every collector shall keep an account of the number and denominate values of the stamps sold by him to each manufacturer.

(d) OTHER LAWS APPLICABLE.—For provision making other laws relating to stamps apply to the stamps provided by this section, see section 2659.

SEC. 2653. REQUIREMENTS ON MANUFACTURERS.

(a) PACKING.—

(1) NUMBER IN PACKAGES.—All white phosphorus matches shall be packed by the manufacturer thereof in packages containing one hundred, two hundred, five hundred, one thousand, or one thousand five hundred matches each, which shall then be packed by the manufacturer in packages containing not less than fourteen thousand four hundred matches.

(2) STAMPING.—The manufacturer shall affix to every package containing one hundred, two hundred, five hundred, one thousand, or one thousand five hundred matches an adhesive stamp of the required value and shall place thereon the initials of his name and the date on which such stamp is affixed, so that the same may not again be used.

(3) FACTORY NUMBER.—Every manufacturer of matches shall mark, brand, affix, stamp, or print, in such manner as the Commissioner shall prescribe, on every package of white phosphorous matches manufactured, sold, or removed by him, the factory number required under subsection (c).

(4) LABEL.—Every manufacturer of white phosphorus matches shall securely affix by pasting on each original package containing stamped packages of white phosphorus matches manufactured by him a label, on which shall be printed, besides the number of the manufactory and the district in which it is situated, these words: "NOTICE.—The manufacturer of the white phosphorus matches herein contained has complied with all the requirements of law. Every person is cautioned not to use again the stamps on the packages herein contained under the penalty provided by law in such cases."

(b) BOOKS AND RETURNS.—Every manufacturer of white phosphorus matches shall file with the collector of the district in which his manufactory is located such notices and inventories, keep such books and render such returns in relation to the business, and conduct his business under such surveillance of officers and agents as the Commissioner, with the approval of the Secretary, may, by regulation, require.

(c) FACTORY NUMBER AND SIGNS.—Every manufacturer of white phosphorus matches shall put up such signs and affix such number to his factory as the Commissioner, with the approval of the Secretary, may, by regulation, require.

(d) BONDS.—Every manufacturer of white phosphorus matches shall file with the collector of the district in which his manufactory is located such bonds as the Commissioner, with the approval of the Secretary, may, by regulation, require. The bond required of such manufacturer shall be with sureties satisfactory to the collector and in the penal sum of not less than $1,000; and the sum of said bond may be increased from time to time and additional sureties required at the discretion of the collector or under instructions of the Commissioner.

(e) REGISTRATION.—Every manufacturer of white phosphorus matches shall register with the collector of the district his name or style, place of manufactory, and the place where such business is to be carried on.

SEC. 2654. IMPORTATION.

White phosphorus matches, manufactured wholly or in part in any foreign country, shall not be entitled to entry at any of the ports of the United States, and the importation thereof is prohibited. All matches imported into the United States shall be accompanied by such certificate of official inspection by the government of the country in which such matches were manufactured as shall satisfy the Secretary that they are not white phosphorus matches. The Secretary is authorized and directed to prescribe such regulations as may be necessary for the enforcement of the provisions of this section.

SEC. 2655. EXPORTATION.

It shall be unlawful to export from the United States any white phosphorus matches. The Secretary shall have power to issue such regulations to customs officers as are necessary to the enforcement of this section.

SEC. 2656. PENALTIES.

(a) CONCEALMENT.—Every manufacturer of matches who, to evade the tax chargeable thereon or any part thereof, hides or conceals, or causes to be hidden or concealed, or removes or conveys away, or deposits or causes to be removed or conveyed away from or deposited in any place any white phosphorus matches, shall for each offense be fined not more than $1,000 and be imprisoned not more than two years, or both.

(b) SELLING UNSTAMPED MATCHES.—Every manufacturer of matches who manufactures, sells, removes, distributes, or offers to sell or distribute white phosphorus matches without there being affixed thereto an adhesive stamp, denoting the tax required by this chapter, effectually canceled as provided by subsection (a) (2) of section 2653, shall for each offense be fined not more than $1,000 and be imprisoned not more than two years.

(c) FAILURE TO CANCEL STAMPS.—Every person who fraudulently makes use of an adhesive stamp to denote any tax imposed by section 2651 (a) without effectually canceling such stamp as provided in section 2653 (a) (2) shall forfeit the sum of $50 for every stamp in respect to which such offense is committed.

(d) USE OF INSUFFICIENT STAMPS.—Every person who affixes a stamp on any package of white phosphorus matches denoting a less amount of tax than that required by law shall for each offense be fined not more than $1,000 or be imprisoned not more than two years, or both.

(e) REUSING STAMPS.—Every person who removes, defaces, or causes or permits or suffers the removal or defacement of any such stamp, or who uses any stamp or any package to which any stamp is affixed to cover any other white phosphorus matches than those originally contained in such package with such stamp when first used, to evade the tax imposed by this chapter, shall for every such package in respect to which any such offense is committed be fined $50.

(f) FRAUD.—Every manufacturer of white phosphorus matches who defrauds or attempts to defraud the United States of the tax imposed by this chapter, or any part thereof, shall be fined not more than $5,000 or be imprisoned not more than three years, or both.

(g) FAILURE TO REGISTER.—Every manufacturer of white phosphorus matches who fails to register as provided and required in subsection (e) of section 2653 shall be subject to a penalty of not more than $500.

(h) OMISSION OF FACTORY NUMBER FROM PACKAGES.—Every manufacturer of white phosphorus matches who omits to mark, brand, affix, stamp, or print the factory number required under section 2653 (c) on every package of white phosphorus matches manufactured, sold, or removed by him shall be fined not more than $50 for each package in respect of which such offense is committed.

(i) OMISSION OF LABEL FROM PACKAGES.—Every manufacturer of white phosphorus matches who neglects to affix the label required by section 2653 (a) (4) to any original package containing stamped packages of white phosphorus matches made by him or sold or removed by or for him, and every person who removes any such label so affixed from any such original package, shall be fined not more than $50 for each package in respect of which such offense is committed.

(j) EXPORTATION OF MATCHES.—Any person guilty of violation of section 2655 shall be fined not less than $1,000 and not more than $5,000.

(k) OFFENSES NOT SPECIFICALLY COVERED.—If any manufacturer of white phosphorus matches, or any importer or exporter of matches, shall omit, neglect, or refuse to do or cause to be done any of the things required by law in carrying on or conducting his business, or

shall do anything by this chapter prohibited, if there be no specific penalty or punishment imposed by any other provision of this chapter for the neglecting, omitting, or refusing to do, or for the doing or causing to be done, the thing required or prohibited, he shall be fined $1,000 for each offense.

(l) COUNTERFEITING AND SIMILAR OFFENSES.

For counterfeiting and similar offenses, see section 2659 (a).

SEC. 2657. FORFEITURES.

(a) CONCEALMENT.—If any manufacturer of matches, to evade the tax chargeable thereon or any part thereof, hides or conceals, or causes to be hidden or concealed, or removes or conveys away, or deposits or causes to be removed or conveyed away from or deposited in any place any white phosphorus matches, all such matches shall be forfeited.

(b) REMOVAL OR DEFACEMENT OF STAMPS.—If any person removes, defaces, or causes or permits or suffers the removal or defacement of any stamp affixed to any package of white phosphorus matches, or uses any stamp or any package to which any stamp is affixed to cover any other white phosphorus matches than those originally contained in such package with such stamp when first used, to evade the tax imposed by this chapter, all such matches shall be forfeited.

(c) UNSTAMPED MATCHES.—All packages of white phosphorus matches subject to tax under this chapter that shall be found without stamps as herein provided shall be forfeited to the United States.

(d) MATCHES EXPORTED.—Any white phosphorus matches exported or attempted to be exported shall be confiscated to the United States and destroyed in such manner as may be prescribed by the Secretary, who shall have power to issue such regulations to customs officers as are necessary to the enforcement of this subsection.

(e) FRAUD.—Every manufacturer of white phosphorus matches who defrauds or attempts to defraud the United States of the tax imposed by this chapter, or any part thereof, shall forfeit the factory and manufacturing apparatus used by him and all the white phosphorus matches and all raw material for the production of white phosphorus matches found in the factory and on the factory premises, or owned by him.

(f) OFFENSES NOT SPECIFICALLY COVERED.—If any manufacturer of white phosphorus matches, or any importer or exporter of matches, shall omit, neglect, or refuse to do or cause to be done any of the things required by law in carrying on or conducting his business, or shall do anything by this chapter prohibited, if there be no specific penalty or punishment imposed by any other provision of this chapter for the neglecting, omitting, or refusing to do, or for the doing or causing to be done, the thing required or prohibited, all the white phosphorus matches owned by him or in which he has any interest as owner shall be forfeited to the United States.

SEC. 2658. RECOVERY OF PENALTIES AND FORFEITURES.

All fines, penalties, and forfeitures imposed by this chapter may be recovered in any court of competent jurisdiction.

SEC. 2659. OTHER LAWS APPLICABLE.

(a) All the provisions and penalties of law governing the engraving, issuing, sale, affixing, cancellation, accountability, effacement, destruction, and forgery of stamps provided for internal revenue shall apply to stamps provided for by this chapter.

(b) All provisions and penalties of law relating to internal revenue so far as applicable, shall extend to and include and apply to the taxes imposed by this chapter and to the articles upon which and to the persons upon whom they are imposed.

SEC. 2660. REGULATIONS.

For authority of the Commissioner, with the approval of the Secretary, to make all needful regulations for the carrying into effect of this chapter, see section 3791 (a) (1).

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CHAPTER 25—FIREARMS

SUBCHAPTER A—PISTOLS AND REVOLVERS

SEC. 2700. TAX.

(a) RATE.—There shall be levied, assessed, collected, and paid upon pistols and revolvers sold or leased by the manufacturer, producer, or importer, a tax equivalent to 10% of the price for which so sold or leased.

(b) EXEMPTIONS.

(1) SALES FOR USE OF FEDERAL GOVERNMENT OR STATES.—Pistols and revolvers sold for the use of the United States, any State, Territory, or possession of the United States, any political subdivision thereof, or the District of Columbia, shall be exempt from the tax imposed by subsection (a).

(2) TAXABLE UNDER SUBCHAPTER B.—The tax imposed by subsection (a) shall not apply to any firearm on which the tax provided by section 2720 of this chapter has been paid.

(3) CROSS REFERENCE.

For exemption from tax in case of exportation, see section 2705.

(c) COMPUTATION IN SPECIAL CASES.—For computation of tax in case of retail sales by wholesalers and in case of colorable sales, see section 2704.

SEC. 2701. RETURNS.

Every person liable for the tax imposed by section 2700 (a) shall make monthly returns under oath in duplicate to the collector for the district in which is located the principal place of business. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

SEC. 2702. PAYMENT OF TAX.

(a) DATE OF PAYMENT.—The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector for the district in which is located the principal place of business, at the time fixed in section 2701 for filing the return.

(b) DISCRETIONARY METHOD OF COLLECTION.

For discretionary method of collection, see section 2708.

SEC. 2703. ERRONEOUS PAYMENTS.

(a) IN GENERAL.—In the case of any overpayment or overcollection of the tax imposed by section 2700, the person making such overpayment or overcollection may take credit therefor against taxes due upon any monthly return, and shall make refund of any excessive amount collected by him upon proper application by the person entitled thereto.

(b) EXPORTS.

For refund of tax on pistols and revolvers exported, see section 2705.

SEC. 2704. COMPUTATION OF TAX IN SPECIAL CASES.

(a) RETAIL SALES BY WHOLESALERS.—If any manufacturer, producer, or importer of pistols or revolvers customarily sells such articles both at wholesale and at retail, the tax in the case of any articles sold by him at retail shall be computed on the price for which like articles are sold by him at wholesale.

(b) COLORABLE SALES AND LEASES.—

(1) TO AFFILIATED CORPORATIONS.—If any corporation, which manufactures, produces, or imports, pistols or revolvers, sells or leases such articles to a corporation affiliated with it within the meaning of this paragraph, at less than the fair market price obtainable therefor, the tax thereon shall be computed on the basis of the price at which such articles are sold or leased by the corporation with which it is affiliated. For the purpose of this paragraph, two or more domestic corporations shall be deemed to be affiliated (1) if one corporation owns at least 95 per centum of the stock of the other or others, or (2) if at least 95 per centum of the stock of two or more corporations is owned by the same interests. As used in this paragraph, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends.

(2) TO OTHERS.—If any person who manufactures, produces, or imports pistols or revolvers, sells or leases such articles whether through any agreement, arrangement, or understanding, or otherwise, at less than the fair market price obtainable therefor, either (1) in such manner as directly or indirectly to benefit such person or any person directly or indirectly interested in the business of such person, or (2) with intent to cause such benefit, the amount for which such articles are sold or leased shall be taken to be the amount which would have been received from the sale or lease of such articles if sold or leased at the fair market price.

SEC. 2705. EXPORTATION.

Under such rules and regulations as the Commissioner with the approval of the Secretary may prescribe, the tax imposed under section 2700 (a) shall not apply in respect of articles sold or leased for export or for shipment to a possession of the United States and in due course so exported or shipped. Under such rules and regulations

the amount of any internal revenue tax erroneously or illegally collected in respect of such articles so exported or shipped may be refunded to the exporter or shipper of the articles, instead of to the manufacturer, if the manufacturer waives any claim for the amount so to be refunded.

SEC. 2706. ADDITION TO TAX IN CASE OF NONPAYMENT.

If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 6 per centum per annum from the time when the tax became due until paid.

SEC. 2707. PENALTIES.

(a) Any person who willfully fails to pay, collect, or truthfully account for and pay over the tax imposed by section 2700 (a), or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty of the amount of the tax evaded, or not paid, collected, or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected. No penalty shall be assessed under this subsection for any offense for which a penalty may be assessed under authority of section 3612.

(b) Any person required under this subchapter to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this subchapter who willfully fails to pay such tax, make such returns, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(c) Any person required under this subchapter to collect, account for and pay over any tax imposed by this subchapter, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this subchapter or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(d) The term "person" as used in this section includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

SEC. 2708. DISCRETIONARY METHOD ALLOWED COMMISSIONER FOR COLLECTING TAX.

Whether or not the method of collecting the tax imposed by section 2700 (a) is specifically provided in this subchapter, such tax may, under regulations prescribed by the Commissioner, with the approval of the Secretary, be collected by stamp, coupon, serial-numbered ticket, or such other reasonable device or method as may be necessary or helpful in securing a complete and prompt collection of the tax. All administrative and penalty provisions of subchapters A, B, and C of chapter 11, insofar as applicable, shall apply to the collection of any tax which the Commissioner determines or prescribes shall be collected in such manner.

SEC. 2709. RECORDS, STATEMENTS, AND RETURNS.

Every person liable to any tax imposed by this subchapter, or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

SEC. 2710. RULES AND REGULATIONS.

For authority of the Commissioner, with the approval of the Secretary, to prescribe and publish all needful rules and regulations for the enforcement of this chapter, see section 3791 (a) (1).

SEC. 2711. OTHER LAWS APPLICABLE.

All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, shall be extended to and made a part of this subchapter.

SEC. 2712. EFFECTIVE DATE OF SUBCHAPTER.

This subchapter shall take effect on the first day of that calendar month occurring next after the enactment of this title.

SEC. 2713. CROSS REFERENCES.

For general provisions relating to stamps, information and returns, assessment, collection, and refund, see chapters 28 and 34 to 37, inclusive.

SUBCHAPTER B.—MACHINE GUNS AND SHORT-BARRELLED FIREARMS

SEC. 2720. TAX.

(a) RATE.—There shall be levied, collected, and paid upon firearms transferred in the continental United States a tax at the rate of $200 for each firearm: *Provided*, That the transfer tax on any gun with two attached barrels, twelve inches or more in length, from which only a single discharge can be made from either barrel without manual reloading, shall be at the rate of $1. The tax imposed by this section shall be in addition to any import duty imposed on such firearm.

(b) BY WHOM PAID.—Such tax shall be paid by the transferor.

(c) HOW PAID.—

(1) STAMPS.—Payment of the tax herein provided shall be represented by appropriate stamps to be provided by the Commissioner, with the approval of the Secretary.

(2) CROSS REFERENCE.—

For assessment in case of omitted taxes payable by stamp, see sections 3311 and 3640.

(d) REGISTRATION AND SPECIAL TAX.—

For requirements as to registration and special tax, see part VIII of subchapter A of chapter 27.

SEC. 2721. EXEMPTIONS.

(a) TRANSFERS EXEMPT.—This subchapter and Part VIII of subchapter A of chapter 27 shall not apply to the transfer of firearms (1) to the United States Government, any State, Territory, or possession of the United States, or to any political subdivision thereof, or to the District of Columbia; (2) to any peace officer or any Federal officer designated by regulations of the Commissioner; (3) to the transfer of any firearm which is unserviceable and which is transferred as a curiosity or ornament.

(b) NOTICE OF EXEMPTION.—If the transfer of a firearm is exempted as provided in subsection (a), the person transferring such firearm shall notify the Commissioner of the name and address of the applicant, the number or other mark identifying such firearm, and the date of its transfer, and shall file with the Commissioner such documents in proof thereof as the Commissioner may by regulations prescribe.

(c) OTHER TAXES.—

For exemption from the tax on pistols and revolvers, see section 2700 (b) (2), and for exemption from the manufacturer's sales tax on firearms, see section 3407 of chapter 29.

SEC. 2722. STAMPS.

(a) AFFIXING.—The stamps provided for in section 2720 (c) (1) shall be affixed to the order for such firearm, hereinafter provided for.

(b) OTHER LAWS APPLICABLE.—

For provisions relating to the engraving, issuance, sale, accountability, cancelation, and distribution of tax-paid stamps, see section 2731.

SEC. 2723. ORDER FORMS.

(a) GENERAL REQUIREMENTS.—It shall be unlawful for any person to transfer a firearm except in pursuance of a written order from the person seeking to obtain such article, on an application form issued in blank in duplicate for that purpose by the Commissioner. Such order shall identify the applicant by such means of identification as may be prescribed by regulations under this subchapter and Part VIII of subchapter A of chapter 27: *Provided*, That, if the applicant is an individual, such identification shall include fingerprints and a photograph thereof.

(b) CONTENTS OF ORDER FORM.—Every person so transferring a firearm shall set forth in each copy of such order the manufacturer's number or other mark identifying such firearm, and shall forward a copy of such order to the Commissioner. The original thereof with stamps affixed, shall be returned to the applicant.

(c) PRIOR TRANSFERS.—No person shall transfer a firearm which has previously been transferred on or after July 26, 1934, unless such person, in addition to complying with subsection (b), transfers therewith the stamp-affixed order provided for in this section for each such prior transfer, in compliance with such regulations as may be prescribed under this subchapter for proof of payment of all taxes on such firearms.

(d) EXEMPTION IN CASE OF REGISTERED IMPORTERS, MANUFACTURERS, AND DEALERS.—Importers, manufacturers, and dealers who have registered and paid the tax as provided for in Part VIII of subchapter A of chapter 27 shall not be required to conform to the provisions of this section with respect to transactions in firearms with dealers or manufacturers if such dealers or manufacturers have registered and have paid such tax, but shall keep such records and make such reports regarding such transactions as may be prescribed by regulations under this subchapter and Part VIII of subchapter A of chapter 27.

(e) SUPPLY.—The Commissioner, with the approval of the Secretary, shall cause suitable forms to be prepared for the purposes of subsection (a), and shall cause the same to be distributed to collectors of internal revenue.

SEC. 2724. BOOKS, RECORDS, AND RETURNS.

Importers, manufacturers, and dealers shall keep such books and records and render such returns in relation to the transactions in firearms specified in this subchapter and Part VIII of subchapter A of chapter 27 as the Commissioner, with the approval of the Secretary, may by regulations require.

SEC. 2725. IDENTIFICATION OF FIREARMS.

Each manufacturer and importer of a firearm shall identify it with a number or other identification mark approved by the Commissioner, such number or mark to be stamped or otherwise placed thereon in a manner approved by the Commissioner.

SEC. 2726. UNLAWFUL ACTS.

(a) POSSESSING FIREARMS UNLAWFULLY TRANSFERRED.—It shall be unlawful for any person to receive or possess any firearm which has at any time been transferred in violation of sections 2720, 2721 (b), 2722, 2723, 2727, and 2731 of this subchapter.

(b) REMOVING OR CHANGING IDENTIFICATION MARKS.—It shall be unlawful for anyone to obliterate, remove, change, or alter the num-

ber or other identification mark required by section 2725. Whenever on trial for a violation of this subsection the defendant is shown to have or to have had possession of any firearm upon which such number or mark shall have been obliterated, removed, changed, or altered, such possession shall be deemed sufficient evidence to authorize conviction, unless the defendant explains such possession to the satisfaction of the jury.

(c) IMPORTING FIREARMS ILLEGALLY.—It shall be unlawful (1) fraudulently or knowingly to import or bring any firearm into the United States or any territory under its control or jurisdiction (including the Philippine Islands), in violation of the provisions of this subchapter and Part VIII of subchapter A of chapter 27; or (2) knowingly to assist in so doing; or (3) to receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of any such firearm after being imported or brought in, knowing the same to have been imported or brought in contrary to law. Whenever on trial for a violation of this section the defendant is shown to have or to have had possession of such firearm, such possession shall be deemed sufficient evidence to authorize conviction unless the defendant explains such possession to the satisfaction of the jury.

SEC. 2727. EXPORTATION.

Under such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe, and upon proof of the exportation of any firearm to any foreign country (whether exported as part of another article or not) with respect to which the transfer tax under section 2720 has been paid by the manufacturer, the Commissioner shall refund to the manufacturer the amount of the tax so paid, or, if the manufacturer waives all claim for the amount to be refunded, the refund shall be made to the exporter.

SEC. 2728. IMPORTATION.

No firearm shall be imported or brought into the United States or any territory under its control or jurisdiction (including the Philippine Islands), except that, under regulations prescribed by the Secretary, any firearm may be so imported or brought in when (1) the purpose thereof is shown to be lawful and (2) such firearm is unique or of a type which cannot be obtained within the United States or such territory.

SEC. 2729. PENALTIES.

Any person who violates or fails to comply with any of the requirements of this subchapter and Part VIII of subchapter A of chapter 27 shall, upon conviction, be fined not more than $2,000 or be imprisoned for not more than five years, or both, in the discretion of the court.

SEC. 2730. FORFEITURES.

(a) LAWS APPLICABLE.—Any firearm which has at any time been transferred in violation of the provisions of this subchapter and Part VIII of subchapter A of chapter 27 shall be subject to seizure and forfeiture, and (except as provided in subsection (b)) all the provisions of internal-revenue laws relating to searches, seizures, and forfeiture of unstamped articles are extended to and made to apply to the articles taxed under this subchapter, and the persons to whom this subchapter and Part VIII of subchapter A of chapter 27 applies.

(b) DISPOSAL.—In the case of the forfeiture of any firearm by reason of a violation of this subchapter and Part VIII of subchapter A of chapter 27: No notice of public sale shall be required; no such firearm shall be sold at public sale; if such firearm is in the possession of any officer of the United States except the Secretary, such officer shall deliver the firearm to the Secretary; and the Secretary may order such firearm destroyed or may sell such firearm to any State, Territory, or possession (including the Philippine Islands), or political

subdivision thereof, or the District of Columbia, or retain it for the use of the Treasury Department or transfer it without charge to any Executive department or independent establishment of the Government for use by it.

SEC. 2731. OTHER LAWS APPLICABLE.

All provisions of law (including those relating to special taxes, to the assessment, collection, remission, and refund of internal revenue taxes, to the engraving, issuance, sale, accountability, cancelation, and distribution of tax-paid stamps provided for in the internal-revenue laws, and to penalties) applicable with respect to the taxes imposed by sections 2550 of subchapter A of chapter 23 and 3220 of subchapter A of chapter 27, and all other provisions of the internal-revenue laws shall, insofar as not inconsistent with the provisions of this subchapter and Part VIII of subchapter A of chapter 27, be applicable with respect to the taxes imposed by section 2720 (a) of subchapter B of this chapter and section 3260 of subchapter A of chapter 27.

SEC. 2732. REGULATIONS.

The Commissioner, with the approval of the Secretary, shall prescribe such rules and regulations as may be necessary for carrying the provisions of this subchapter and Part VIII of subchapter A of chapter 27 into effect.

SEC. 2733. DEFINITIONS.

That for the purposes of this subchapter and Part VIII of subchapter A of chapter 27—

(a) FIREARM.—The term "firearm" means a shotgun or rifle having a barrel of less than eighteen inches in length, or any other weapon, except a pistol or revolver, from which a shot is discharged by an explosive if such weapon is capable of being concealed on the person, or a machine gun, and includes a muffler or silencer for any firearm whether or not such firearm is included within the foregoing definition, but does not include any rifle which is within the foregoing provisions solely by reason of the length of its barrel if the caliber of such rifle is .22 or smaller and if its barrel is sixteen inches or more in length.

(b) MACHINE GUN.—The term "machine gun" means any weapon which shoots, or is designed to shoot, automatically or semiautomatically, more than one shot, without manual reloading, by a single function of the trigger.

(c) CONTINENTAL UNITED STATES.—The term "continental United States" means the States of the United States and the District of Columbia.

(d) IMPORTER.—The term "importer" means any person who imports or brings firearms into the continental United States for sale.

(e) MANUFACTURER.—The term "manufacturer" means any person who is engaged within the continental United States in the manufacture of firearms, or who otherwise produces therein any firearm for sale or disposition.

(f) DEALER.—The term "dealer" means any person not a manufacturer or importer engaged within the continental United States in the business of selling firearms. The term "dealer" shall include wholesalers, pawnbrokers, and dealers in used firearms.

(g) INTERSTATE COMMERCE.—The term "interstate commerce" means transportation from any State or Territory or District, or any insular possession of the United States (including the Philippine Islands), to any other State or to the District of Columbia.

(h) TO TRANSFER OR TRANSFERRED.—The term "to transfer" or "transferred" shall include to sell, assign, pledge, lease, loan, give away, or otherwise dispose of.

(i) PERSON.—The term "person" includes a partnership, company, association, or corporation, as well as a natural person.

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CHAPTER 26—LIQUOR

SUBCHAPTER A—DISTILLED SPIRITS

Part I—Provisions Relating to Tax

SEC. 2800. TAX.

(a) RATE.—

(1) DISTILLED SPIRITS GENERALLY.—There shall be levied and collected on all distilled spirits (except brandy) in bond or produced in or imported into the United States an internal revenue tax at the rate of $2.25 (and on brandy at the rate of $2.00) on each proof gallon or wine gallon when below proof and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon, to be paid by the distiller or importer when withdrawn from bond.

(2) PRODUCTS OF DISTILLATION CONTAINING DISTILLED SPIRITS.—All products of distillation, by whatever name known, which contain distilled spirits or alcohol, on which the tax imposed by law has not been paid, shall be considered and taxed as distilled spirits.

(3) IMPORTED PERFUMES CONTAINING DISTILLED SPIRITS.—There shall be levied and collected upon all perfumes imported into the United States containing distilled spirits, a tax of $2.25 per wine gallon, and a proportionate tax at a like rate on all fractional parts of such wine gallon. Such tax shall be collected by the collector of customs and deposited as internal revenue collections, under such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe.

(4) ALCOHOLIC COMPOUNDS FROM PUERTO RICO, VIRGIN ISLANDS, AND PHILIPPINES.—

(A) PUERTO RICO.—Except as provided in section 3123, upon bay rum, or any article containing alcohol, brought from Puerto Rico into the United States for consumption or sale there shall be paid a tax on the spirits contained therein at the rate imposed on distilled spirits produced in the United States, to be collected at the port of entry by the collector of internal revenue of the district in which the port is located. The Commissioner, with the approval of the Secretary, is authorized to make such rules and regulations as may be necessary to carry this paragraph into effect.

(B) VIRGIN ISLANDS AND PHILIPPINES.—For provisions relating to tax on alcoholic compounds from Virgin Islands and Philippines, see sections 3350 and 3340.

(5) RECTIFIED SPIRITS AND WINES.—In addition to the tax imposed by this chapter on distilled spirits and wines, there shall be levied, assessed, collected, and paid, a tax of 30 cents on each proof gallon and a proportionate tax at a like rate on all fractional parts of such proof gallon on all distilled spirits or wines rectified, purified, or refined in such manner, and on all mixtures produced in such manner, that the person so rectifying, purifying, refining, or mixing the same is a rectifier within the meaning of section 3254 (g): *Provided*, That this tax shall not apply to gin produced by the redistillation of a pure spirit over juniper berries and other aromatics.

(6) WINES CONTAINING MORE THAN 24 PERCENT OF ABSOLUTE ALCOHOL.—

For taxation as distilled spirits of wines containing more than 24 per centum of absolute alcohol by volume, see section 3030 (a) (1).

(7) SPECIAL TAXES.—

For special taxes, see section 3250.

(8) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

(b) TIME FOR PAYMENT.—

(1) BONDED DISTILLED SPIRITS.—For time for payment of tax on bonded distilled spirits, see paragraph (1) of subsection (a).

(2) DISTILLED SPIRITS NOT BONDED.—The tax upon any distilled spirits, removed from the place where they were distilled and not deposited in bonded warehouse as required by law, shall, at any time within the period of limitation provided in section 3312, when knowledge of such fact is obtained by the Commissioner, be assessed by him upon the distiller of the same, and returned to the collector, who shall immediately demand payment of such tax, and, upon the neglect or refusal of payment by the distiller, shall proceed to collect the same by distraint. But this provision shall not exclude any other remedy or proceeding provided by law.

(3) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

(c) TIME OF ATTACHMENT.—The tax shall attach to distilled spirits, spirits, alcohol or alcoholic spirit, within the meaning of subsection (b) of section 2809 as soon as this substance is in existence as such, whether it be subsequently separated as pure or impure spirit, or be immediately, or at any subsequent time, transferred into any other substance, either in the process of original production or by any subsequent process.

(d) PERSONS LIABLE.—Every proprietor or possessor of, and every person in any manner interested in the use of, any still, distillery, or distilling apparatus, shall be jointly and severally liable for the taxes imposed by law on the distilled spirits produced therefrom.

(e) LIEN.—

(1) PROPERTY SUBJECT TO.—The tax shall be a first lien on the spirits distilled, the distillery used for distilling the same, the stills, vessels, fixtures, and tools therein, the lot or tract of land whereon the said distillery is situated, and on any building thereon from the time said spirits are in existence as such until (except as provided in paragraph (3), the said tax is paid.

(2) EXCEPTION DURING TERM OF BONDS.—No lien shall attach to any lot or tract of land, distillery, building, or distilling apparatus, under the provisions of this subsection, by reason of distilling done during any period included within the term of any bond taken under the provisions of section 2815 (b) (1) (C).

(3) EXTINGUISHMENT.—Any lien under paragraph (1) on any land or any building thereon shall be held to be extinguished, if (1) such land and building are no longer used for distillery purposes, and (2) there is no outstanding liability for taxes or penalties imposed by law on the distilled spirits produced therein, and (3) no litigation is pending in respect of any such tax or penalty.

(4) CERTIFICATE OF DISCHARGE.—Any person claiming any interest in any such land or building may apply to the collector for a duly acknowledged certificate to the effect that such lien is discharged and, if the Commissioner determines that any such lien is extinguished, the collector shall issue such certificate, and any such certificate may be recorded.

(f) COLLECTION OF TAX ON IMPORTED DISTILLED SPIRITS.—The internal revenue tax imposed by paragraphs (1) and (2) of subsection (a) upon distilled spirits imported into the United States shall, under regulations prescribed by the Commissioner, with the approval of the Secretary, be collected and deposited in the same manner as other internal revenue taxes, except that such collection and depositing shall be by the collector of customs instead of by the collector of internal revenue. Such tax shall be in addition to any customs duty imposed under the Tariff Act of 1930, 46 Stat. 590, or any subsequent Act. Distilled spirits smuggled or brought into the United States unlawfully shall, for the purpose of this subsection and paragraphs (1) and (2) of subsection (a), be held to be imported into the United States. Section 2805 shall be applicable to the disposition of imported spirits.

SEC. 2801. RECTIFIED SPIRITS.

(a) RATE OF TAX.—

For rate of tax, see section 2800 (a) (5).

(b) PROOF AND VOLUME.—When the process of rectification is completed and the taxes prescribed by section 2800 (a) (5) have been paid, it shall be unlawful for the rectifier or other dealer to reduce in proof or increase in volume such spirits or wine by the addition of water or other substance; nothing herein contained shall, however, prevent a rectifier from using again in the process of rectification spirits already rectified and upon which the taxes have theretofore been paid.

(c) EXEMPTION FROM TAX.—

(1) CORDIALS AND LIQUEURS.—The taxes imposed by section 2800 (a) (5) shall not attach to cordials or liqueurs on which a tax is imposed and paid under paragraph (1) or (2) of section 3030 (a), nor to the mixing and blending of wines, where such blending is for the sole purpose of perfecting such wines according to commercial standards, nor to blends made exclusively of two or more pure straight whiskies aged in wood for a period not less than four years and without the addition of coloring or flavoring matter or any other substance than pure water and if not reduced below ninety proof; nor to blends made exclusively of two or more pure fruit brandies distilled from the same kind of fruit, aged in wood for a period not less than two years and without the addition of coloring or flavoring matter or any other substance than pure water and if not reduced below ninety proof: *Provided*, That such blended whiskies and blended fruit brandies shall be exempt from tax under section 2800 (a) (5) only when compounded under the immediate supervision of a revenue officer, in such tanks and under such conditions and supervision as the Commissioner, with the approval of the Secretary, may prescribe.

(2) ABSOLUTE ALCOHOL.—The process of extraction of water from high-proof spirits for the production of absolute alcohol shall not be deemed to be rectification within the meaning of section 3254 (g), and absolute alcohol shall not be subject to the tax imposed by section 2800 (a) (5), but the production of such absolute alcohol shall be under such regulations as the Commissioner, with the approval of the Secretary, may prescribe.

(d) REGULATIONS.—USE OF DISTILLED SPIRITS OR WINES.—All distilled spirits or wines taxable under section 2800 (a) (5) shall be subject to uniform regulations concerning the use thereof in the manufacture, blending, compounding, mixing, marking, branding, and sale of whisky and rectified spirits, and no discrimination whatsoever shall be made by reason of a difference in the character of the material from which same may have been produced.

(e) RECTIFYING.—

(1) REGULATIONS.—The business of a rectifier of spirits shall be carried on, and the tax on rectified spirits shall be paid, under such rules, regulations, and bonds as may be prescribed by the Commissioner, with the approval of the Secretary. The Commissioner, with the approval of the Secretary, shall prescribe such regulations under this section and paragraph (5) of section 2800 (a) as he deems necessary.

(2) PREMISES OF RECTIFIER.—The premises of a rectifier shall be as described in his notice and, whether they consist of an entire building or of rooms in a building, shall have means of ingress from and egress into a public street or yard, or into a public hall or elevator shaft leading into a public street or yard, and shall be used exclusively for the business of rectification and the bottling of liquors rectified by him thereon, and the bottling of wines and spirits without rectification. Any rectifier who uses his rectifying premises contrary to the provisions of this paragraph shall be fined not more than $50 with respect to each day upon which any such use occurs, but shall not, on account of such use, be subject to the penalties otherwise prescribed in this section.

(3) FILTERING AND PURIFYING WINES.—The filtering, clarifying, or purifying of wines on bonded winery premises or bonded storeroom premises shall not be deemed to be rectification within the meaning of section 3254 (g).

(4) VERMOUTH MANUFACTURED WITH FORTIFIED WINES.—The manufacture of vermouth with fortified sweet wine on bonded winery premises shall not be deemed to be rectification within the meaning of section 3254 (g), if distilled spirits other than necessary in the production of approved essences, used in the manufacture of vermouth, whether or not such essences are produced on the bonded winery premises, are not added to the fortified sweet wine used in the manufacture thereof or to such vermouth during or after its manufacture. Such vermouth may be manufactured on bonded winery premises, but only in a separate department thereof having no interior communication with any other department or part of such premises, under such supervision and in accordance with such regulations as the Commissioner, with the approval of the Secretary, shall prescribe.

(f) PENALTIES.—Except as provided in subsection (e) (2), whoever violates any of the provisions of this section or section 2800 (a) (5) shall be deemed to be guilty of a misdemeanor and, upon conviction, shall be fined not more than $1,000 or imprisoned not more than two years, and shall, in addition, be liable to double the tax evaded, together with the tax, to be collected by assessment or on any bond given.

SEC. 2802. STAMPS FOR DISTILLED SPIRITS.

(a) FORM, ISSUE AND USE.—

(1) STAMPS GENERALLY.—All stamps required for distilled spirits shall be engraved in their several kinds in book form, and shall be issued by the Commissioner to any collector, upon his requisition, in such numbers as may be necessary in the several districts. Each stamp shall have an engraved stub attached thereto, with a number thereon corresponding with an engraved number on the stamp, and the stub shall not be removed from the book. And there shall be entered on each stub such memoranda of the contents of its corresponding stamp as shall be necessary to preserve a perfect record of the use of such stamp when detached.

(2) TAX-PAID STAMPS.—The Commissioner, with the approval of the Secretary, shall prescribe and furnish suitable stamps denoting the payment of the internal-revenue tax imposed on distilled spirits. On every stamp for the payment of tax on distilled

spirits there shall be engraved words and figures representing a decimal number of gallons, and on the stub corresponding to such stamp there shall be engraved a similar number of gallons, and between the stamp and the stub, and connecting them, shall be engraved nine coupons, which, beginning next to the stamp, shall indicate in succession the several numbers of gallons between the number named in the stamp and the decimal number next above. And whenever any collector receives the tax on the distilled spirits contained in any cask, he shall detach from the book a stamp representing the denominate quantity nearest to the quantity of proof spirits in such cask, as shown by the storekeeper-gauger's return, with such number of the coupons attached thereto as shall be necessary to make up the whole number of proof gallons in said cask. All unused coupons shall remain attached to the marginal stub, and no coupon shall have any value or significance when detached from the stamp and stub. And the tax-paid stamps with the coupons may denote such number of gallons, not less than ten, as the Commissioner may deem advisable.

(3) Transfer of duties:

For transfer of powers and duties of Commissioner and his agents, see section 3170.

(b) ISSUE FOR RESTAMPING.—The Commissioner may, under regulations prescribed by him with the approval of the Secretary, issue stamps for restamping packages of distilled spirits, which have been duly stamped but from which the stamps have been lost or destroyed by unavoidable accident.

(c) INSTRUMENTS FOR ATTACHING, PROTECTING, AND CANCELING.—The instruments or other means prescribed under section 3301 (a) for attaching, protecting, and canceling stamps for distilled spirits shall be furnished by the United States to the persons using the stamps to be affixed therewith, under such regulations as the Commissioner may prescribe.

(d) ACCOUNTABILITY.—

(1) TAX-PAID STAMPS.—The books of tax-paid stamps issued to any collector shall be charged to his account at the full value of the tax on the number of gallons represented on the stamps and coupons contained in said books; and every collector shall make a monthly return to the Commissioner of all tax-paid stamps issued by him to be affixed to any cask or package containing distilled spirits on which the tax has been paid, and account for the amount of the tax collected; and it shall be the duty of the said collector to return to the Commissioner any book of marginal stubs as soon as all the stamps contained in the book when issued to him have been used.

(2) OTHER STAMPS.—All stamps relating to distilled spirits, other than the tax-paid stamps, shall be charged to collectors; and the books containing such stamps may be intrusted by any collector to the storekeeper-gauger of the district, who shall make a daily report to the collector of all such stamps used by him and for whom used; and when all the stamps contained in any such book have been issued, the storekeeper-gauger of the district shall return the book to the collector, with all the marginal stubs therein. Except as provided in section 2878 (b), all export stamps issued to collectors shall be charged to them as representing the value of 10 cents for each stamp, and they shall collect the amount due for such stamps at the rate of 10 cents for each stamp issued in such manner and at such time as the Commissioner may prescribe, and the Commissioner may, in his discretion, make assessment therefor.

(3) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

(e) EXCHANGE OF WHOLESALE LIQUOR DEALERS' STAMPS FOR RECTIFIED SPIRITS STAMPS.—Collectors shall not furnish wholesale liquor dealers' stamps in lieu of and in exchange for stamps for rectified spirits unless the package covered by stamp for rectified spirits is to be broken into smaller packages.

SEC. 2803. STAMPS FOR CONTAINERS OF DISTILLED SPIRITS.

(a) REQUIREMENT.—No person shall transport, possess, buy, sell, or transfer any distilled spirits, unless the immediate container thereof has affixed thereto a stamp denoting the quantity of distilled spirits contained therein and evidencing payment of all internal-revenue taxes imposed on such spirits. The provisions of this section shall not apply to—

(1) Distilled spirits placed in a container for immediate consumption on the premises or for preparation for such consumption;

(2) Distilled spirits in bond or in customs custody;

(3) Distilled spirits in immediate containers required to be stamped under existing law;

(4) Distilled spirits in actual process of rectification, blending, or bottling, or in actual use in processes of manufacture;

(5) Distilled spirits on which no internal-revenue tax is required to be paid;

(6) Distilled spirits not intended for sale or for use in the manufacture or production of any article intended for sale; or

(7) Any regularly established common carrier receiving, transporting, delivering, or holding for transportation or delivery distilled spirits in the ordinary course of its business as a common carrier.

(b) PURCHASE AND SUPPLY.—Any person placing or intending to place any distilled spirits upon which all internal-revenue taxes have been paid into any container upon which a stamp is required by this section, or withdrawing or intending to withdraw any imported spirits in such containers from customs custody, shall be entitled to purchase sufficient stamps for stamping such containers. Such stamps shall be issued by the Commissioner to each Collector, upon his requisition, in such numbers as may be necessary in his district, and shall be sold by the Collectors to persons entitled thereto upon application therefor and compliance with regulations under this section, at a price of 1 cent for each stamp, except that in the case of stamps for containers of less than one half pint the price shall be one quarter of 1 cent for each stamp. When in his judgment there is no danger to the revenue, and upon the giving of such bonds or other security as he may deem necessary, the Commissioner may authorize the sale of such stamps to importers for stamping containers in the country from which imported.

(c) UNUSED OR SPOILED STAMPS.—The Commissioner, under regulations approved by the Secretary, may issue new stamps in exchange for any unused stamps issued under this section that have been spoiled by fire or water, or rendered useless by erroneous overprinting or cutting; or may refund the value of any unused stamps for which the lawful owner has no use due to the discontinuance or transfer of his business: *Provided*, That stamps may be exchanged, or the value thereof refunded, only in quantities of the value of $5 or more: *And provided further*, That no claim for the exchange of such stamps or refund therefor shall be allowed unless presented within one year after the date on which such stamps were purchased. There are authorized to be appropriated annually, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this paragraph.

(d) REGULATIONS FOR ISSUING, AFFIXING, AND CANCELING STAMPS.—The Commissioner, with the approval of the Secretary, shall pre-

scribe (a) regulations with respect to the time and manner of applying for, issuing, affixing, and destroying stamps required by this section, the form and denominations of such stamps, proof that applicants are entitled to such stamps, and the method of accounting for receipts from the sale of such stamps, and (b) such other regulations as he shall deem necessary for the enforcement of this section.

(e) DESTRUCTION OF STAMPS.—Every person emptying any container stamped under the provisions of this section shall at the time of emptying such container destroy the stamp thereon.

(f) FORFEITURE OF SPIRITS.—All distilled spirits found in any container required to bear a stamp by this section, which container is not stamped in compliance with this section and regulations issued thereunder, shall be forfeited to the United States.

(g) PENALTIES.—Any person who violates any provision of this section, or who, with intent to defraud, falsely makes, forges, alters, or counterfeits any stamp made or used under this section, or who uses, sells, or has in his possession any such forged, altered, or counterfeited stamp, or any plate or die used or which may be used in the manufacture thereof, or any stamp required to be destroyed by this section, or who makes, uses, sells, or has in his possession any paper in imitation of the paper used in the manufacture of any such stamp, or who reuses any stamp required to be destroyed by this section, or who places any distilled spirits in any bottle which has been filled and stamped under this section without destroying the stamp previously affixed to such bottle, or who affixes any stamp issued under this section to any container of distilled spirits on which any tax due is unpaid, or who makes any false statement in any application for stamps under this section, or who has in his possession any such stamps obtained by him otherwise than as provided in subsection (b), shall on conviction be punished by a fine not exceeding $1,000, or by imprisonment at hard labor not exceeding five years, or by both. Any officer authorized to enforce any provisions of law relating to internal revenue stamps is authorized to enforce the provisions of this section and the provisions of section 2909 relating to the bottling of distilled spirits in bond.

(h) TRANSFER OF DUTIES.—

For transfer of duties and powers of the Commissioner and his agents, see section 3170.

SEC. 2804. DETENTION OF CASKS OR PACKAGES ON SUSPICION.

(a) POWER OF REVENUE OFFICER.—It shall be lawful for any internal revenue officer to detain any cask or package containing, or supposed to contain, distilled spirits, when he has reason to believe that the tax imposed by law upon the same has not been paid, or that the same is being removed in violation of law; and every such cask or package may be held by him at a safe place until it shall be determined whether the property so detained is liable by law to be proceeded against for forfeiture; but such summary detention shall not continue in any case longer than forty-eight hours without process of law or intervention of the officer to whom such detention is to be reported.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2805. DISTILLED SPIRITS SUBJECT TO FORFEITURE, DISTRAINT, OR JUDICIAL PROCESS.

(a) FORFEITURE.—

(1) DELIVERY TO THE SECRETARY.—All distilled spirits, wine, and malt beverages forfeited, summarily or by order of court, under any law of the United States, shall be delivered to the Secretary to be disposed of as hereinafter provided.

(2) DISPOSAL BY THE SECRETARY.—The Secretary shall dispose of all distilled spirits, wine, and malt beverages which have been delivered to him pursuant to subsection (a)—

(A) By delivery to such Government agencies as, in his opinion, have a need for such distilled spirits, wine, or malt beverages for medicinal, scientific, or mechanical purposes; or

(B) By gift to such eleemosynary institutions as, in his opinion, have a need for such distilled spirits, wine, or malt beverages for medicinal purposes; or

(C) By destruction.

(3) LIMITATION ON DISPOSAL.—No distilled spirits, wine, or malt beverages which have been seized under any law of the United States, may be disposed of in any manner whatsover except after forfeiture and as provided in this section.

(4) REGULATIONS.—The Secretary is authorized to make all rules and regulations necessary to carry out the provisions of this section.

(5) REMISSION, OR MITIGATION OF FORFEITURES.—Nothing in this section shall affect the authority of the Secretary, under the customs or internal-revenue laws, to remit or mitigate the forfeiture, or alleged forfeiture, of such distilled spirits, wines, or malt beverages, or the authority of the Commissioner, with the approval of the Secretary, to compromise any civil or criminal case in respect of such distilled spirits, wines, or malt beverages prior to commencement of suit thereon, or the authority of the Secretary to compromise any claim under the customs laws in respect of such distilled spirits, wines, or malt beverages.

(b) DISTRAINT OR JUDICIAL PROCESS.—Except as provided in section 3074, all distilled spirits sold by order of court, or under process of distraint, shall be sold subject to tax; and the purchaser shall immediately, and before he takes possession of said spirits, pay the tax thereon. If any tax-paid stamps are affixed to any such cask or package, such stamps shall be obliterated and destroyed by the collector or marshal before such sale: *Provided*, That in all cases wherein it shall appear that any distilled spirits offered for sale on distraint for taxes, where the taxes on such spirits have not been paid, or offered for sale for the benefit of the United States under order of court, will not, by reason of such spirits being below proof, bring a price equal to the tax due and payable thereon, but will bring a price equal to, or greater than, the tax on said spirits, computed only upon the proof gallons contained in the packages, without regard to the greater number of wine gallons contained therein, then, and in such case, upon sale being so made, tax-paid stamps to the amount required to stamp such spirits as if the tax thereon were only on the proof gallons thereof, may, under such rules and regulations as the Commissioner shall prescribe, be used by the collector making such sale, or furnished by a collector to a United States marshal, or to any other government officer making such sale for the benefit of the United States, without making payment for said stamps so used or delivered. Any collector using or furnishing stamps in manner aforesaid, on presenting vouchers satisfactory to the Commissioner, shall be allowed credit for the same in settling his stamp account with the department. In such cases, the officer selling the distilled spirits shall affix, or cause to be affixed, to the same the tax-paid stamps so provided, and shall write across the face of such stamps the true number of proof and wine gallons contained in the package, the amount of tax actually paid thereon, and also the words "Affixed under provisions of Internal Revenue Code, section 2805 (b)."

(c) CROSS REFERENCES.—

(1) MARKS, BRANDS, AND STAMPS.—For other provisions relating to stamping, marking, and branding distilled spirits sold under distraint or judicial process, see section 3725.

(2) TRANSFER OF DUTIES.—For transfer of power and duties of Commissioner and his agents, see section 3170.

SEC. 2806. PENALTIES AND FORFEITURES.

(a) CREATION OF FICTITIOUS PROOF.—

(1) PENALTY.—Every person who adds or causes to be added any ingredient or substance to any distilled spirits before the tax is paid thereon, for the purpose of creating a fictitious proof, shall be fined not less than $100 nor more than $1,000 for each cask or package so adulterated, and imprisoned not less than three months nor more than two years; and

(2) FORFEITURE.—Every such cask or package, with its contents, shall be forfeited to the United States.

(b) UNLAWFUL AFFIXING, CANCELING, OR ISSUE OF STAMPS BY OFFICER.—

(1) PENALTY.—Whenever any revenue officer affixes or cancels, or causes or permits to be affixed or canceled, any stamp relating to distilled spirits provided for by law, in any other manner or in any other place, or issues the same to any other person than as provided by law, or by regulation made in pursuance thereof, or knowingly affixes, or permits to be affixed, any such stamp to any cask or package of spirits of which the whole or any part has been distilled, rectified, compounded, removed, or sold, in violation of law, or which has in any manner escaped payment of tax due thereon, he shall, for every such offense, be fined not less than $500 nor more than $3,000, and be imprisoned for not less than six months nor more than three years.

(2) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

(c) FORFEITURE OF TAX-PAID DISTILLED SPIRITS REMAINING ON DISTILLERY PREMISES.—No distilled spirits on which the tax has been paid shall be stored or allowed to remain on any distillery premises, under the penalty of a forfeiture of all spirits so found.

(d) FORFEITURE OF DISTILLED SPIRITS IN UNSTAMPED CASKS OR PACKAGES.—All distilled spirits found in any cask or package containing five gallons or more, without having thereon each mark and stamp required therefor by law, shall be forfeited to the United States.

(e) EVASION OF TAX, PENALTY.—Whenever any person evades, or attempts to evade, the payment of the tax on any distilled spirits, in any manner whatever, he shall forfeit and pay double the amount of the tax so evaded or attempted to be evaded.

(f) TAX FRAUD BY DISTILLER.—Whenever any person engaged in carrying on the business of a distiller defrauds or attempts to defraud the United States of the tax on the spirits distilled by him, or of any part thereof, he—

(1) FORFEITURE.—Shall forfeit the distillery and distilling apparatus used by him, and all distilled spirits and all raw materials for the production of distilled spirits found in the distillery and on the distillery premises, and—

(2) PENALTY.—Shall be fined not less than $500 nor more than $5,000, and be imprisoned not less than six months nor more than three years.

No discontinuance or nolle prosequi of any prosecution under this subsection shall be allowed without the permission in writing of the Attorney General.

(g) OFFENSES NOT SPECIFICALLY COVERED.—If any distiller, rectifier, or wholesale liquor dealer, shall knowingly or willfully omit,

neglect or refuse to do or cause to be done any of the things required by law in the carrying on or conducting of his business, or shall do anything by this title prohibited, if there be no specific penalty or punishment imposed by any other section of this title for the neglecting, omitting or refusing to do, or for the doing or causing to be done the thing required or prohibited, he shall pay a penalty of $1,000; and all distilled spirits or liquors owned by him or in which he has any interest as owner, shall be forfeited to the United States.

(h) CROSS REFERENCES.—

For penalties and forfeitures relating to the following offenses, see the sections enumerated below:

(1) Removal or transportation under improper brands, section 3173 (a).

(2) Possession with intent to sell in fraud of law or to evade tax, section 3320.

(3) Removal or concealment with intent to defraud the revenue, section 3321.

(4) Forfeiture of packages containing forfeited goods, section 3322.

(5) Provisions relating to emptied stamped packages, section 3323.

(6) Sales to evade tax, section 3324.

(7) False statements to purchasers regarding tax, section 3325.

(8) Fraudulently claiming drawback, section 3326.

(9) Fraudulent bonds, permits, and entries, section 3793 (a).

(10) Fraudulent returns, affidavits, and claims, section 3793 (b).

(11) Refusal to permit entry or examination, section 3601 (b).

(12) Forcibly obstructing officers, section 3601 (c) (1).

(13) Forcibly rescuing property, section 3601 (c) (2).

(14) Failure to file return, section 3612 (d) (1).

(15) False or fraudulent return, section 3612 (d) (2).

(16) Other offenses, section 3793 (c).

SEC. 2807. DISPOSAL OF FORFEITED EQUIPMENT AND MATERIAL FOR DISTILLING.

All boilers, stills, or other vessels, tools and implements, used in distilling or rectifying, and forfeited under any of the provisions of this chapter, and all condemned material, together with any engine or other machinery connected therewith, and all empty barrels, and all grain or other material suitable for distillation, shall, under the direction of the court in which the forfeiture is recovered, be sold at public auction, and the proceeds thereof, after deducting the expenses of sale, shall be disposed of according to law.

SEC. 2808. INSTRUMENTS TO PREVENT AND DETECT FRAUD.

(a) POWER OF THE COMMISSIONER.—For the prevention and detection of frauds by distillers of spirits, the Commissioner may prescribe for use such hydrometers, saccharometers, weighing and gauging instruments, or other means for ascertaining the quantity, gravity, and producing capacity of any mash, wort, or beer used, or to be used, in the production of distilled spirits, and the strength and quantity of spirits subject to tax, as he may deem necessary; and he may prescribe rules and regulations to secure a uniform and correct system of inspection, weighing, marking, and gauging of spirits.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2809. DEFINITIONS.

(a) DISTILLER.—Every person who produces distilled spirits, or who brews or makes mash, wort, or wash, fit for distillation or for the production of spirits, or who, by any process of evaporization, separates alcoholic spirit from any fermented substance, or who, making or keeping mash, wort, or wash, has also in his possession or use a still, shall be regarded as a distiller.

(b) DISTILLED SPIRITS.—

(1) GENERAL DEFINITION.—Distilled spirits, spirits, alcohol, and alcoholic spirits, within the true intent and meaning of this chapter, is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation

of grain, starch, molasses, or sugar, including all dilutions and mixtures of this substance.

(2) PRODUCTS OF RECTIFICATION.—As used in section 2803, the term "distilled spirits" includes products produced in such manner that the person producing them is a rectifier within the meaning of section 3254 (g).

(c) PROOF SPIRITS.—Proof spirits shall be held to be that alcoholic liquor which contains one-half its volume of alcohol of a specific gravity of seven thousand nine hundred and thirty-nine ten-thousandths (.7939) at sixty degrees Fahrenheit.

(d) GALLON.—In all sales of spirits a gallon shall be held to be a gallon of proof spirit, according to the standard prescribed in the preceding subsection, set forth and declared for the inspection and gauging of spirits throughout the United States.

(e) PERSON.—As used in section 2803, the term "person" includes an individual, a partnership, an association, and a corporation.

Part II—Distilling and Rectifying

SEC. 2810. REGISTRY OF STILLS.

(a) REQUIREMENT.—Every person having in his possession or custody, or under his control, any still or distilling apparatus set up, shall register the same with the collector of the district in which it is, by subscribing and filing with him duplicate statements, in writing, setting forth the particular place where such still or distilling apparatus is set up, the kind of still and its cubic contents, the owner thereof, his place of residence, and the purpose for which said still or distilling apparatus has been or is intended to be used; one of which statements shall be retained and preserved by the collector, and the other transmitted by him to the Commissioner. Stills and distilling apparatus shall be registered immediately upon their being set up.

Every still or distilling apparatus not so registered, together with all personal property in the possession or custody, or under the control of such person, and found in the building, or in any yard or inclosure connected with the building in which the same may be set up, shall be forfeited.

And every person having in his possession or custody, or under his control, any still or distilling apparatus set up which is not so registered, shall pay a penalty of $500, and shall be fined not less than $100, nor more than $1,000, and imprisoned for not less than one month, nor more than two years.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2811. RETURN OF MATERIALS USED IN THE MANUFACTURE OF DISTILLED SPIRITS.

Every person disposing of any substance of the character used in the manufacture of distilled spirits shall, when required by the Commissioner, render a correct return in such form and manner as the Commissioner, with the approval of the Secretary, may by rules and regulations prescribe, showing the names and addresses of the persons to whom such disposition was made, with such details, as to the quantity so disposed of or other information which the Commissioner may require as to each such disposition, as will enable the Commissioner to determine whether all taxes due with respect to any distilled spirits manufactured from such substances have been paid. Any person who willfully violates any provision hereof, or of any such rules or regulations, and any officer, director, or agent of any such person who knowingly participates in such violation, shall upon conviction be fined not more than $500 or be imprisoned for

not more than one year, or both. As used in this section, (a) the term "distilled spirits" has the same meaning as that in which it is used in section 2803; (b) the term "person" includes individuals, corporations, partnerships, associations, trusts, and other incorporated and unincorporated organizations; and (c) the term "substance of the character used in the manufacture of distilled spirits" includes, but not by way of limitation, molasses, corn sugar, cane sugar, and malt sugar.

SEC. 2812. NOTICE OF BUSINESS OF DISTILLER OR RECTIFIER.

(a) REQUIREMENTS.—Every person engaged in, or intending to be engaged in, the business of a distiller or rectifier, shall give notice in writing, subscribed by him, to the collector of the district wherein such business is to be carried on, stating his name and residence, and if a company or firm, the name and residence of each member thereof, the name and residence of every person interested or to be interested in the business, the precise place where said business is to be carried on, and whether of distilling or rectifying; and if such business is carried on in a city, the residence and place of business shall be indicated by the name of the street and number of the building. In case of a distiller, the notice shall also state the kind of stills and the cubic contents thereof, the number and kind of boilers, the number of mash tubs and fermenting tubs, the cubic contents of each tub, the number of receiving cisterns, the cubic contents of each cistern, the number of hours in which the distillery will ferment each tub of mash or beer, the estimated quantity of distilled spirits which the apparatus is capable of distilling every twenty-four hours, a particular description of the lot or tract of land on which the distillery is situated, and of the buildings thereon, including their size, material, and construction; and that said distillery premises are not within six hundred feet (or the distance permitted by the Secretary pursuant to law), in a direct line, of any premises authorized to be used for rectifying or refining distilled spirits by any process.

In case of a rectifier, the notice shall state the precise place where such business is to be carried on, the name and residence of every person interested or to be interested in the business, the process by which the applicant intends to rectify, purify, or refine distilled spirits, the kind and cubic contents of any still used or to be used for such purpose, the estimated quantity of spirits which can be rectified, purified, or refined every twenty-four hours in such establishment, and that said rectifying establishment is not within six hundred feet (or the distance permitted by the Secretary pursuant to law), in a direct line, of the premises of any distillery registered for the distillation of spirits.

In case of any change in the location, form, capacity, ownership, agency, superintendency, or in the persons interested in the business of such distillery or rectifying establishment, or in the time of fermenting the mash or beer, notice thereof, in writing, shall be given to the said collector or proper deputy collector, of the district within twenty-four hours after such change; and any deputy collector receiving such notice shall immediately transmit the same to the collector of the district. Every notice required by this section shall be in such form, and shall contain such additional particulars, as the Commissioner may, from time to time, prescribe.

Every person who fails or refuses to give such notice shall pay a penalty of $1,000, and shall be fined not less than $100 nor more than $2,000; and every person who gives a false or fraudulent notice shall, in addition to such penalty or fine, be imprisoned not less than six months nor more than two years.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2813. NOTICE OF INTENTION TO RECTIFY.

(a) REQUIREMENTS.—When any rectifier intends to rectify or compound any distilled spirits he shall, before emptying any package of distilled spirits for that purpose, give notice in duplicate to the collector for the district of his intention so to rectify, and, except as provided in section 2861, submit such package for the inspection of a storekeeper-gauger, who shall duly weigh or gauge such package and its contents and make due return thereof, and such spirits shall not be emptied for rectification, nor rectified or compounded in the package, until gauged or weighed as hereinabove provided. And such notice and return shall be made in such form and contain such particulars as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents see section 3170.

SEC. 2814. DISTILLER'S BOND.

(a) FORM AND APPROVAL.—

(1) IN GENERAL.—Every person intending to commence or to continue the business of a distiller shall, on filing with the collector his notice of such intention, and before proceeding with such business, and on the 1st day of May of each succeeding year, execute a bond in the form prescribed by the Commissioner, conditioned that he shall faithfully comply with all the provisions of law relating to the duties and business of distillers, and shall pay all penalties incurred or fines imposed on him for a violation of any of the said provisions; and that he shall not suffer the lot or tract of land on which the distillery stands, or any part thereof, or any of the distilling apparatus, to be incumbered by mortgage, judgment, or other lien, during the time in which he shall carry on said business. Said bond shall be with at least two sureties, approved by the collector of the district, and for a penal sum not less than the amount of tax on the spirits that can be distilled in his distillery during a period of fifteen days. But in no case shall the bond exceed the sum of $100,000.

The collector may refuse to approve said bond when, in his judgment, the situation of the distillery is such as would enable the distiller to defraud the United States; and in case of such refusal the distiller may appeal to the Commissioner, whose decision in the matter shall be final. A new bond shall be required in case of the death, insolvency, or removal of either of the sureties, and may be required in any other contingency at the discretion of the collector or Commissioner.

Every person who fails or refuses to give the bond hereinbefore required, or to renew the same, or who gives any false, forged, or fraudulent bond, shall forfeit the distillery, distilling apparatus, and all real estate and premises connected therewith, and shall be fined not less than $500 nor more than $5,000, and imprisoned not less than six months nor more than two years.

(2) WHEN EXEMPT FROM SURVEY REQUIREMENTS.—Whenever, under authority of law, the Secretary shall relieve a distiller from the survey requirements of section 2817, he may likewise by regulation fix the penal sum of the distiller's bond, but in no case shall the amount of the minimum bond be less than $5,000 nor the amount of the maximum bond greater than $100,000.

(b) CROSS REFERENCES.—

(1) ETHYL ALCOHOL DISTILLERS EXEMPT FROM CERTAIN REQUIREMENTS.—

For bond of ethyl alcohol distillers exempted from certain requirements, see section 2848.

(2) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2815. CONDITIONS OF APPROVAL OF DISTILLER'S BOND.

(a) GENERAL.—No collector shall approve the bond of any distiller until all the requirements of the law and all regulations made by the Commissioner in relation to distilleries, in pursuance thereof, have been complied with.

Every collector who violates this provision shall forfeit and pay $2,000, and be dismissed from office.

(b) OWNERSHIP OF LAND OR CONSENT OF OWNER.—

(1) REQUIREMENTS.—No bond of a distiller shall be approved unless—

(A) The distiller is the owner in fee, unencumbered by any mortgage, judgment, or other lien, of the lot or tract of land on which the distillery is situated; or

(B) The distiller files with the officer designated for the purpose by the Commissioner, in connection with his notice, the written consent of the owner of the fee, and of any mortgagee, judgment-creditor, or other person having a lien thereon, duly acknowledged, that the premises may be used for the purpose of distilling spirits, subject to the provisions of law, and expressly stipulating that the lien of the United States for taxes and penalties shall have priority of such mortgage, judgment, or other encumbrance, and that in the case of the forfeiture of the distillery premises, or any part thereof, the title to the same shall vest in the United States, discharged from such mortgage, judgment, or other encumbrance; or, if consent as required under this paragraph cannot be obtained,

(C) The distiller, with the approval of the Commissioner, files with the officer designated by the Commissioner a bond, approved by the Commissioner, in the penal sum equal to the appraised value of the lot or tract of land on which the distillery is situated, the distillery, the buildings, and the distilling apparatus. Such value shall be determined, and such bond shall be executed, in such form and with such sureties, and filed with the officer designated by the Commissioner, under such regulations as the Secretary shall prescribe.

(D) In case of any distillery sold at judicial or other sale in favor of the United States, a bond may be taken at the discretion of the Commissioner, in lieu of the written consent required by this section, and the person giving such bond may be allowed to operate such distillery during the existence of the right of redemption from such sale, on complying with all the other provisions of law.

(2) CROSS REFERENCES.—

(A) DISTILLERIES ERECTED PRIOR TO JULY 20, 1868.—

For distilleries erected prior to July 20, 1868, see section 3180.

(B) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

(c) APPROVAL AS CONDITION TO COMMENCING BUSINESS.—No individual, firm, partnership, corporation, or association, intending to commence or to continue the business of a distiller, rectifier, brewer, or winemaker, shall commence or continue the business of a distiller, rectifier, brewer, or winemaker until all bonds in respect of such a business, required by any provision of law, have been approved by the Commissioner or such other officer of the Bureau of Internal Revenue as the Commissioner, with the approval of the Secretary, may designate.

(d) DISAPPROVAL.—The Commissioner or the designated officer may disapprove any such bond or bonds if the individual, firm, partnership, corporation, or association giving the same, or owning, controlling, or actively participating in the management of the business of the individual or firm, partnership, corporation, or association

giving the same, shall have been previously convicted, in a court of competent jurisdiction, of (1) any fraudulent noncompliance with any provision of any law of the United States if such provision related to internal-revenue or customs taxation of distilled spirits, wines, or fermented malt liquors, or if such an offense shall have been compromised with the individual, firm, partnership, corporation, or association upon payment of penalties or otherwise, or (2) any felony under a law of any State, Territory, or the District of Columbia, or the United States, prohibiting the manufacture, sale, importation, or transportation of distilled spirits, wine, fermented malt liquor, or other intoxicating liquor.

(e) APPEAL FROM DISAPPROVAL.—In case the disapproval is by any officer other than the Commissioner, the individual, firm, partnership, corporation, or association giving the bond may appeal from such disapproval to the Commissioner.

The disapproval of the Commissioner in any matter under this section shall be final.

(f) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2816. PLAN OF DISTILLERY.

(a) REQUIREMENTS.—Except as provided in section 2824 (a), every distiller and person intending to engage in the business of a distiller shall, previous to the approval of his bond, cause to be made, under the direction of the collector of the district, an accurate plan and description, in triplicate, of the distillery and distilling apparatus, distinctly showing the location of every still, boiler, doubler, worm tub, and receiving cistern, the course and construction of all fixed pipes used or to be used in the distillery, and of every branch and every cock or joint thereof, and of every valve therein, together with every place, vessel, tub, or utensil from and to which any such pipe leads, or with which it communicates; also the number and location and cubic contents of every still, mash tub, and fermenting tub, the cubic contents of every receiving cistern, and the color of each fixed pipe, as required in this chapter. One copy of said plan and description shall be kept displayed in some conspicuous place in the distillery, and two copies shall be furnished to the collector of the district, one of which shall be kept by him, and the other transmitted to the Commissioner. The accuracy of every such plan and description shall be verified by the collector, the draughtsman, and the distiller; and no alteration shall be made in such distillery without the consent, in writing, of the collector. Any alteration so made shall be shown on the original, or by a supplemental plan and description, and a reference thereto noted on the original, as the collector may direct; and any supplemental plan and description shall be executed and preserved in the same manner as the original.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2817. SURVEY OF DISTILLERY.

(a) REQUIREMENTS.—On receipt of notice that any person, firm, or corporation wishes to commence the business of distilling, the collector, or a deputy collector, to be designated by him, shall proceed in person, at the expense of the United States, with the aid of an assistant designated by the Commissioner for the purpose of making surveys of distilleries in that district, to make a survey of such distillery for the purpose of estimating and determining its true spirit producing capacity for a day of twenty-four hours.

In all surveys forty-five gallons of mash or beer brewed or fermented from grain shall represent not less than one bushel of grain, and seven gallons of mash or beer brewed or fermented from molasses shall represent not less than one gallon of molasses, except in distil-

leries operated on the sour-mash principle, in which distilleries sixty gallons of beer brewed or fermented from grain shall represent not less than one bushel of grain, and except that in distilleries where the filtration-aeration process is used, with the approval of the Commissioner; that is, where the mash after it leaves the mash tub is passed through a filtering machine before it is run into the fermenting tub, and only the filtered liquor passes into the fermenting tub, there shall be no limitation upon the number of gallons of water which may be used in the process of mashing or filtration for fermentation; but the Commissioner, with the approval of the Secretary, in order to protect the revenue, shall be authorized to prescribe by regulation, to be made by him, such character of survey as he may find suitable for distilleries using such filtration-aeration process. The provisions hereof relating to filtration-aeration process shall apply only to sweet-mash distilleries.

A written report of such survey shall be made in triplicate, of which one copy shall be delivered to the distiller, one copy shall be retained by the collector, and one copy shall be transmitted to the Commissioner, and the survey shall take effect upon the delivery of such copy to the distiller.

Whenever the Commissioner is satisfied that any report of the capacity of a distillery is incorrect or needs revision, he shall direct the collector to make in like manner another survey of said distillery, and the report thereof shall be made and deposited as hereinbefore required:

Provided, That the survey of any distillery estimated and stated by the distiller, in his notice of intention to distill, as capable of distilling not more than one hundred and fifty proof gallons of distilled spirits every twenty-four hours may be made by the collector or by a deputy collector without the aid of an assistant; and that all surveys made for the purpose of correcting clerical errors or errors of computation existing in the report of a previous survey, and all surveys made for the purpose of changing the true spirit producing capacity of any distillery for a day of twenty-four hours as estimated and determined by a previous survey, but which surveys do not require the remeasuring of the fermenting tubs in a grain or molasses distillery, or the still or stills in a distillery of apples, peaches, or grapes exclusively, may be made without taking the measurements of the fermenting tubs or stills, as the case may be, and without revisiting the distillery:

And provided further, That the Commissioner may, whenever he shall deem it proper, designate an officer, agent, or person other than the collector or deputy collector, to make, with or without the aid of a designated assistant, the surveys and resurveys hereinabove provided for.

(b) WAIVER OF REQUIREMENTS.—The Secretary in the case of any distillery may, under regulations, waive such of the requirements of this section as he determines may be waived without danger to the revenue. Whenever the Secretary, by authority of this subsection, waives any or all of the requirements of this section, he may, by regulation, relieve the distiller from such requirements of sections 2840 (a), 2846 (a), 2847 (a), 2849, 2850 (a), and 2851 (a), and of such other provisions of law relating or incidental to survey requirements, as the Secretary determines may be waived without danger to the revenue.

(c) CROSS REFERENCES.—

(1) EXEMPTION OF ETHYL ALCOHOL DISTILLERS.—

For exemption, in certain cases, of ethyl alcohol distillers from the provisions of this section, see section 2848.

(2) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2818. NOTICE OF MANUFACTURE OF AND PERMIT TO SET UP STILL.

(a) REQUIREMENT.—Any person who manufactures any still, boiler, or other vessel to be used for the purpose of distilling, shall, before the same is removed from the place of manufacture, notify in writing the collector of the district in which such still, boiler, or other vessel is to be used or set up, by whom it is to be used, its capacity, and the time when the same is to be removed from the place of manufacture; and no such still, boiler, or other vessel shall be set up without the permit in writing of the said collector for that purpose; and

(b) PENALTY FOR SETTING UP STILL WITHOUT PERMIT.—Any person who sets up any such still, boiler, or other vessel, without first obtaining a permit from the said collector of the district in which such still, boiler, or other vessel is intended to be used, or who fails to give such notice, shall pay in either case the sum of $500, and shall forfeit the distilling apparatus thus removed or set up in violation of law.

(c) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2819. PREMISES PROHIBITED FOR DISTILLING.

No person shall use any still, boiler, or other vessel, for the purpose of distilling, in any dwelling house, or in any shed, yard, or inclosure connected with any dwelling house, or on board of any vessel or boat, or in any building, or on any premises where beer, lager beer, ale, porter, or other fermented liquors, vinegar, or ether, are manufactured or produced, or where sugars or sirups are refined, or where liquors of any description are retailed, or where any other business is carried on; or within six hundred feet in a direct line of any premises authorized to be used for rectifying, except that the Secretary is authorized to permit such use for distilling on premises at such lesser distance than six hundred feet as he prescribes, in any case in which he deems that such permission may be granted without danger to the revenue; and every person who does any of the acts prohibited by this section, or aids or assists therein, or causes or procures the same to be done, shall be fined $1,000 and imprisoned for not less than six months nor more than two years, in the discretion of the court, for each such offense: *Provided*, That saleratus may be manufactured, or meal or flour ground from grain, in any building or on any premises where spirits are distilled; but such meal or flour shall be used only for distillation on the premises: *Provided further*, That any boiler used in generating steam or heating water to be used in any distillery, may be located in any other building or on any other premises to be connected with such still or boiling tubs, by suitable pipes or other apparatus, or the steam from such boiler in the distillery may be conveyed to other premises to be used for manufacturing or other purposes.

SEC. 2820. RECEIVING CISTERNS IN DISTILLERIES.

(a) REQUIREMENTS.—Except as provided in section 2824, the owner, agent, or superintendent of any distillery established as hereinbefore provided, shall erect, in a room or building to be provided and used for that purpose, and for no other, and to be constructed in the manner to be prescribed by the Commissioner, two or more receiving cisterns, each to be at least of sufficient capacity to hold all the spirits distilled during the day of twenty-four hours, into which shall be conveyed all the spirits produced in said distillery; and each of said cisterns shall be so constructed as to leave an open space of at least three feet between the top thereof and the floor or roof above, and of not less than eighteen inches between the bottom thereof and the floor below, and shall be so situated that the officer can pass around the same, and shall be connected with the outlet

of the worm or condenser by suitable pipes or other apparatus, so constructed as always to be exposed to the view of the officer, and so connected and constructed as to prevent the abstraction of spirits while passing from the outlet of the worm or condenser back to the still or doubler, or forward to the receiving cistern. Such cisterns and the room in which they are contained shall be in charge and under the lock and seal of the storekeeper-gauger designated for that duty; and all locks and seals required by law shall be provided by the Commissioner, at the expense of the United States; and the keys shall be in charge of the collector or such storekeeper-gauger as he may designate. On the third day after the spirits are conveyed into such cistern they shall be drawn off into casks, under the supervision of such storekeeper-gauger and be removed directly to the distillery warehouse; but on special application to the collector by the owner, agent, or superintendent of any distillery, the spirits may be drawn off from said cisterns, under the supervision of the storekeeper-gauger, at any time previous to the third day.

Whenever, under authority of law, the Secretary shall relieve a distiller from the survey requirements, he may, by regulation, require the distiller to provide such receiving cisterns, tanks, or such other equipment as the Secretary shall deem proper in order to protect the revenue.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2821. PENALTY FOR BREAKING LOCKS OR GAINING ACCESS TO CISTERN ROOM OR BUILDING.

Every person who destroys, breaks, injures, or tampers with any lock or seal which may be placed on any cistern room or building by the duly authorized officers of the revenue, or opens said lock or seal, or the door to said cistern room or building, or in any manner gains access to the contents therein, in the absence of the proper officer, shall be fined not less than $500 nor more than $5,000, and imprisoned not less than one year nor more than three years.

SEC. 2822. REQUIREMENTS AS TO FURNACES, TUBS, DOUBLERS, WORM TANKS, AND FIXED PIPES.

(a) REQUIREMENTS.—The door of the furnace of every still or boiler used in any distillery shall be so constructed that it may be securely fastened and locked. The fermenting tubs shall be so placed as to be easily accessible to any revenue officer, and each tub shall have distinctly painted thereon in oil colors its cubic contents in gallons and the number of the tub. There shall be a clear space of not less than one foot around every wood still, and not less than two feet around every doubler and worm tank. The doubler and worm tanks shall be elevated not less than one foot from the floor; and every fixed pipe to be used by the distiller, except for conveyance of water, or of spent mash or beer only, shall be so fixed and placed as to be capable of being examined by the officer for the whole of its length or course, and shall be painted, and kept painted, as follows, that is to say: every pipe for the conveyance of mash or beer shall be painted of a red color; every pipe for the conveyance of low-wines back into the still or doubler shall be painted blue; every pipe for the conveyance of spirits shall be painted black, and every pipe for the conveyance of water shall be painted white. Whenever any fixed pipe is used by any distiller which is not painted or kept painted as herein directed, or which is painted otherwise than as herein directed, he shall forfeit the sum of $1,000.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2823. CHANGES IN APPARATUS AND FASTENINGS.

(a) POWER OF COMMISSIONER.—The Commissioner is authorized to order and require such changes of or additions to distilling apparatus, connecting pipes, pumps, or cisterns, or any machinery connected with or used in or on the distillery premises, or may require to be put on any of the stills, tubs, cisterns, pipes, or other vessels, such fastenings, locks, or seals as he may deem necessary.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2824. EXEMPTIONS OF SMALL DISTILLERIES FROM CERTAIN REQUIREMENTS.

(a) POWER OF COMMISSIONER.—The Commissioner, with the approval of the Secretary, may exempt distillers whose distilleries have a daily spirit producing capacity of thirty gallons of proof spirits, or less, from such of the provisions of law in regard to grain distilleries which require the processes of distillation to be carried on through continuous closed vessels and pipes, or which require the cisterns to be connected with the outlet of the worm or condenser by suitable pipes or other apparatus or which require certain clear spaces about the cisterns and other vessels of the distillery, or which require the distillers to have or furnish a plan of the distillery, as he may deem proper.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2825. EXEMPTION OF DISTILLERS OF FRUIT BRANDY FROM CERTAIN REQUIREMENTS.

The Commissioner, with the approval of the Secretary, may exempt distillers of brandy made exclusively from apples, peaches, grapes, oranges, pears, pineapples, apricots, berries, plums, pawpaws, persimmons, prunes, figs, cherries, dates, or citrus fruits (except lemons and limes) from any provision of the internal-revenue laws relating to the manufacture of spirits, except as to the tax thereon, when in his judgment it may seem expedient to do so: *Provided*, That where, in the manufacture of wine or citrus-fruit wine, peach wine, cherry wine, berry wine, apricot wine, prune wine, plum wine, pear wine, or apple wine, artificial sweetening has been used, the wine, or the fruit pomace residuum thereof, or the citrus-fruit wine, peach wine, cherry wine, berry wine, apricot wine, prune wine, plum wine, pear wine, or apple wine, may be used in the distillation of brandy or citrus-fruit brandy, peach brandy, cherry brandy, berry brandy, apricot brandy, prune brandy, plum brandy, pear brandy, or apple brandy, as the case may be, and such use shall not prevent the Commissioner, with the approval of the Secretary, from exempting such distiller from any provision of the internal-revenue laws relating to the manufacture of spirits, except as to the tax thereon, when in his judgment it may seem expedient to do so: *And provided further*, That the distillers mentioned in this section may add to not less than five hundred gallons (ten barrels) of grape cheese not more than five hundred gallons of a sugar solution made from cane, beet, starch, or corn sugar, 95 per centum pure, such solution to have a saccharine strength of not to exceed 10 per centum, and may ferment the resultant mixture on a winery or distillery premises, and such fermented product shall be regarded as distilling material.

SEC. 2826. KEEPING DISTILLERY ACCESSIBLE.

(a) REQUIREMENTS.—No fence or wall of a height greater than five feet shall be erected or maintained around the premises of any distillery, so as to prevent easy and immediate access to such distillery, but the Secretary may authorize the construction and maintenance of a fence or wall of such greater height than five feet as he shall pre-

scribe in any case in which in his opinion such higher fence or wall is necessary to give adequate protection from trespassers. And every distiller shall furnish to the collector of the district as many keys of the gates and doors of the distillery as may be required by the collector, from time to time, for any revenue officer or other person who may be authorized to make survey or inspection of the premises, or of the contents thereof; and said distillery shall be kept always accessible to any officer or other person having any such key. Every person who violates any of the provisions of this subsection by negligence or refusal, or otherwise, shall pay a penalty of $500.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2827. ENTRY AND EXAMINATION OF DISTILLERY.

(a) POWER OF REVENUE OFFICERS.—It shall be lawful for any revenue officer at all times, as well by night as by day, to enter into any distillery or building or place used for the business of distilling, or used in connection therewith for storage or other purposes, and to examine, gauge, measure, and take an account of every still or other vessel or utensil of any kind, and of all low-wines, and of the quantity and gravity of all mash, wort, or beer, and of all yeast, or other compositions for exciting or producing fermentation in any mash or beer, of all spirits and of all materials for making or distilling spirits, which may be in any such distillery or premises, or in possession of the distiller.

And whenever any internal revenue officer, or any person called by him to his aid, is hindered, obstructed, or prevented by any distiller or by any workman, or other person acting for such distiller, or in his employ, from entering into any such distillery or building or place as aforesaid; or any such officer is by the distiller, or his workman, or any person in his employ, prevented or hindered from, or opposed, or obstructed, or molested in the performance of his duty under the internal revenue laws, in any respect, the distiller shall forfeit the sum of not exceeding $1,000.

And whenever any officer, having demanded admittance into a distillery or distillery premises, and having declared his name and office, is not admitted into such distillery or premises by the distiller or other person having charge thereof, it shall be lawful for such officer at all times, as well by night as by day, to break open by force any of the doors or windows, or to break through any of the walls of such distillery or premises necessary to be broken open or through, to enable him to enter the said distillery or premises; and the distiller shall forfeit the sum of not exceeding $1,000.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2828. DISTILLERS AND RECTIFIERS TO FURNISH FACILITIES AND GIVE ASSISTANCE FOR EXAMINATION OF PREMISES.

(a) POWER OF REVENUE OFFICERS.—On the demand of any internal revenue officer or agent, every distiller or rectifier shall furnish strong, safe, and convenient ladders of sufficient length to enable the officer or agent to examine and gauge any vessel or utensil in such distillery or premises; and shall, at all times when required, supply all assistance, lights, ladders, tools, staging, or other things necessary for inspecting the premises, stock, tools, and apparatus belonging to such person, and shall open all doors, and open for examination all boxes, packages, and all casks, barrels, and other vessels not under the control of the revenue officer in charge, under a penalty of $500 for every refusal or neglect so to do.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2829. INSTALLATION OF METERS, TANKS, AND OTHER APPARATUS.

(a) POWER OF THE COMMISSIONER.—The Commissioner, with the approval of the Secretary, is authorized to require at distilleries, breweries, rectifying houses, and wherever else in his judgment such action may be deemed advisable, the installation of meters, tanks, pipes, or any other apparatus for the purpose of protecting the revenue, and such meters, tanks, and pipes and all necessary labor incident thereto shall be at the expense of the person on whose premises the installation is required. Any such person refusing or neglecting to install such apparatus when so required by the Commissioner shall not be permitted to conduct business on such premises.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2830. OFFICER'S AUTHORITY TO BREAK UP GROUNDS OR WALLS.

(a) POWER OF REVENUE AGENT.—It shall be lawful for any revenue officer, and any person acting in his aid, to break up the ground on any part of a distillery, or premises of a distiller or rectifier, or any ground adjoining or near to such distillery or premises, or any wall or partition thereof, or belonging thereto, or other place, to search for any pipe, cock, private conveyance, or utensil; and, upon finding any such pipe or conveyance leading therefrom or thereto, to break up any ground, house, wall, or other place through or into which such pipe or other conveyance leads, and to break or cut away such pipe or other conveyance, and turn any cock, or to examine whether such pipe or other conveyance conveys or conceals any mash, wort, or beer, or other liquor, which may be used for the distillation of low-wines or spirits, from the sight or view of the officer, so as to prevent or hinder him from taking a true account thereof.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2831. SIGNS OF DISTILLERS, RECTIFIERS, AND WHOLESALE LIQUOR DEALERS.

Every person engaged in distilling or rectifying spirits, and every wholesale liquor dealer, shall place and keep conspicuously on the outside of the place of such business a sign, exhibiting in plain and legible letters, not less than three inches in length, painted in oil-colors or gilded, and of a proper and proportionate width, the name or firm of the distiller, rectifier, or wholesale dealer, with the words: "Registered distillery," "rectifier of spirits," or "wholesale liquor dealer," as the case may be. Every person who violates the foregoing provision by negligence or refusal, or otherwise, shall pay a penalty of $500.

And every person, other than a rectifier or wholesale liquor dealer who has paid the special tax, or a distiller who has given bond as required by law, who puts up or keeps up the sign required by this section, or any sign indicating that he may lawfully carry on the business of a distiller, rectifier, or wholesale liquor dealer, shall forfeit and pay $1,000, and shall be imprisoned not less than one month nor more than six months. And every person who works in any distillery, rectifying establishment, or wholesale liquor store, on which no sign is placed and kept, as hereinbefore provided; and every person who knowingly receives at, carries or conveys any distilled spirits to or from, any such distillery, rectifying establishment, warehouse, or store, or who knowingly carries and delivers any grain, molasses, or other raw material to any distillery on which such sign is not placed and kept, shall forfeit all horses, carts, drays, wagons, or other vehicle or animal used in carrying or conveying such property aforesaid, and shall be fined not less than $100 nor more than $1,000, or be imprisoned not less than one month nor more than six months.

SEC. 2832. CONDITIONS PRECEDENT TO CARRYING ON BUSINESS OF DISTILLING.

It shall not be lawful for any distiller to commence the business of distilling, until he has given the bond required by law, and complied with the provisions of law relating to the registration and survey of distilleries, and the arrangement and construction of distilleries and the premises connected therewith; nor shall it be lawful for any person to engage in the business of distilling on any premises distant less than six hundred feet in a direct line from any premises used for rectifying; nor shall the processes of distillation and rectification both be carried on within the distance of six hundred feet in a direct line; except that the Secretary is authorized to permit such business of distilling or process of distillation to be carried on at such lesser distance than six hundred feet as he prescribes, in any case in which he deems that such permission may be granted without danger to the revenue.

SEC. 2833. DISTILLING WITHOUT GIVING BOND.

(a) PENALTY AND FORFEITURE.—Any person who shall carry on the business of a distiller without having given bond as required by law, or who shall engage in or carry on the business of a distiller with intent to defraud the United States of the tax on the spirits distilled by him, or any part thereof, shall, for every such offense, be fined not less than $100 nor more than $5,000 and imprisoned for not less than thirty days nor more than two years. And all distilled spirits or wines, and all stills or other apparatus, fit or intended to be used for the distillation or rectification of spirits, or for the compounding of liquors, owned by such person, wherever found, and all distilled spirits or wines and personal property found in the distillery or in any building, room, yard, or inclosure connected therewith, and used with or constituting a part of the premises, and all the right, title, and interest of such person in the lot or tract of land on which such distillery is situated, and all right, title, and interest therein of every person, who knowingly has suffered or permitted the business of a distiller to be there carried on, or has connived at the same; and all personal property owned by or in possession of any person who has permitted or suffered any building, yard, or inclosure, or any part thereof, to be used for purposes of ingress or egress to or from such distillery, which shall be found in any such building, yard, or inclosure, and all the right, title, and interest of every person in any premises used for ingress or egress to or from such distillery, who has knowingly suffered or permitted such premises to be used for such ingress or egress, shall be forfeited to the United States.

(b) TRANSFER OF DUTIES.

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2834. MASH, WORT, AND VINEGAR; VINEGAR FACTORIES.

No mash, wort, or wash, fit for distillation or for the production of spirits or alcohol, shall be made or fermented in any building or on any premises other than a distillery duly authorized according to law; and no mash, wort, or wash so made and fermented shall be sold or removed from any distillery before being distilled; and no person, other than an authorized distiller, shall, by distillation, or by any other process, separate the alcoholic spirits from any fermented mash, wort, or wash; and no person shall use spirits or alcohol in manufacturing vinegar or any other article, or in any process of manufacture whatever, unless the spirits or alcohol so used shall have been produced in an authorized distillery and (except in the case of vinegar) the tax thereon paid. Every person who violates any provision of this section shall be fined for each offense not less than $500 nor more than $5,000, and be imprisoned not less than six months nor more than two years. Nothing in this section shall be construed to apply to fer-

mented liquors, or to fermented liquids used for the manufacture of vinegar exclusively. But no worm, goose-neck, pipe, conductor, or contrivance of any description whatsoever whereby vapor might in any manner be conveyed away and converted into distilled spirits, shall be used or employed or be fastened to or connected with any vaporizing apparatus used for the manufacture of vinegar; nor shall any worm be permitted on or near the premises where such vaporizing process is carried on.

Nor shall any vinegar factory, for the manufacture of vinegar as aforesaid, be permitted, except as provided in section 2835, within six hundred feet of any distillery or rectifying house. But it shall be lawful for manufacturers of vinegar to separate, by a vaporizing process, the alcoholic property from the mash produced by them, and condense the same by introducing it into the water or other liquid used in making vinegar.

No person, however, shall remove, or cause to be removed, from any vinegar factory or place where vinegar is made, any vinegar or other fluid or material containing a greater proportion than 2 per centum of proof spirits. Any violation of this provision shall incur a forfeiture of the vinegar, fluid, or material containing such proof spirits, and shall subject the person or persons guilty of removing the same to the punishment provided for any violation of this section.

And sections 2827, 2828, and 2830 shall apply to all premises whereon vinegar is manufactured, to all manufacturers of vinegar and their workmen or other persons employed by them.

SEC. 2835. VINEGAR FACTORIES OPERATED PRIOR TO MARCH 1, 1879.

(a) REGULATIONS.—Any vinegar factory for the manufacture of vinegar, established and operated as a vinegar factory prior to March 1, 1879, may be operated for the manufacture of vinegar by the use of alcoholic vapor within such distance less than six hundred feet of any distillery or rectifying house under such regulations as the Commissioner may prescribe with the approval of the Secretary.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2836. PROHIBITED HOURS FOR DISTILLING.

Except as provided in section 2837, no malt, corn, grain, or other material shall be mashed, nor any mash, wort, or beer brewed or made, nor any still used by a distiller, at any time between the hour of eleven in the afternoon of any Saturday and the hour of one in the forenoon of the next succeeding Monday; and every person who violates the provisions of this section shall be liable to a penalty of $1,000.

SEC. 2837. EXEMPTION OF ALCOHOL FROM RESTRICTIONS OF SECTION 2836.

(a) POWER OF COMMISSIONER.—Under such regulations as the Commissioner, with the approval of the Secretary, may prescribe, the manufacture, warehousing, withdrawal, and shipment of ethyl alcohol for other than (1) beverage purposes or (2) use in the manufacture or production of any article used or intended for use as a beverage, and denatured alcohol, may be exempted from the provisions of section 2836.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2838. PENALTY FOR USING MATERIAL OR REMOVING SPIRITS IN ABSENCE OF STOREKEEPER-GAUGER.

Every distiller or person employed in any distillery who, in the absence of the storekeeper-gauger, or person designated to act as storekeeper-gauger, uses, or causes or permits to be used, any material for the purpose of making mash, wort, or beer, or for the production

of spirits, or removes any spirits, shall forfeit and pay double the amount of taxes on the spirits so produced, distilled, or removed, and in addition thereto be liable to a penalty of $1,000.

SEC. 2839. DRAWING OFF WATER AND CLEANSING WORM TUBS.

(a) REQUIREMENTS.—Whenever any officer or internal revenue agent requires the water contained in any worm tub in a distillery, at any time when the still is not at work, to be drawn off, and the tub and worm cleansed, the water shall forthwith be drawn off, and the tub and worm cleansed by the distiller, or his workmen, accordingly; and the water shall be kept and continued out of such worm tub for the period of two hours, or until the officer or agent has finished his examination thereof. For any refusal or neglect to comply with any provision of this section, the distiller shall forfeit the sum of not exceeding $1,000; and it shall be lawful for the officer or agent to draw off such water, or any portion of it, and to keep the same drawn off for so long a time as he shall think necessary.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2840. FERMENTING TUBS.

(a) REQUIREMENTS.—Every fermenting tub shall be emptied at or before the end of the fermenting period; no fermenting tub in a sweet-mash distillery shall be filled oftener than once in seventy-two hours, nor in a sour-mash distillery oftener than once in ninety-six hours, nor in a rum distillery oftener than once in one hundred and forty-four hours, nor in a distillery where the filtration-aeration process is employed, that is, where the mash after it leaves the mash tub is passed through a filtering machine, before it is run into the fermenting tub, and only the filtered liquor passes into the fermenting tub, and the approval of the Commissioner being secured, oftener than once in twenty-four hours. The provisions hereof relating to filtration-aeration process shall apply only to sweet-mash distilleries.

(b) CROSS REFERENCES.—

(1) EXEMPTION OF ETHYL ALCOHOL DISTILLERS.—

For exemption, in certain cases, of ethyl alcohol distillers from the provisions of this section, see section 2848.

(2) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2841. DISTILLER'S BOOKS.

(a) ENTRIES.—

(1) REQUIREMENTS.—Every person who makes or distills spirits, or owns any still, boiler, or other vessel used for the purpose of distilling spirits, or who has such still, boiler, or other vessel so used under his superintendence, either as agent or owner, or who uses any such still, boiler, or other vessel, shall keep a record, in the form and manner prescribed by the Commissioner, of the receipt on the distillery premises, and the use thereon, of materials intended for use in the distillation of spirits, and of the number of gallons of spirits distilled, the number of gallons placed in the warehouse, and the proof thereof, the number of gallons sold or removed, with the proof thereof, and the name, place of business, and residence of the person to whom sold.

(2) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

(b) PRESERVATION AND INSPECTION.—The books of every distiller hereinbefore required shall always be kept at the distillery and be always open to the inspection of any revenue officer, and, when filled up, shall be preserved by the distiller for a period of not less than

two years thereafter, and whenever required shall be produced for the inspection of any revenue officer.

(c) PENALTY AND FORFEITURE.—

(1) OMITTING ENTRIES OR MAKING FALSE ENTRIES.—Whenever any false entry is made in, or any entry required to be made is omitted from, either of the said books mentioned in the two preceding subsections, with intent to defraud or to conceal from the revenue officers any fact or particular required to be stated and entered in either of said books, or to mislead in reference thereto; or any distiller as aforesaid omits or refuses to provide either of said books, or cancels, obliterates, or destroys any part of either of such books, or any entry therein, with intent to defraud, or permits the same to be done, or such books, or either of them, are not produced when required by any revenue officer, the distillery, distilling apparatus, and the lot or tract of land on which it stands, and all personal property on said premises used in the business there carried on, shall be forfeited to the United States. And every person who makes such false entry, or omits to make any entry hereinbefore required to be made, with intent aforesaid, or who causes or procures the same to be done, or fraudulently cancels, obliterates, or destroys any part of said books, or any entry therein, or willfully fails to produce such books, or either of them, shall be fined not less than $500, nor more than $5,000, and imprisoned not less than six months, nor more than two years.

(2) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2842. PENALTY FOR USING FALSE WEIGHTS AND MEASURES.

Every person who knowingly uses any false weights or measures in ascertaining, weighing, or measuring the quantities of grain, meal, or vegetable materials, molasses, beer, or other substances to be used for distillation, shall be fined not less than $500 nor more than $5,000, and imprisoned not less than one year nor more than three years.

SEC. 2843. PENALTY FOR USING UNREGISTERED MATERIALS.

Any person who uses any molasses, beer, or other substance, whether fermented on the premises or elsewhere, for the purpose of producing spirits, before an account of the same is registered in the proper book provided for that purpose, shall forfeit and pay the sum of $1,000 for each offense so committed.

SEC. 2844. MONTHLY PRODUCTION RETURN OF DISTILLER.

(a) REQUIREMENT.—On the 1st day of each month, or within five days thereafter, every distiller shall render to the collector of the district an account in duplicate, taken from his books, stating the quantity and kind of materials used for the production of spirits each day, and the number of wine gallons and of proof gallons of spirits produced and placed in warehouse. And the distiller or the principal manager of the distillery shall make and subscribe the following oath, to be attached to said return:

"I, ——— ———, distiller (or principal manager, as the case may be) of the distillery at ———, do solemnly swear that, since the date of the last return of the business of said distillery, dated ——— day of ——— to ——— day of ———, both inclusive, there was produced in said distillery, and withdrawn and placed in warehouse, the number of wine gallons and proof gallons of spirits; and there were actually mashed and used in said distillery, and consumed in the production of spirits therein, the several quantities of grain, sugar, molasses, and other materials respectively hereinbefore specified, and no more."

One of the said duplicate returns shall be transmitted by the collector to the Commissioner.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2845. SPECIAL RETURNS OF NUMBER OF BARRELS DISTILLED.

(a) REQUIREMENT.—Every distiller shall make a return of the number of barrels of spirits distilled by him, counting forty gallons of proof spirits to the barrel, whenever such return is demanded by the collector of the district.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2846. ASSESSMENT FOR DEFICIENCIES IN PRODUCTION AND EXCESS OF MATERIAL USED.

(a) POWER OF COMMISSIONER.—On the receipt of the distiller's return in each month, the Commissioner shall inquire and determine whether the distiller has accounted for all the grain or molasses used, and all the spirits produced by him in the preceding month. If he is satisfied that the distiller has reported all the spirits produced by him, and the quantity so reported is found to be less than 80 per centum of the producing capacity of the distillery as estimated according to law, he shall make an assessment for such deficiency at the rate of tax imposed by law for every proof gallon. In determining the quantity of grain used, fifty-six pounds shall be accounted as a bushel; and if the Commissioner finds that the distiller has used any grain or molasses in excess of the capacity of his distillery as estimated according to law, he shall make an assessment against the distiller at the rate imposed by law for every proof gallon of spirits that should have been produced from the grain or molasses so used in excess, which assessment shall be made whether the quantity of spirits reported is equal to or exceeds 80 per centum of the producing capacity of the distillery. If the Commissioner finds that the distiller has not accounted for all the spirits produced by him, he shall, from all the evidence he can obtain, determine what quantity of spirits was actually produced by such distiller, and an assessment shall be made for the difference between the quantity reported and the quantity shown to have been actually produced, at the rate of tax imposed by law for every proof gallon: *Provided*, That the actual product shall be assumed to be in no case less than 80 per centum of the producing capacity of the distillery as estimated according to law. All assessments made under this section shall be a lien on all distilled spirits on the distillery premises, the distillery used for distilling the same, the stills, vessels, fixtures, and tools therein, the tract of land whereon the said distillery is located, and any building thereon, from the time such assessment is made until the same shall have been paid.

(b) CROSS REFERENCES.—

(1) EXEMPTION OF ETHYL ALCOHOL DISTILLERS.—

For exemption, in certain cases, of ethyl alcohol distillers from the provisions of this section, see section 2848.

(2) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2847. RELIEF FROM ASSESSMENTS UNDER SECTION 2846.

(a) POWER OF COMMISSIONER.—Whenever, under the provisions of section 2846, an assessment shall have been made against a distiller for a deficiency in not producing 80 per centum of the producing capacity of his distillery as established by law, or for the tax upon the spirits that should have been produced from the grain, or fruit, or molasses found to have been used in excess of the capacity of his distillery for any month, as estimated according to law, such excessive use of grain, or fruit, or molasses having arisen from a failure on the part of the distiller to maintain the capacity required by law to

enable him to use such grain, or fruit, or molasses without incurring liability to such assessment, and it shall be made to appear to the satisfaction of the Commissioner that said deficiency, or that said failure, whereby such excessive use of grain, molasses, or fruit arose, was not occasioned by any want of diligence or by any fraudulent purpose on the part of the distiller, but from misunderstanding as to the requirements of the law and regulations in that respect or by reason of unavoidable accidents, then, and in such case, the Commissioner, subject to regulations prescribed by the Secretary is authorized, on appeal made to him, to remit or refund such tax, or such part thereof as shall appear to him to be equitable and just in the premises.

And the Commissioner upon the production to him of satisfactory proof of the actual destruction, by accidental fire or other casualty, and without any fraud, collusion, or negligence of the distiller of any spirits in process of manufacture or distillation, or before removal to the distillery warehouse, shall not assess the distiller for a deficiency in not producing 80 per centum of the producing capacity of his distillery as established by law when the deficiency is occasioned by such destruction, nor shall he, in such case, assess the tax on the spirits so destroyed:

Provided, That no assessment shall be charged against any distiller of fruit for any failure to maintain the required capacity, unless the Commissioner shall, within six months after his receipt of each monthly report notify such distiller of such failure so to maintain the required capacity.

(b) TRANSFER OF DUTIES.—

For transfer of power and duties of Commissioner and his agents, see section 3170.

SEC. 2848. EXEMPTION OF DISTILLERS OF ETHYL ALCOHOL FROM CERTAIN PROVISIONS.

(a) POWER OF COMMISSIONER.—The Commissioner, with the approval of the Secretary, may by regulations exempt distillers of ethyl alcohol, for use in the production of munitions of war, or for other nonbeverage purposes, from so much of the provisions of sections 2817, 2840, or 2846, respecting the survey of distilleries, the period of fermentation, the filling and emptying of fermenting tubs, and assessments, as, in his judgment, may be expedient: *Provided*, That the bond prescribed in section 2814 shall, in the cases herein provided, be in such sum and contain such further conditions as the Commissioner may require.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2849. FIRST FERMENTING PERIOD.

The first fermenting period of every distiller shall be taken to begin on the day the distiller's bond is approved; and every distiller at the hour of twelve meridian on the last day of such first fermenting period, or at the same hour on any previous day of such fermenting period on which spirits are distilled, shall be deemed to have commenced, and thereafter to be continuously engaged in, the production of distilled spirits in his distillery, except in the intervals when he shall suspend work as provided in section 2850.

SEC. 2850. SUSPENSION AND RESUMPTION OF DISTILLING.

(a) REQUIREMENTS.—Any distiller desiring to suspend work in his distillery may give notice in writing to the collector of the district, stating when he will suspend work; and on the day mentioned in said notice said collector or one of his deputies shall, at the expense of the distiller, proceed to fasten securely the door of every furnace of every still or boiler in said distillery, by locks and otherwise, and shall adopt such other means as the Commissioner may prescribe to

prevent the lighting of any fire in such furnace or under such stills or boilers. The locks and seals, and other materials required for such purpose, shall be furnished to the collector by the Commissioner, to be duly accounted for by said collector. Such notice by any distiller, and the action taken by the collector in pursuance thereof, shall be immediately transmitted to the Commissioner. No distiller, after having given such notice, shall, after the time stated therein, carry on the business of a distiller on said premises until he gives another notice in writing to said collector, stating the time when he will resume work; and at the time so stated for resuming work the collector or one of his deputies shall attend at the distillery to remove said locks and other fastenings; and thereupon, and not before, work may be resumed in said distillery, which fact shall be immediately reported to the collector of the district, and by him transmitted to the Commissioner.

Every distiller who, after the time fixed in said notice declaring his intention to suspend work, carries on the business of a distiller on said premises, or has mash, wort, or beer in his distillery, or on any premises connected therewith, or has in his possession or under his control any mash, wort, or beer, with intent to distill the same on said premises, shall incur the forfeitures and be subject to the same punishment as provided for persons who carry on the business of a distiller without having given the bonds required by law.

But nothing in this section shall be held to apply to suspensions caused by unavoidable accident; and the Commissioner shall prescribe regulations to govern such cases of involuntary suspension.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2851. REDUCTION OF PRODUCING CAPACITY OF DISTILLERY.

(a) REQUIREMENTS.—Whenever any distiller desires to reduce the producing capacity of his distillery, he shall give notice of such intention, in writing, to the collector, stating the quantity of spirits which he desires thereafter to manufacture or produce every twenty-four hours, and thereupon said collector shall proceed, at the expense of the distiller, to reduce and limit the producing capacity of the distillery to the quantity stated in said notice, by placing upon a sufficient number of the fermenting tubs close-fitting covers, which shall be securely fastened by nails, seals, and otherwise, and in such manner as to prevent the use of such tubs without removing said covers or breaking said seals, and shall adopt such other precautions as may be prescribed by the Commissioner to reduce the capacity of said distillery.

And every person who breaks, injures, or in any manner tampers with any lock, seal, or other fastening applied to any furnace, still, or fermenting tub, or other vessel, in pursuance of the provisions of law, or who opens or attempts to open any door, tub, or other vessel, which is locked or sealed, or otherwise closed or fastened as herein provided, or who uses any furnace, still, or fermenting tub, or other vessel, which is so locked, sealed, or fastened, shall be deemed guilty of a felony, and shall be fined not less than $1,000 nor more than $5,000, and imprisoned for not less than one year nor more than three years.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2852. RELEASE OF DISTILLERY BEFORE JUDGMENT.

Any distillery or distilling apparatus seized for any violation of law may, in the discretion of the court, be released before final judgment to a receiver appointed by the court to operate such distillery or apparatus. Such receiver shall give bond, which shall be ap-

proved in open court, with two or more competent personal sureties, or one approved corporate surety, for the full appraised value of all the property seized, to be ascertained by three competent appraisers designated and appointed by the court. Funds obtained from such operation shall be impounded as the court shall direct pending such final judgment.

SEC. 2853. DESTRUCTION OF DISTILLING APPARATUS IN FORFEITURE PROCEEDINGS.

(a) PROCEDURE.—When a judgment of forfeiture, in any case of seizure, is recovered against any distillery used or fit for use in the production of distilled spirits, because no bond has been given, or against any distillery used or fit for use in the production of spirits, having a registered producing capacity of less than one hundred and fifty gallons a day, for any violation of law, of whatever nature, every still, doubler, worm, worm tub, mash tub, and fermenting tub therein shall be so destroyed as to prevent the use of the same or of any part thereof for the purpose of distilling; and the materials shall be sold as in case of other forfeited property.

And in case of seizure of a still, doubler, worm, worm tub, mash tub, fermenting tub, or other distilling apparatus, having a less producing capacity than one hundred and fifty gallons per day, for any offense involving forfeiture of the same, where said apparatus shall be of less than $500 value, and where it shall be impracticable to remove the same to a place of safe storage from the place where seized, the seizing officer is authorized to destroy the same only so far as to prevent the use thereof, or any part thereof, for the purpose of distilling. Such destruction shall be in the presence of at least one credible witness, and such witness shall unite with the said officer in a duly sworn report of said seizure and destruction, to be made to the Commissioner, in which report they shall set forth the grounds of the claim of forfeiture, the reasons for such seizure and destruction, their estimate of the fair cash value of the apparatus destroyed, and also of the materials remaining after such destruction, and a statement that, from facts within their own knowledge, they have no doubt whatever that said distilling apparatus was set up for use and not registered, or had been used in the unlawful distillation of spirits, and that it was impracticable to remove the same to a place of safe storage.

Within one year after such destruction the owner of the apparatus so destroyed may make application to the Secretary through the Commissioner, for reimbursement of the value of the same; and unless it shall be made to appear to the satisfaction of the Secretary and the Commissioner that said apparatus had been used in the unlawful distillation of spirits, the Secretary shall make an allowance to said owner, not exceeding the value of said apparatus, less the value of said materials as estimated in said report; and if the claimant shall thereupon satisfy said Secretary and Commissioner that said unlawful use of the apparatus had been without his consent or knowledge, he shall still be entitled to such compensation, but not otherwise. And in case of a wrongful seizure and destruction of property under the foregoing provisions, the owner thereof shall have right of action on the official bond of the officer who occasioned the destruction for all damages caused thereby.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2854. BURDEN OF PROOF IN CASES OF SEIZURE OF SPIRITS.

Whenever seizure is made of any distilled spirits found elsewhere than in a distillery or distillery warehouse, or other warehouse for distilled spirits authorized by law, or than in the store or place of business of a rectifier, or of a wholesale liquor dealer, or than in

transit from any one of said places; or of any distilled spirits found in any one of the places aforesaid, or in transit therefrom, which have not been received into or sent out therefrom in conformity to law, or in regard to which any of the entries required by law to be made in the books of the owner of such spirits, or of the storekeeper-gauger, wholesale dealer, or rectifier, have not been made at the time or in the manner required, or in respect to which the owner or person having possession, control, or charge of said spirits, has omitted to do any act required to be done, or has done or committed any act prohibited in regard to said spirits, the burden of proof shall be upon the claimant of said spirits to show that no fraud has been committed, and that all the requirements of the law in relation to the payment of the tax have been complied with.

SEC. 2855. MONTHLY RETURNS OF RECTIFIERS.

(a) REQUIREMENT.—On or before the 10th day of each month every person engaged in rectifying or compounding distilled spirits shall make, in such form as may be prescribed by the Commissioner, a return to the collector of the district, showing the quantity of spirits received for rectification, and from whom received, the quantity dumped for rectification, the quantity rectified, the quantity removed after rectification during the preceeding month, and giving such other information as may be required by the Commissioner, such return to be made in duplicate and sworn to by the rectifier; and the collector shall forward one of such returns to the Commissioner.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2856. PENALTY FOR UNLAWFUL RECTIFYING.

Every person who engages in, or carries on, the business of a rectifier with intent to defraud the United States of the tax on the spirits rectified by him, or any part thereof, or with intent to aid, abet, or assist any person or persons in defrauding the United States of the tax on any distilled spirits, or who shall purchase or receive or rectify any distilled spirits which have been removed from a distillery to a place other than the distillery warehouse provided by law, knowing or having reasonable grounds to believe that the tax on said spirits, required by law, has not been paid, shall, for every such offense, be fined not less than $1,000 nor more than $5,000, and imprisoned not less than six months nor more than two years.

SEC. 2857. BOOKS OF RECTIFIERS AND WHOLESALE DEALERS.

(a) REQUIREMENTS.—Every rectifier and wholesale liquor dealer shall keep daily, at his place of business covered by his special tax stamp, a record of distilled spirits received and disposed of by him, and shall render under oath correct transcripts and summaries of such records: *Provided*, That the Commissioner may in his discretion require such record to be kept at the place where the spirits are actually received and sent out. The records shall be kept and the transcripts shall be rendered in such form, and under such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe.

The records required to be kept under the provisions of this section and regulations issued pursuant thereto, shall be preserved for a period of four years, and during such period shall be available during business hours for inspection and the taking of abstracts therefrom by the Commissioner or any internal revenue officer.

Every rectifier and wholesale liquor dealer who refuses or neglects to keep such records in the form prescribed by the Commissioner, with the approval of the Secretary, or to make entries therein, or cancels, alters, or obliterates any entry therein (except for the purpose of correcting errors) or destroys any part of such records, or any entry therein, or makes any false entry therein, or hinders or

obstructs any internal revenue officer from inspecting such records or taking any abstracts therefrom, or neglects or refuses to preserve or produce such records as required by this chapter or by regulations issued pursuant thereto, shall pay a penalty of $100 and, on conviction, shall be fined not less than $100 nor more than $5,000, and be imprisoned not less than three months nor more than three years.

Every rectifier and wholesale liquor dealer who refuses or neglects to render transcripts or summaries in the form required by the Commissioner, with the approval of the Secretary, shall, upon conviction, be fined not more than $100 for each such neglect or refusal.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2858. EXEMPTION OF STATES FROM PROVISIONS OF SECTION 2857.

The provisions of section 2857 shall not apply to States and Commonwealths and liquor stores operated by such States and Commonwealths that maintain and make available to inspection by internal-revenue officers such records as will enable such officers to readily trace all distilled spirits received and disposed of by them: *Provided*, That such States and Commonwealths, and the liquor stores operated by them, shall, upon the request of the Commissioner, furnish to the Commissioner such transcripts, summaries, and copies of their records as he shall require.

SEC. 2859. BOOKS OF DISTILLERS AS WHOLESALE DEALERS.

(a) REQUIREMENT.—Every distiller shall keep daily a record of distilled spirits of his own production disposed of by him, and shall render under oath correct transcripts and summaries of such records. The records shall be kept and the transcripts shall be rendered in such form, and under such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe.

The records required to be kept under the provisions of this section and regulations issued pursuant thereto, shall be preserved for a period of four years, and during such period shall at all times be available, during business hours, for inspection and the taking of abstracts therefrom by the Commissioner or any internal revenue officer.

Every distiller who refuses or neglects to keep such records in the form prescribed by the Commissioner, with the approval of the Secretary, or to make entries therein, or cancels, alters, or obliterates any entry therein (except for the purpose of correcting errors) or destroys any part of such records, or any entry therein, or makes any false entry therein, or hinders or obstructs any internal revenue officer from inspecting such records or taking any abstracts therefrom, or neglects or refuses to preserve or produce such records as required by this chapter or by regulations issued pursuant thereto, shall pay a penalty of $100 and, on conviction, shall be fined not less than $100 nor more than $5,000, and be imprisoned not less than three months nor more than three years.

Every distiller who refuses or neglects to render the transcripts or summaries in the form as required by the Commissioner, with the approval of the Secretary, shall, upon conviction, be fined not more than $100 for each such neglect or refusal.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2860. LIMITATION ON PURCHASES BY RECTIFIERS AND DEALERS.

It shall not be lawful for any rectifier of distilled spirits, or wholesale or retail liquor dealer, to purchase or receive any distilled spirits in quantities greater than twenty gallons from any person other than an authorized rectifier of distilled spirits, distiller, or wholesale liquor dealer. Every person who violates this section shall forfeit and pay

$1,000: *Provided*, That this provision shall not be held to apply to judicial sales, or to sales at public auction made by an auctioneer, or to sales upon which no special tax accrues as enumerated and provided for in section 3251. This section shall not be held to prohibit a rectifier or liquor dealer from purchasing, in quantities greater than twenty wine-gallons, the distilled spirits sold in one parcel as provided in section 3251 (c).

SEC. 2861. GAUGING, BRANDING, AND STAMPING RECTIFIED SPIRITS.

(a) REQUIREMENT.—Whenever any cask or package of distilled spirits containing five wine gallons or more is dumped by a rectifier for rectification or filled and received from rectification for sale, shipment, or delivery the same shall be gauged, marked, branded and stamped by a storekeeper-gauger, whose duty it shall be to mark and brand the same and place thereon an engraved stamp, which shall state the date when affixed and the number of proof gallons, and shall be in such form as shall be prescribed by the Commissioner with the approval of the Secretary; but the Commissioner may by regulations, approved by the Secretary, provide that the gauging, marking, stamping and branding of such packages so dumped for rectification, or received therefrom, be done by the rectifier instead of by a storekeeper-gauger.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2862. STAMPING.

(a) REQUIREMENTS.—All blanks in any of the forms prescribed in section 2861 shall be duly filled in accordance with the facts in each case. And the stamps therein designated shall in every case be affixed to a smooth surface of the cask or other package, which surface shall not have been previously painted or covered with any substance, and so as to fasten the same securely to the cask or package, and shall be duly canceled, and shall then be immediately covered with a coating of transparent varnish or other substance, so as to protect them from removal or damage by exposure; and such affixing, cancellation, and covering shall be done in such manner as the Commissioner may by regulation prescribe.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2863. MARKING AND STAMPING PACKAGES FILLED ON PREMISES OF WHOLESALE DEALERS.

(a) REQUIREMENTS.—Every package of distilled spirits containing five wine gallons or more, filled on the premises of a wholesale liquor dealer, who has paid the special tax required by law, shall be marked, branded, and stamped by such wholesale liquor dealer in such manner and under such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2864. RETURNS OF WHOLESALE DEALERS.

For requirements as to rendering under oath correct transcripts and summaries of records in the case of wholesale liquor dealers, see section 2857 (a).

SEC. 2865. NONCOMPLIANCE BY RECTIFIERS AND WHOLESALE DEALERS WITH CERTAIN PROVISIONS, PENALTIES.

(a) IMPOSITION.—Every rectifier or wholesale liquor dealer who refuses or willfully neglects to comply with the requirements of sections 2813, 2861, and 2863 as to giving the said notice or the said return, and as to marking, branding, and stamping, in accordance with the law and the regulations made in pursuance thereof, the

packages of spirits filled on his premises as aforesaid, shall, for each such offense, be fined not less than $200 nor more than $1,000.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2866. EFFACEMENT OF STAMPS AND BRANDS ON EMPTIED PACKAGES.

Every person who empties or draws off, or causes to be emptied or drawn off, any distilled spirits from a cask or package bearing any mark, brand, or stamp, required by law, shall at the time of emptying such cask or package, efface and obliterate said mark, stamp, or brand. Every such cask or package from which said mark, brand, or stamp is not effaced and obliterated as herein required, shall be forfeited to the United States, and may be seized by any officer of internal revenue, wherever found. And every railroad company or other transportation company, or person who receives or transports, or has in possession with intent to transport, or with intent to cause or procure to be transported, any such empty cask or package, or any part thereof, having thereon any brand, mark, or stamp, required by law to be placed on any cask or package containing distilled spirits, shall forfeit $300 for each such cask or package, or any part thereof, so received or transported, or had in possession with the intent aforesaid; and every boat, railroad car, cart, dray, wagon, or other vehicle, and all horses and other animals used in carrying or transporting the same, shall be forfeited to the United States. Every person who fails to efface and obliterate said mark, stamp, or brand, at the time of emptying such cask or package, or who receives any such cask or package, or any part thereof, with the intent aforesaid, or who transports the same, or knowingly aids or assists therein, or who removes any stamp provided by law from any cask or package containing, or which had contained, distilled spirits, without defacing and destroying the same at the time of such removal, or who aids or assists therein, or who has in his possession any such stamp so removed as aforesaid, or has in his possession any canceled stamp, or any stamp which has been used, or which purports to have been used, upon any cask or package of distilled spirits, shall be deemed guilty of a felony, and shall be fined not less than $500 nor more than $10,000, and imprisoned not less than one year nor more than five years.

SEC. 2867. BUYING OR SELLING USED CASKS BEARING INSPECTION MARKS.

Whenever any person knowingly purchases or sells, with inspection marks thereon, any cask or package, after the same has been used for distilled spirits, he shall forfeit and pay the sum of $200 for every such cask so purchased or sold.

SEC. 2868. CHANGING STAMPS OR SHIFTING SPIRITS.

Whenever any person changes or alters any stamp, mark, or brand on any cask or package containing distilled spirits, or puts into any cask or package spirits of greater strength than is indicated by the inspection-mark thereon, or fraudulently uses any cask or package having any inspection-mark or stamp thereon, for the purpose of selling other spirits, or spirits of quantity or quality different from the spirits previously inspected therein, he shall forfeit and pay the sum of $200 for every cask or package on which the stamp or mark is so changed or altered, or which is so fraudulently used, and shall be fined for each such offense not less than $100 nor more than $1,000, and imprisoned not less than one month nor more than one year.

SEC. 2869. AFFIXING IMITATION STAMPS ON PACKAGES OF DISTILLED SPIRITS.

If any person shall affix, or cause to be affixed, to or upon any cask or package containing, or intended to contain, distilled spirits, any

imitation stamp or other engraved, printed, stamped, or photographed label, device, or token, whether the same be designed as a trade mark, caution notice, caution, or otherwise, and which shall be in the similitude or likeness of, or shall have the resemblance or general appearance of, any internal revenue stamp required by law to be affixed to or upon any cask or package containing distilled spirits, he shall, for each offense, be liable to a penalty of $100, and, on conviction, shall be fined not more than $1,000, and imprisoned not more than three years, and the cask or package with its contents shall be forfeited to the United States.

SEC. 2870. PROHIBITED HOURS FOR REMOVAL OF SPIRITS.

No person shall remove any distilled spirits at any other time than after sun-rising and before sun-setting in any cask or package containing more than ten gallons from any premises or building in which the same may have been distilled, redistilled, rectified, compounded, manufactured, or stored; and every person who violates this provision shall be liable to a penalty of $100 for each cask, barrel, or package of spirits so removed; and said spirits, together with any vessel containing the same, and any horse, cart, boat, or other conveyance used in the removal thereof, shall be forfeited to the United States.

SEC. 2871. REGULATION OF TRAFFIC IN CONTAINERS OF DISTILLED SPIRITS.

Whenever in his judgment such action is necessary to protect the revenue, the Secretary is authorized, by the regulations prescribed by him, and permits issued thereunder if required by him (1) to regulate the size, branding, marking, sale, resale, possession, use, and re-use of containers (of a capacity of less than five wine-gallons) designed or intended for use for the sale at retail of distilled spirits (within the meaning of such term as it is used in section 2803) for other than industrial use, and (2) to require, of persons manufacturing, dealing in, or using any such containers, the submission to such inspection, the keeping of such records, and the filing of such reports as may be deemed by him reasonably necessary in connection therewith. Whoever willfully violates the provisions of any regulation prescribed, or the terms or conditions of any permit issued, pursuant to the authorization contained in this section, and any officer, director, or agent of any corporation who knowingly participates in such violation, shall, upon conviction, be fined not more than $1,000 or be imprisoned for not more than two years, or both; and, notwithstanding any criminal conviction, the containers involved in such violation shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for forfeitures, seizures, and condemnations for violations of the internal-revenue laws, and any such containers so seized and condemned shall be destroyed and not sold. Any requirements imposed under this section shall be in addition to any other requirements imposed by, or pursuant to, law, and shall apply as well to persons not liable for tax under the internal-revenue laws as to persons so liable.

Part III—Internal Revenue Bonded Warehouses

SEC. 2872. ESTABLISHMENT AND CONTROL.

The Commissioner is authorized, in his discretion, and upon the execution of such bonds as he may prescribe, to establish warehouses, to be known and designated as internal revenue bonded warehouses, to be used exclusively for the storage of spirits distilled at a registered distillery, each of which warehouses shall be in charge of a storekeeper-gauger. Every such warehouse shall be under the control of the District Supervisor of the Alcohol Tax Unit district in which such warehouse is located, and shall be in the joint custody of the storekeeper-gauger and proprietor thereof, and kept securely

locked, and shall at no time be unlocked or opened or remain open except in the presence of such storekeeper-gauger or other person who may be designated to act for him. No dwelling house shall be used for such a warehouse, and no door, window, or other opening shall be made or permitted in the walls of such warehouse leading into a distillery. Such warehouses shall be under such further regulations as the Commissioner, with the approval of the Secretary, may prescribe.

SEC. 2873. REGULATIONS FOR ESTABLISHMENT, MAINTENANCE, AND SUPERVISION.

The establishment, construction, maintenance, and supervision of internal revenue bonded warehouses shall be under such regulations as the Commissioner, with the approval of the Secretary, shall prescribe.

SEC. 2874. DISCONTINUANCE OF WAREHOUSE AND TRANSFER OF MERCHANDISE.

(a) AUTHORIZATION.—Whenever, in the opinion of the Commissioner, any internal revenue bonded warehouse is unsafe or unfit for use, or the merchandise therein is liable to loss or great wastage, he may in either such case discontinue such warehouse and require the merchandise therein to be transferred to such other warehouse as he may designate, and within such time as he may prescribe. Such transfer shall be made under the supervision of the collector, or of such other officer as may be designated by the Commissioner, and the expense thereof shall be paid by the owner of the merchandise. Whenever the owner of such merchandise fails to make such transfer within the time prescribed, or to pay the just and proper expense of such transfer, as ascertained and determined by the Commissioner, such merchandise may be seized and sold by the collector in the same manner as goods are sold upon distraint for taxes, and the proceeds of such sale shall be applied to the payment of the taxes due thereon and the cost and expenses of such sale and removal, and the balance paid over to the owner of such merchandise.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2875. EXEMPTION FROM PROVISIONS OF LAW DISTINGUISHING BETWEEN CLASSES OF WAREHOUSES.

Internal revenue bonded warehouses established under authority of law shall be exempt from the provisions of those sections of law which, prior to June 26, 1936, have made distinctions between distillery bonded warehouses, general bonded warehouses, and special bonded warehouses, as to (1) kind of spirits to be stored therein; (2) ownership or production of distilled spirits to be stored therein; (3) ownership or proprietorship of such warehouses; (4) location and construction of such bonded warehouses; (5) entry of distilled spirits therein; (6) withdrawal of distilled spirits therefrom; (7) transfers of distilled spirits to or from one or more of such classes of bonded warehouses; or (8) any other matter; it being hereby declared to be the purpose to establish the internal revenue bonded warehouse as the sole type and kind of bonded warehouse under the internal revenue laws for the storage of spirits distilled at a registered distillery on which the tax has not been paid.

SEC. 2876. FAILURE TO COMPLY WITH WAREHOUSING AND REMOVAL REQUIREMENTS.

In case any distilled spirits removed from an internal revenue bonded warehouse for deposit in another internal revenue bonded warehouse shall fail to be so deposited or if any distilled spirits deposited in any internal revenue bonded warehouse shall be taken therefrom, for export or otherwise, without full compliance with the provisions of this part, and with the requirements of any regulations made thereunder, and with the terms of any bond given on such re-

moval, or if any distilled spirits which have been deposited in an internal revenue bonded warehouse shall be found elsewhere, not having been removed therefrom according to law, any person who shall be guilty of such failure, or any person who shall in any manner violate any provision of this part shall be subject, on conviction, to a fine of not less than $100 nor more than $5,000, or to imprisonment for not less than three months nor more than three years for every such failure or violation; and the spirits as to which such failure or violation, or unlawful removal shall take place shall be forfeited to the United States.

SEC. 2877. STOREKEEPER-GAUGER'S RECORDS.

(a) REQUIREMENT.—The storekeeper-gauger assigned to any distillery shall, in addition to all other duties required to be performed by him, keep records of the receipt and use of substances brought into said distillery, or on said premises, to be used for the purpose of producing spirits, and of all spirits drawn off from the receiving cistern, and the time when the same were drawn off, in such form as the Commissioner, with the approval of the Secretary, shall, by regulations, prescribe.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2878. DRAWING, GAUGING, AND MARKING OF DISTILLED SPIRITS.

(a) GENERAL RULE.—Except as provided in section 2883, all distilled spirits shall be drawn from receiving cisterns into casks or packages and thereupon shall be gauged, proved, and marked by a storekeeper-gauger, and immediately removed into an internal revenue bonded warehouse. The Commissioner, with the approval of the Secretary, is hereby empowered to prescribe all necessary regulations relating to the drawing off, gauging, and packaging of distilled spirits; the marking, branding, numbering, and stamping of such packages; and the transfer and transportation to, and the storage of such spirits in, internal revenue bonded warehouses.

(b) IN WOODEN PACKAGES CONTAINING METALLIC CANS FOR EXPORT.—Upon the application of the distiller and under such regulations as the Commissioner, with the approval of the Secretary, may prescribe, distilled spirits may be drawn into wooden packages, each containing two or more metallic cans, which cans shall each have a capacity of not less than five gallons, wine measure. Such packages shall be filled and used only for exportation from the United States. And there shall be charged for each of said packages or cases for the expense of providing and affixing stamps, 5 cents.

(c) STANDARDS OF FILL.—The Commissioner, with the approval of the Secretary, may, by regulations, prescribe the standards of fill of casks or packages of distilled spirits at each distillery.

(d) MARKING AND BRANDING BY DISTILLER.—The Commissioner, with the approval of the Secretary, may, by regulations, from time to time, require a distiller, at his expense and under the immediate personal supervision of a storekeeper-gauger, to do such marking and branding and such mechanical labor pertaining to gauging required under this section as the Commissioner deems proper and determines may be done without danger to the revenue.

(e) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2879. DEPOSITS OF SPIRITS IN WAREHOUSES.

(a) ENTRY FOR DEPOSIT.—The distillers of all spirits removed to an internal revenue bonded warehouse shall enter the same for deposit in such warehouse, under such regulations as the Commissioner may prescribe. Said entry shall be in such form as the Commissioner shall prescribe.

(b) TIME FOR PAYMENT OF THE TAX.—The tax on all distilled spirits hereafter entered for deposit in internal revenue bonded warehouses shall be due and payable before and at the time the same are withdrawn therefrom and within eight years from the date of the original entry for deposit therein; and warehousing bonds hereafter taken under the provisions of the internal revenue laws shall be conditioned for the payment of the tax on the spirits as specified in the entry before withdrawal from the internal revenue bonded warehouse, and within eight years from the date of said entry.

(c) BOND REQUIRED.—The Commissioner shall prescribe the form and penal sums of bonds covering distilled spirits in internal revenue bonded warehouses and in transit to and between such warehouses: *Provided*, That the penal sums of such bonds covering distilled spirits shall not exceed in the aggregate $200,000 for each such warehouse.

(d) RENEWAL OF BOND.—A new bond shall be required in case of the death, insolvency, or removal of the surety or sureties, and may be required in any other contingency affecting its validity or impairing its efficiency, at the discretion of the Commissioner. And in case the warehouseman fails or refuses to give the bond required, or to renew the same, or neglects to immediately withdraw the spirits and pay the tax thereon, or if he neglects to withdraw any bonded spirits and pay the tax thereon before the expiration of the time limited in the bond, the collector shall proceed to collect the tax by distraint, issuing his warrant of distraint for the amount of tax found to be due, as ascertained by him from the report of the storekeeper-gauger if no bond was given, or from the terms of the bond if a bond was given. But this provision shall not exclude any other remedy or proceeding provided by law.

(e) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2880. WITHDRAWAL FROM WAREHOUSE AND COLLECTION OF TAX ON SPIRITS SUBJECT TO EXCESSIVE LEAKAGE.

(a) POWER OF THE COMMISSIONER.—If it shall appear at any time that there has been a loss of distilled spirits from any cask or other package deposited in an internal revenue bonded warehouse, other than the loss provided for in section 2901 (b), which, in the opinion of the Commissioner, is excessive, he may instruct the District Supervisor of the district in which the loss has occurred to require the withdrawal from warehouse of such distilled spirits, and direct the collector to collect the tax accrued upon the original quantity of distilled spirits entered into the warehouse in such cask or package, notwithstanding that the time specified in any bond given for the withdrawal of the spirits entered into warehouse in such cask or package has not expired. If the said tax is not paid on demand, the collector shall report the amount due upon his next monthly list, and it shall be assessed and collected as other taxes are assessed and collected.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2881. WITHDRAWAL OF SPIRITS FROM WAREHOUSE ON ORIGINAL GAUGE.

(a) REGULATIONS.—Under such regulations as the Commissioner, with the approval of the Secretary, may prescribe, packages of distilled spirits drawn from receiving cisterns and deposited in internal revenue bonded warehouses may be withdrawn therefrom on the original gauge where the same have remained in such warehouse for a period not exceeding thirty days from the date of deposit.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2882. ENTRY FOR WITHDRAWAL FROM WAREHOUSE.

(a) AUTHORIZATION.—Any distilled spirits may, on payment of the tax thereon, be withdrawn from warehouse on application to the collector of the district in charge of such warehouse, on making a withdrawal entry in duplicate and in the following form:

ENTRY FOR WITHDRAWAL OF DISTILLED SPIRITS FROM WAREHOUSE TAX PAID

Entry of distilled spirits to be withdrawn, on payment of the tax, from internal revenue bonded warehouse number ———, situated in the ——— district of ———, by ———, deposited on the ——— day of ———, anno Domini ———, by ———, in said warehouse.

And the entry shall specify the whole number of casks or packages, with the marks and serial numbers thereon, the number of gauge or wine gallons, and of proof gallons and taxable gallons, and the amount of the tax on the distilled spirits contained in them at the time they were deposited in the internal revenue bonded warehouse; and said entry shall also specify the number of gauge or wine gallons, and of proof gallons, and taxable gallons contained in said casks or packages at the time application shall be made for the withdrawal thereof; and on payment of the tax the collector shall issue his order to the storekeeper-gauger in charge of the warehouse for the delivery. One of said entries shall be filed in the office of the collector, and the other transmitted by him to the Commissioner.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2883. TRANSFER OF SPIRITS AT REGISTERED DISTILLERIES.

(a) REQUIREMENTS.—Subject to the provisions of existing law, spirits produced at registered distilleries and reduced in the receiving cisterns in such distilleries to not more than one hundred and fifty-nine degrees of proof and not less than one hundred degrees of proof, may be transferred, by means of pipe lines, direct to storage tanks in the internal revenue bonded warehouse located on the bonded premises where produced and be warehoused in such storage tanks, or they may be drawn into approved containers and transferred to any internal revenue bonded warehouse for storage therein, or they may be taxpaid in such approved containers in such cistern rooms, without being entered into an internal revenue bonded warehouse. Such spirits may be drawn into approved containers from storage tanks in internal revenue bonded warehouse located on the bonded premises of the distillery either for storage in bond or tax payment. Such spirits, upon tax payment, may be transported in approved containers for use for beverage purposes only. The Commissioner, with the approval of the Secretary, is hereby empowered to prescribe all necessary regulations relating to the drawing off, transferring, gauging, storing, and transportation of such spirits; the records to be kept and returns to be made; the size and kind of containers to be used; the marking, branding, numbering, and stamping of such containers; the kind of stamps, if any, to be used; and the kind of bond and the penal sum thereof: *Provided*, That under the provisions of this section insofar as applicable, the Commissioner may, under rules and regulations to be by him prescribed, subject to the approval of the Secretary, permit the transfer of fortifying spirits containing more than one hundred and fifty-nine degrees proof up to and including one hundred and ninety-two degrees proof by pipe line from registered fruit distilleries and receiving cisterns in such distilleries to storage tanks in the internal-revenue bonded warehouse located on the distillery premises to be warehoused in such storage tanks and transferred by pipe line to the fortification rooms of contiguous wineries when required.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2884. GAUGING, STAMPING, AND BRANDING SPIRITS REMOVED FROM WAREHOUSE.

(a) REQUIREMENT.—Whenever an application is received for the removal from any internal revenue bonded warehouse of any cask or package of distilled spirits on which the tax has been paid, the storekeeper-gauger shall gauge and inspect the same, and shall, before such cask or package has left the warehouse, place upon such package such marks, brands, and stamps as the Commissioner, with the approval of the Secretary, shall by regulations prescribe, which marks, brands, and stamps shall be erased when such cask or package is emptied.

The Commissioner, with the approval of the Secretary, may, by regulations, from time to time, require any distiller, at his expense and under the immediate personal supervision of a storekeeper-gauger, to do such marking and branding and such mechanical labor pertaining to gauging required under this section as the Commissioner deems proper and determines may be done without danger to the revenue.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2885. EXPORTATION OF SPIRITS WITHDRAWN FROM WAREHOUSES.

(a) ENTRIES, BONDS, AND BILLS OF LADING.—Distilled spirits may be withdrawn from internal revenue bonded warehouses, at the instance of the owner of the spirits, for exportation in the original casks or packages, without the payment of tax, under such regulations, and after making such entries and executing and filing with the collector of the district from which the removal is to be made such bonds and bills of lading, and giving such other additional security as may be prescribed by the Commissioner, with the approval of the Secretary, and bonds given under this section shall be canceled under such regulations as the Secretary shall prescribe. The bonds required to be given for the exportation of distilled spirits shall be canceled upon the presentation of satisfactory proof and certificates that said distilled spirits have been landed at the port of destination named in the bill of lading, or upon satisfactory proof that after shipment the same were lost at sea without fault or neglect of the owner or shipper thereof.

(b) MARKS, STAMPS, AND PERMITS.—All distilled spirits intended for export, as aforesaid, before being removed from the internal revenue bonded warehouse, shall be marked as the Commissioner may prescribe, and shall have affixed to each cask an engraved stamp indicative of such intention, to be provided and furnished by the several collectors as in the case of other stamps, and to be charged to them and accounted for in the same manner, and for the expense attending the providing and affixing such stamps 10 cents for each package so stamped shall be paid to the collector on making the entry for such transportation. When the owner of the spirits shall have made the proper entries, filed the bonds, and otherwise complied with all the requirements of the law and regulations as herein provided, the collector shall issue to him a permit for the removal and transportation of said spirits to the collector of the port from which the same are to be exported, accurately describing the spirits to be shipped, the amount of tax thereon, the State and district from which the same is to be shipped, the name of the distiller by whom distilled, the port to which the same are to be transported, the name of the collector of the port to whom the spirits are to be consigned,

and the routes over which they are to be sent to the port of shipment. Such shipments shall be made over bonded routes whenever practicable. The collector of the port shall receive such spirits, and permit the exportation thereof, under the same rules and regulations as are prescribed for the exportation of spirits upon which the tax has been paid.

(c) METALLIC CANS IN WOODEN PACKAGES.—

For authority of distiller to draw distilled spirits into wooden packages, each containing two or more metallic cans, for exportation only, see section 2878 (b).

(d) PENALTIES AND FORFEITURES.—

(1) FRAUDULENT CLAIM FOR DRAWBACK.—And every person who fraudulently claims, or seeks, or obtains an allowance of drawback on any distilled spirits, or fraudulently claims any greater allowance or drawback than the tax actually paid thereon, shall forfeit and pay to the Government of the United States triple the amount wrongfully and fraudulently sought to be obtained, and shall be imprisoned not more than ten years; and every owner, agent, or master of any vessel or other person who knowingly aids or abets in the fraudulent collection or fraudulent attempts to collect any drawback upon, or knowingly aids or permits any fraudulent change in the spirits so shipped, shall be fined not exceeding $5,000 and imprisoned not more than one year, and the ship or vessel on board of which such shipment was made or pretended to be made shall be forfeited to the United States, whether a conviction of the master or owner be had or otherwise, and proceedings may be had in admiralty by libel for such forfeiture.

(2) UNLAWFUL RELANDING.—Every person who intentionally relands within the jurisdiction of the United States any distilled spirits which have been shipped for exportation under the provisions of this chapter, or who receives such relanded distilled spirits, and every person who aids or abets in such relanding or receiving of such spirits, shall be fined not exceeding $5,000 and imprisoned not more than three years; and all distilled spirits so relanded, together with the vessel from which the same were relanded within the jurisdiction of the United States, and all boats, vehicles, horses, or other animals used in relanding and removing such distilled spirits, shall be forfeited to the United States.

(e) TRANSFER OF DUTIES.

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2886. TRANSPORTATION BOND ON WITHDRAWAL OF SPIRITS FOR EXPORT.

(a) REQUIREMENTS.—Whenever the owner or owners of distilled spirits shall desire to withdraw the same from any internal revenue bonded warehouse for exportation, such owner or owners may at their option, in lieu of executing an export bond as provided by law, give a transportation bond with sureties satisfactory to the collector of internal revenue and under such rules and regulations as the Secretary may prescribe, conditioned for the due delivery thereof on board ship at a port of exportation to be named therein, and for the due performance on the part of the exporter or owner at the port of export of all the requirements in regard to notice of export, entry, and the giving of bond hereinafter specified; and in such case, on arrival of the spirits at the port of export, the exporter or owner at that port shall immediately notify the collector of the port of the fact, setting forth his intention to export the same, and the name of the vessel upon which the same are to be laden, and the port to which they are intended to be exported. He shall, after the quantity of spirits has been determined by the gauger and inspector, file with the collector of the port an export-entry verified by his oath or affirmation. He shall also

give bond to the United States, with at least two sureties, satisfactory to the collector of customs, conditioned that the principal named in said bond will export the spirits as specified in said entry to the port designated in said entry, or to some other port without the jurisdiction of the United States.

And upon the lading of such spirits, the collector of the port, after proper bonds for the exportation of the same have been completed by the exporter or owner at the port of shipment thereof, shall transmit to the collector of internal revenue of the district from which the said spirits were withdrawn for exportation, a clearance certificate and a detailed report of the gauger, which report shall show the capacity of each cask in wine gallons, and the contents thereof in wine gallons, proof gallons, and taxable gallons. Upon receipt of the certificate and report, and upon payment of tax on deficiency, if any, the collector of internal revenue shall cancel the transportation bond. The bond required to be given for the landing at a foreign port of distilled spirits shall be canceled upon the presentation of satisfactory proof and certificates that said distilled spirits have been landed at the port of destination named in the bill of lading or any other port without the jurisdiction of the United States or upon satisfactory proof that after shipment the same were lost at sea without fault or neglect of the owner or shipper thereof. And whenever a distiller of spirits in bond shall desire to change the packages in which the same is contained, in order to export them, the Commissioner shall be authorized, under regulations to be prescribed by him, and upon the execution of proper bonds with sufficient sureties, to permit the withdrawal of so much spirits from bond and in new packages as the distiller shall desire to export as aforesaid.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2887. DRAWBACK ON SPIRITS.

Distilled spirits upon which all taxes have been paid may be exported, with the privilege of drawback, and in distillers' original casks or packages, containing not less than twenty wine gallons each, on application of the owner thereof to the collector of customs at any port of entry, and under such rules and regulations, and after making such entry as may be prescribed by law and by the Secretary. The entry for such exportation shall be in triplicate, and shall contain the name of the person applying to export, the name of the distiller, the name of the district in which the spirits were distilled, the name of the vessel by which, and the name of the port to which, they are to be exported; and the form of the entry shall be as follows:

EXPORT ENTRY OF DISTILLED SPIRITS ENTITLED TO DRAWBACK

Entry of spirits distilled by ——— ———, in ——— district, State of ———, to be exported by ——— ———, in the ———, whereof ——— ——— is master, bound to ———.

And the entry shall specify the whole number of casks or packages, the marks and serial numbers thereon, the quality or kind of spirits as known in commerce, the number of gauge or wine gallons and of proof gallons; and the amount of the tax on such spirits shall be verified by the oath of the owner of the spirits, and that the tax has been paid thereon, and that they are truly intended to be exported to the port of ———, and not to be relanded within the limits of the United States. One bill of lading, duly signed by the master of the vessel, shall be deposited with said collector, to be filed at his office with the entry retained by him. One of said entries shall be, when the shipment is completed, transmitted to the Secretary, to be recorded and filed in his office. The lading on board said vessel shall be only after the receipt of an order or permit signed by the collector

of customs and directed to a customs gauger, and after each cask or package shall have been distinctly marked or branded by said gauger as follows: "For export from U. S. A.," and the tax-paid stamps thereon obliterated. The casks or packages shall be inspected and gauged alongside of or on the vessel by the gauger designated by said collector, under such rules and regulations as the Secretary may prescribe; and on application of the said collector it shall be the duty of the surveyor of the port to designate and direct one of the customhouse inspectors to superintend such shipment. And the gauger aforesaid shall make a full return of such inspection and gauging in such form as may be prescribed by the Secretary, showing by whom each cask of such spirits was distilled, the serial number of the cask, and by the tax-paid stamp attached thereto, the proof and quantity of such spirits as per the original gauge-mark on each cask, and the quantity in proof and wine gallons as per the gauge then made by him. And said gauger shall certify on such return that the shipment has been made, in his presence, on board the vessel named in the entry for export, which return shall be indorsed by said customhouse inspector certifying that the casks or packages have been shipped under his supervision on board said vessel, and the tax-paid stamps obliterated; and the said inspector shall make a similar certificate to the surveyor of the port, indorsed on or to be attached to the entry in possession of the customhouse.

A drawback shall be allowed upon distilled spirits on which the tax has been paid and exported to foreign countries, under the provisions of this section, when exported as herein provided for. The drawback allowed shall include the taxes levied and paid upon the distilled spirits exported, and the rate of drawback shall be equal to the rate of the internal tax paid in respect of the distilled spirits exported, but shall not exceed a rate of $2.25 (or, in the case of brandy, $2) per proof gallon, as per last gauge of said spirits prior to exportation, and shall be due and payable only after the proper entries have been made and filed and all other conditions complied with as hereinbefore required, and on filing with the Secretary the proper claim, accompanied by the certificate of the collector of customs at the port of entry where the spirits are entered for export that such spirits have been received into his custody and the tax-paid stamps thereon obliterated; and the Secretary shall prescribe such rules and regulations in relation thereto as may be necessary to secure the Treasury of the United States against frauds.

SEC. 2888. TRANSFER OF SPIRITS INTO TANK CARS FOR EXPORT.

(a) REQUIREMENT.—Under such regulations as the Commissioner, with the approval of the Secretary, may prescribe, alcohol or other distilled spirits of a proof strength of not less than one hundred and eighty degrees intended for export free of tax may be drawn from receiving cisterns at any distillery, or from storage tanks in any internal revenue bonded warehouse, for transfer to tanks or tank cars for export from the United States, and all provisions of law relating to the exportation of distilled spirits not inconsistent herewith shall apply to spirits removed for export under the provisions of this section.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2889. ALLOWANCE FOR ACCIDENTAL LOSS OR LEAKAGE DURING TRANSPORTATION FROM WAREHOUSE TO PORT OF EXPORT.

(a) POWER OF COMMISSIONER.—Where spirits are withdrawn from internal revenue bonded warehouses for exportation according to law, it shall be lawful, under such rules and regulations and limitations as shall be prescribed by the Commissioner, with the approval

of the Secretary, for an allowance to be made for leakage or loss by an unavoidable accident, and without any fraud or negligence of the distiller, owner, exporter, carrier, or their agents or employees, occuring during transportation from an internal revenue bonded warehouse to the port of export, nor shall any assessment be collected for such loss or leakage.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2890. REMISSION OF TAX ON SPIRITS ACCIDENTALLY LOST.

Where the spirits provided for in the preceding section are covered by a valid claim of insurance in excess of the market value thereof, exclusive of the tax, the tax upon such spirits shall not be remitted to the extent of such excessive insurance.

SEC. 2891. WITHDRAWAL OF DISTILLED SPIRITS TO MANUFACTURING BONDED WAREHOUSE.

(a) AUTHORIZATION.—Under such regulations and requirements as to stamps, bonds, and other security as shall be prescribed by the Commissioner, any manufacturer of medicines, preparations, compositions, perfumeries, cosmetics, cordials, and other liquors, for export, manufacturing the same in a duly constituted manufacturing warehouse, shall be authorized to withdraw, in original packages, from any internal revenue bonded warehouse, so much distilled spirits as he may require for the said purpose, without the payment of the internal revenue tax thereon.

(b) ALLOWANCE FOR LOSS OR LEAKAGE.—Where spirits are withdrawn from internal revenue bonded warehouses for transfer to manufacturing warehouses, under the provisions of this chapter, it shall be lawful, under such rules and regulations and limitations as shall be prescribed by the Commissioner, with the approval of the Secretary, for an allowance to be made for leakage or loss by any unavoidable accident, and without any fraud or negligence of the distiller, owner, exporter, carrier, or their agents or employees, occurring during transportation from an internal revenue bonded warehouse to a manufacturing warehouse.

(c) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

PART IV—MISCELLANEOUS PROVISIONS RELATING TO DISTILLED SPIRITS

SEC. 2900. DATE OF WITHDRAWAL.

(a) GENERAL RULE.—All distilled spirits entered prior to July 26, 1936, for deposit in a distillery, general, or special bonded warehouse, or after such date entered for deposit in an internal revenue bonded warehouse, shall be withdrawn therefrom within eight years from the date of original entry therein, except as provided in subsection (b) of this section.

(b) EXCEPTION.—Distilled spirits which on July 26, 1936, are eight years of age, or older, and which are in bonded warehouses, may remain therein after such date; but no allowance for loss by leakage or evaporation shall be made in the case of such spirits with respect to any period after such date: *Provided*, That loss allowances for such spirits for the period prior to July 26, 1936, shall be made pursuant to the provisions of the Act of February 6, 1925, c. 143, 43 Stat. 808.

SEC. 2901. LOSS ALLOWANCES.

(a) LEAKAGE OR EVAPORATION.—Any distilled spirits deposited before June 26, 1936, in any distillery, general, or special bonded warehouse, or thereafter deposited in any internal revenue bonded warehouse, may, at the time of withdrawal of the spirits from such

warehouse, upon the filing of an application for the regauge of such spirits, giving a description of the package containing the spirits, be regauged by a storekeeper-gauger who shall place upon each such package such marks and brands as the Commissioner, with the approval of the Secretary, shall by regulations prescribe. If upon such regauging it shall appear that there has been a loss by leakage or evaporation of distilled spirits from any cask or package, without the fault or negligence of the distiller or warehouseman, taxes shall be collected only on the quantity of distilled spirits contained in such cask or package at the time of such withdrawal. The allowance which shall be made for such loss of spirits shall not exceed—

1 proof-gallon for 2 months or part thereof;

1½ gallons for more than 2 months and not more than 4 months;

2 gallons for more than 4 months and not more than 6 months;

2½ gallons for more than 6 months and not more than 8 months;

3 gallons for more than 8 months and not more than 10 months;

3½ gallons for more than 10 months and not more than 12 months;

4 gallons for more than 12 months and not more than 15 months;

4½ gallons for more than 15 months and not more than 18 months;

5 gallons for more than 18 months and not more than 21 months;

5½ gallons for more than 21 months and not more than 24 months;

6 gallons for more than 24 months and not more than 27 months;

6½ gallons for more than 27 months and not more than 30 months;

7 gallons for more than 30 months and not more than 33 months;

7½ gallons for more than 33 months and not more than 36 months;

8 gallons for more than 36 months and not more than 40 months;

8½ gallons for more than 40 months and not more than 44 months;

9 gallons for more than 44 months and not more than 48 months;

9½ gallons for more than 48 months and not more than 52 months;

10 gallons for more than 52 months and not more than 56 months;

10½ gallons for more than 56 months and not more than 60 months;

11 gallons for more than 60 months and not more than 64 months;

11½ gallons for more than 64 months and not more than 68 months;

12 gallons for more than 68 months and not more than 72 months;

12½ gallons for more than 72 months and not more than 76 months;

13 gallons for more than 76 months and not more than 80 months;

13½ gallons for more than 80 months from the date of original gauge as to fruit brandy, or original entry as to all other spirits; and no further allowances shall be made for loss by leakage or evaporation.

The foregoing allowance for loss shall apply only to casks or packages of a capacity of forty or more wine-gallons, and the allowance for loss on casks or packages of less capacity than forty gallons shall not exceed one-half the amount allowed on said forty-gallon cask or package; but no allowance shall be made on casks or packages of less capacity than twenty gallons. The proof of such distilled spirits shall not in any case be computed at the time of withdrawal at less than 100 per centum.

(b) Accidental Fire or Other Casualty.—The Secretary, upon the production to him of satisfactory proof of the actual destruction by accidental fire or other casualty, and without any fraud, collusion, or negligence of the owner thereof, of any distilled spirits, while the

same remained in the custody of any officer of internal revenue in any internal revenue bonded warehouse or of any grape brandy withdrawn for use in the fortification of sweet wines and destroyed prior to such use while stored in the fortifying room on the winery premises, and before the tax thereon has been paid, may abate the amount of internal revenue taxes accruing thereon, and may cancel any warehouse bond, or enter satisfaction thereon, in whole or in part, as the case may be. And if such taxes have been collected since the destruction of said spirits or grape brandy, the said Secretary shall refund the same to the owners thereof out of any moneys in the Treasury not otherwise appropriated. And when any distilled spirits are destroyed by accidental fire or other casualty, without any fraud, collusion, or negligence of the owner thereof, after the time when the same should have been drawn off by the storekeeper-gauger and placed in the internal revenue bonded warehouse provided by law, no tax shall be collected on such spirits so destroyed, or, if collected, it shall be refunded upon the production of satisfactory proof that the spirits were destroyed as herein specified. When the owners of distilled spirits or grape brandy in the cases provided for by this section may be indemnified against such tax by a valid claim of insurance, for a sum greater than the actual value of the distilled spirits or grape brandy before and without the tax being paid, the tax shall not be remitted to the extent of such insurance.

(c) SPIRITS LOST BY THEFT.—If distilled spirits upon which the internal-revenue tax has not been paid are lost by theft, accidental fire, or other casualty while in possession of a common carrier subject to the Transportation Act of 1920, February 28, 1920, c. 91, 41 Stat. 474 (U. S. C. Title 49, c. 1), or the Merchant Marine Act, 1920, June 5, 1920, c. 250, 41 Stat. 988 (U. S. C. Title 46, c. 24), or if lost by theft from an internal revenue bonded warehouse, and it shall be made to appear to the Commissioner that such losses did not occur as the result of negligence, connivance, collusion, or fraud on the part of the owner or person legally accountable for such distilled spirits, no tax shall be assessed or collected upon the distilled spirits so lost, nor shall any tax penalty be imposed or collected by reason of such loss, but the exemption from the tax and penalty shall only be allowed to the extent that the claimant is not indemnified against or recompensed for such loss. This provision shall apply to any claim for taxes or tax penalties that may have accrued since October 28, 1919, or that may accrue hereafter. Nothing in this section shall be construed as in any manner limiting or restricting the provisions of Part II of Subchapter C.

(d) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2902. OTHER LOSS ALLOWANCES.

For other loss allowances, see the following—

Spirits destroyed in process of manufacture, section 2847.

Spirits destroyed during transportation from a warehouse to a port of export, section 2889.

Spirits destroyed during transportation from a warehouse to a manufacturing warehouse, section 2891 (b).

SEC. 2903. BOTTLING OF DISTILLED SPIRITS IN BOND.

(a) REQUIREMENTS.—Whenever any distilled spirits deposited in the internal revenue bonded warehouse have been duly entered for withdrawal, before or after tax-payment, or for export in bond, and have been duly gauged and the required marks, brands, and tax-paid stamps (if required) or export stamps, as the case may be, have been affixed to the package or packages containing the same, the distiller or owner of said distilled spirits, if he has declared his purpose so to do in the entry for withdrawal, which entry for bottling purposes may be made by the owner as well as the distiller, may remove such

spirits to a separate portion of said warehouse which shall be set apart and used exclusively for that purpose, and there, under the supervision of a United States storekeeper-gauger in charge of such warehouse, may immediately draw off such spirits, bottle, pack, and case the same. For convenience in such process any number of packages of spirits of the same kind, differing only in proof, but produced at the same distillery by the same distiller, may be mingled together in a cistern provided for that purpose, but nothing herein shall authorize or permit any mingling of different products, or of the same products of different distilling seasons, or the addition or subtraction of any substance or material or the application of any method or process to alter or change in any way the original condition or character of the product except as herein authorized; nor shall there be at the same time in the bottling room of any internal revenue bonded warehouse any spirits entered for withdrawal upon payment of the tax and any spirits entered for export.

(b) STAMPS FOR BOTTLES.—Every bottle when filled shall have affixed thereto and passing over the mouth of the same a stamp denoting the quantity of distilled spirits contained therein and evidencing the bottling in bond of such spirits under the provisions of this section and sections 2904 to 2909, inclusive, and of regulations prescribed hereunder.

(c) STAMP REGULATIONS.—The Commissioner, with the approval of the Secretary, shall prescribe (a) regulations with respect to the time and manner of applying for, issuing, affixing, and destroying stamps required by this section, the form and denominations of such stamps, applications for purchase of the stamps, proof that applicants are entitled to such stamps, and the method of accounting for receipts from the sale of such stamps, and (b) such other regulations as the Commissioner shall deem necessary for the enforcement of this section and sections 2904 to 2909, inclusive.

(d) STAMP SUPPLY.—Such stamps shall be issued by the Commissioner to each collector, upon his requisition in such numbers as may be necessary in his district, and, upon compliance with the provisions of this section and sections 2904 to 2909, inclusive, and regulations issued hereunder shall be sold by collectors to persons entitled thereto, at a price of 1 cent for each stamp, except that in the case of stamps for containers of less than one-half pint, the price shall be one-quarter of 1 cent for each stamp.

(e) MARKS, BRANDS, AND STAMPS FOR CASES.—And there shall be plainly burned, embossed, or printed on the side of each case, to be known as the Government side, such marks, brands, and stamps to denote the bottling in bond of the whisky packed therein as the Commissioner may by regulations prescribe.

(f) TRADE MARKS.—And no trade-marks shall be put upon any bottle unless the real name of the actual bona fide distiller, or the name of the individual, firm, partnership, corporation, or association in whose name the spirits were produced and warehoused, shall also be placed conspicuously on said bottle.

(g) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2904. REGULATIONS GOVERNING BOTTLING IN BOND.

(a) REQUIREMENTS.—The Commissioner, with the approval of the Secretary, may, by regulations, prescribe the mode of separating and securing the additional warehouse, or portion of the warehouse required in section 2903 to be set apart, the manner in which the business of bottling spirits in bond shall be carried on, the notices, bonds, and returns to be given and accounts and records to be kept by the persons conducting such business, the mode and time of inspection of such spirits, the accounts and records to be kept and returns made

by the Government officers, and all such other matters and things, as in his discretion, he may deem requisite for a secure and orderly supervision of said business; and he may also, with the approval of the Secretary, prescribe and issue the stamps required.

The distiller may, in the presence of the storekeeper-gauger, remove by straining through cloth, felt, or other like material any charcoal, sediment, or other like substance found therein, and may whenever necessary reduce such spirits as are withdrawn for bottling purposes by the addition of pure water only to 100 per centum proof for spirits for domestic use, or to not less than 80 per centum proof for spirits for export purposes, under such rules and regulations as may be prescribed by the Commissioner with the approval of the Secretary; but no spirits (except gin for export) shall be bottled in bond until they have remained in bond in wooden containers for at least four years from the date of original gauge as to fruit brandy, or original entry as to all other spirits: *Provided*, That nothing in this subchapter shall authorize the labeling of spirits in bottles contrary to the provisions of regulations issued pursuant to the Federal Alcohol Administration Act, 49 Stat. 977 (U. S. C., Title 27, c. 8), or any amendment thereof.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2905. EXPORTATION OF SPIRITS BOTTLED IN BOND.

All distilled spirits intended for export under the provisions of sections 2903 to 2909, inclusive, shall be inspected, bottled, cased, weighed, marked, labeled, stamped, or sealed in such manner and at such time as the Commissioner may prescribe; and the said Commissioner, with the approval of the Secretary, may provide such regulations for the transportation, entry, reinspection, and lading of such spirits for export as may from time to time be deemed necessary; and all provisions of law relating to the exportation of distilled spirits in bond, so far as applicable, and all penalties therein imposed, are extended and made applicable to distilled spirits bottled for export under the provisions of said sections, but no drawback shall be allowed or paid upon any spirits bottled under the provisions of said sections.

SEC. 2906. PAYMENT OF TAX ON DEFICIENCY IN QUANTITY FOR EXPORT.

(a) REQUIREMENTS.—Where, upon inspection at the bonded warehouse in which the spirits are bottled as aforesaid, the quantity so bottled and cased for export is less than the quantity actually contained in the distiller's original casks or packages at the time of withdrawal for that purpose the tax on the loss or deficiency so ascertained shall be paid before the removal of the spirits from such warehouse, and the tax so paid shall be receipted and accounted for by the collector in such manner as the Commissioner may prescribe.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2907. COLLECTION OF TAX IF EXPORT CASES ARE TAMPERED WITH.

Where, upon reinspection at the port of entry, any case containing or purporting to contain distilled spirits for export is found to have been opened or tampered with, or where any mark, brand, stamp, label, or seal placed thereon or upon any bottle contained therein has been removed, changed, or willfully defaced, or where upon such reinspection any loss or discrepancy is found to exist as to the contents of any case so entered for export, the tax on the spirits contained in each such case at the time of its removal from warehouse shall be collected and paid.

SEC. 2908. REUSE OF STAMPS OR BOTTLES, TAMPERING, AND UNLAWFUL REMOVAL.

Any person who shall reuse any stamp provided under sections 2903 to 2909, inclusive, after the same shall have been once affixed to a bottle as provided therein, or who shall reuse a bottle for the purpose of containing distilled spirits which has once been filled and stamped under the provisions of said sections without removing and destroying the stamp so previously affixed to such bottle, or who shall, contrary to the provisions of said sections or of the regulations issued thereunder remove or cause to be removed from any bonded warehouse any distilled spirits inspected or bottled under the provisions of said sections or who shall bottle or case any such spirits in violation of said sections or of any regulation issued thereunder, or who shall, during the transportation and before the exportation of any such spirits, open or cause to be opened any case or bottle containing such spirits, or who shall willfully remove, change, or deface any stamp, brand, label, or seal affixed to any such case or to any bottle contained therein, shall for each such offense be fined not less than $100 nor more than $1,000, and be imprisoned not more than two years, in the discretion of the court, and such spirits shall be forfeited to the United States.

SEC. 2909. PUNISHMENT FOR COUNTERFEITING STAMPS.

Every person who, with intent to defraud, falsely makes, forges, alters, or counterfeits any stamp made or used under any provision of sections 2903 to 2909, inclusive, or who uses, sells, or has in his possession any such forged, altered, or counterfeited stamp, or any plate or die used or which may be used in the manufacture thereof, or who shall make, use, sell, or have in his possession any paper in imitation of the paper used in the manufacture of any stamp required by said sections, shall on conviction be punished by a fine not exceeding $1,000 and by imprisonment at hard labor not exceeding five years.

SEC. 2910. BOTTLING GIN IN BOND FOR EXPORT.

(a) REQUIREMENT.—Distilled spirits known commercially as gin of not less than 80 per centum proof may at any time within eight years after entry in bond at any distillery be bottled in bond at such distillery for export without the payment of tax, under such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2911. EFFECT ON STATE LAWS.

Nothing in sections 2903 to 2909, inclusive, shall be construed to exempt spirits bottled under the provisions of said sections from the operation of chapter 728 of the Act of August 8, 1890, 26 Stat. 313, U. S. C., Title 27, § 121.

SEC. 2912. FORFEITURE OF SPIRITS UNLAWFULLY REMOVED FROM DISTILLERY OR WAREHOUSE.

All distilled spirits found elsewhere than in a distillery or internal revenue bonded warehouse, not having been removed therefrom according to law, shall be forfeited to the United States.

SEC. 2913. PENALTY FOR UNLAWFUL REMOVAL OR CONCEALMENT OF SPIRITS.

Whenever any person removes, or aids or abets in the removal of, any distilled spirits on which the tax has not been paid, to a place other than the internal revenue bonded warehouse provided by law, or conceals or aids in the concealment of any spirits so removed, or removes, or aids or abets in the removal of, any distilled spirits from any such warehouse authorized by law, in any manner other than is

provided by law, or conceals or aids in the concealment of any spirits so removed, he shall be liable to a penalty of double the tax imposed on such distilled spirits so removed or concealed, and shall be fined not less than $200 nor more than $5,000, and imprisoned not less than three months nor more than three years.

SEC. 2914. PENALTY ON OFFICER IN CHARGE OF WAREHOUSE FOR UNLAWFUL REMOVAL OF SPIRITS.

(a) OFFENSE.—Whenever any storekeeper-gauger or other person in the employment of the United States, having charge of a bonded warehouse, removes or allows to be removed therefrom any cask or other package, or removes or allows to be removed any part of the contents of any cask or package deposited therein, otherwise than as provided by law, he shall be immediately dismissed from office or employment, and be fined not less than $500 nor more than $2,000, and imprisoned not less than three months nor more than two years.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2915. STOREKEEPER-GAUGER'S WAREHOUSE BOOK.

(a) REQUIREMENTS.—Every storekeeper-gauger shall keep a warehouse book, which shall at all times be open to the examination of any revenue officer, and shall enter therein an account of all articles deposited in the warehouse to which he is assigned, indicating in each case the date of deposit, by whom manufactured or produced, the number and description of the packages and contents, the quantities therein, the marks and serial numbers thereon, and by whom gauged, inspected, or weighed, and if distilled spirits, the number of gauge or wine gallons, of proof gallons, and of taxable gallons; and before delivering any article from the warehouse he shall enter in said book the date of the permit or order of the collector for the delivery of such articles, the number and description of the packages, the marks and serial numbers thereon, the date of delivery, to whom delivered, and for what purpose, which purpose shall be specified in the permit or order for delivery; and in case of delivery of any distilled spirits the number of gauge or wine gallons, or proof gallons, and of taxable gallons, shall also be stated; and such further particulars shall be entered in the warehouse books as may be prescribed or found necessary for the identification of the packages, to insure the correct delivery thereof and proper accountability therefor.

And every storekeeper-gauger shall furnish daily to the collector of the district a return of all articles received in and delivered from the warehouse during the day preceding that on which the return is made, and mail at the same time a copy thereof to the Commissioner, and shall, on the first Monday of every month, make a report in duplicate of the number of packages of all articles, with the respective descriptions thereof, as above provided, which remained in the warehouse at the date of his last report, of all articles received therein and delivered therefrom during the preceding month, and of articles remaining therein at the end of said month. He shall deliver one of these reports to the collector having control of the warehouse, to be recorded and filed in his office, and transmit one to the Commissioner, to be recorded and filed in his office.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 2916. REMOVAL FOR DENATURATION OR DESTRUCTION OF DISTILLATES CONTAINING ALDEHYDES OR FUSEL OIL

(a) POWER OF COMMISSIONER.—Under rules and regulations to be prescribed by the Commissioner, with the approval of the Secretary, distillers may collect, in locked tanks, distillates containing one-half of 1 per centum or more of aldehydes or 1 per centum or more of

fusel oil (heads and tails) removed in the course of distillation. The distillates so collected may, under regulations prescribed by the Commissioner, with the approval of the Secretary, be removed from such distillery for denaturation or be destroyed in the manner prescribed by the Commissioner, under the supervision of an internal revenue officer to be designated by the Commissioner, and when so denatured or destroyed shall not be subject to the tax imposed by law upon distilled spirits. Such distillates so collected in fruit brandy distilleries may, under regulations to be prescribed by the Commissioner, with the approval of the Secretary, be drawn into approved casks, barrels, or other containers and stored in the brandy deposit room of the fruit brandy distillery where produced pending removal for denaturation or destruction.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SUBCHAPTER B—WINES

SEC. 3030. TAX.

(a) RATE.—

(1) STILL WINES.—

(A) IMPOSITION.—Upon all still wines, including vermouth, and all artificial or imitation wines or compounds sold as still wine, produced in or imported into the United States after February 24, 1919, or which on February 25, 1919, were on any winery premises or other bonded premises or in transit thereto or at any customhouse, there shall be levied, collected, and paid taxes at rates as follows, when sold, or removed for consumption or sale:

On wines containing not more than 14 per centum of absolute alcohol, 5 cents per wine gallon, the per centum of alcohol under this section to be reckoned by volume and not by weight;

On wines containing more than 14 per centum and not exceeding 21 per centum of absolute alcohol, 10 cents per wine-gallon;

On wines containing more than 21 per centum and not exceeding 24 per centum of absolute alcohol, 20 cents per wine-gallon;

All such wines containing more than 24 per centum of absolute alcohol by volume shall be classed as distilled spirits and shall pay tax accordingly.

Any such wines may, under such regulations as the Secretary may prescribe, be sold or removed tax free for the manufacture of vinegar, or for the production of dealcoholized wines containing less than one-half of 1 per centum of alcohol by volume.

The taxes imposed by this subparagraph (A) of this paragraph shall not apply to dealcoholized wines containing less than one-half of 1 per centum of alcohol by volume; nor, subject to regulations prescribed by the Commissioner, with the approval of the Secretary, to wines produced for the family use of the duly registered producer thereof and not sold or otherwise removed from the place of manufacture and not exceeding in any case two hundred gallons per year.

(B) CROSS REFERENCE.—

For transfer of powers and duties of Commissioner and his agents, see Section 3170.

(2) SPARKLING WINES, LIQUEURS, AND CORDIALS.—Upon the following articles which are produced in or imported into the United States, after June 26, 1936, or which on the day after such date are on any winery premises or other bonded premises or in transit thereto or at any customhouse, there shall be levied, collected, and paid, in lieu of the internal-revenue taxes imposed thereon by law prior to such date, taxes at rates as follows, when sold, or removed for consumption or sale:

On each bottle or other container of champagne or sparkling wine, 2½ cents on each one-half pint or fraction thereof;

On each bottle or other container of artificially carbonated wine, 1¼ cents on each one-pint or fraction thereof;

On each bottle or other container of liqueurs, cordials, or similar compounds, by whatever name sold or offered for sale, containing sweet wine, citrus-fruit wine, peach wine, cherry wine, berry wine, apricot wine, prune wine, plum wine, pear wine, or apple wine, fortified, respectively, with grape brandy, citrus-fruit brandy, peach brandy, cherry brandy, berry brandy, apricot brandy, prune brandy, plum brandy, pear brandy, or apple brandy, 1¼ cents on each one-half pint or fraction thereof;

Any of the foregoing articles containing more than 24 per centum of absolute alcohol by volume (except vermouth, liqueurs, cordials, and similar compounds made in rectifying plants and containing tax-paid sweet wine, citrus-fruit wine, peach wine, cherry wine, berry wine, apricot wine, prune wine, plum wine, pear wine, or apple wine, fortified, respectively, with grape brandy, citrus-fruit brandy, peach brandy, cherry brandy, berry brandy, apricot brandy, prune brandy, plum brandy, pear brandy, or apple brandy) shall be classed as distilled spirits and shall be taxed accordingly.

The Commissioner, subject to regulations prescribed by the Secretary, is authorized to remit, refund, and pay back the amount of all taxes on such liqueurs, cordials, and similar compounds paid by or assessed against rectifiers at the distilled spirits rate prior to June 26, 1936.

(3) CROSS REFERENCES.—

For tax on the following see the sections enumerated below;
Rectified wines, section 2800 (a) (5);
Wine spirits or grape brandy used in fortifying, section 3031;
Withdrawal of wine spirits for fortification, section 3033.

(b) PAYMENT.—

(1) STAMP.—The taxes imposed by paragraphs (1) and (2) of subsection (a) shall be paid by stamp on removal of the wines from the customhouse, winery, or other bonded place of storage for consumption or sale.

The Commissioner may, under regulations prescribed by him with the approval of the Secretary, issue stamps for restamping packages of wines which have been duly stamped but from which the stamps have been lost or destroyed by unavoidable accident.

(2) ASSESSMENT.—The collection of the tax on imported still wines, including vermouth, and sparkling wines, including champagne, and on imported liqueurs, cordials, and similar compounds, may be made within the discretion of the Commissioner, with the approval of the Secretary, by assessment instead of by stamps.

(3) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3031. TAX ON BRANDY OR SPIRITS USED IN FORTIFICATION.

(a) RATE AND APPLICATION OF TAX.—Under such regulations and official supervision and upon the giving of such notices and entries as the Commissioner, with the approval of the Secretary, may prescribe, any producer of wines defined under the provisions of this subchapter may withdraw from any fruit distillery or internal revenue bonded warehouse grape brandy, or wine spirits, for the fortification of such wines on the premises where actually made, and any producer of citrus-fruit wines, peach wines, cherry wines, berry wines, apricot wines, prune wines, plum wines, pear wines, or apple wines may similarly withdraw citrus-fruit brandy, peach brandy,

cherry brandy, berry brandy, apricot brandy, prune brandy, plum brandy, pear brandy, or apple brandy for the fortification, respectively, of citrus-fruit wines, peach wines, cherry wines, berry wines, apricot wines, prune wines, plum wines, pear wines, or apple wines, on the premises where actually made: *Provided*, That after June 26, 1936, there shall be levied and assessed against the producer of such wines or citrus-fruit wines, peach wines, cherry wines, berry wines, apricot wines, prune wines, plum wines, pear wines, or apple wines (in lieu of the internal-revenue tax now imposed thereon by law) a tax of 10 cents per proof-gallon of grape brandy, citrus-fruit brandy, peach brandy, cherry brandy, berry brandy, apricot brandy, prune brandy, plum brandy, pear brandy, apple brandy, or wine spirits, whenever withdrawn and so used by him after such date in the fortification of such wines or citrus-fruit wines or peach wines, cherry wines, berry wines, apricot wines, prune wines, plum wines, pear wines, or apple wines during the preceding month, which assessment shall be paid by him within eighteen months from the date of notice thereof: *Provided*, That every producer of wine who withdraws such brandy, citrus-fruit brandy, peach brandy, cherry brandy, berry brandy, apricot brandy, prune brandy, plum brandy, pear brandy, apple brandy, or wine spirits shall give bond to fully cover at all times prior to payment of the assessment the amount of tax due on such brandy, citrus-fruit brandy, peach brandy, cherry brandy, berry brandy, apricot brandy, prune brandy, plum brandy, pear brandy, apple brandy, or wine spirits, which bond shall be in such form as the Commissioner, with the approval of the Secretary, shall, by regulations, prescribe. When such wines are destroyed or sold or removed for the manufacture of vinegar, or the production of dealcoholized wines containing less than one-half of 1 per centum of alcohol by volume, the tax under this section on such grape brandy, citrus-fruit brandy, peach brandy, cherry brandy, berry brandy, apricot brandy, prune brandy, plum brandy, pear brandy, apple brandy, or wine spirits shall, under such regulations as the Secretary may prescribe, be abated or refunded.

Nothing contained in this section shall be construed as exempting any wines, citrus-fruit wines, peach wines, cherry wines, berry wines, apricot wines, prune wines, plum wines, pear wines, apple wines, cordials, liqueurs, or similar compounds from the payment of any tax provided for in this subchapter.

Any such wines, or citrus-fruit wines, or peach wines, cherry wines, berry wines, apricot wines, prune wines, plum wines, pear wines, apple wines, may, under such regulations as the Secretary may prescribe, be sold or removed tax free for the manufacture of vinegar, or for the production of dealcoholized wines containing less than one-half of 1 per centum of alcohol by volume.

The taxes imposed by this section shall not apply to dealcoholized wines containing less than one-half of 1 per centum of alcohol by volume.

(b) LOSS ALLOWANCES.—

(1) LEAKAGE, EVAPORATION, ETC.—The Commissioner, under rules and regulations to be by him prescribed with the approval of the Secretary, upon the presentation of proof to his satisfaction of the loss by leakage, evaporation, theft, or otherwise of brandy or fruit spirits, intended for the fortification of wine, from storage tanks in bonded warehouses or from steel drums filled therefrom while such drums are in such warehouse, and in the fortification room of a bonded winery, not occurring as the result of any negligence, connivance, collusion, or fraud on the part of the winemaker or his agents, is hereby authorized to remit or refund the taxes assessed or paid upon such lost brandy or fruit spirits: *Provided, however*,

That such remission or refund shall be allowed only to the extent that the distiller or winemaker is not indemnified or recompensed for such loss.

(2) CROSS REFERENCES.—

For loss allowance in case of grape brandy withdrawn for use in the fortification of sweet wines, and which, prior to such use, is accidentally destroyed by fire or other casualty, while stored in the fortifying room on the winery premises, see section 2901 (b).

For loss allowance in case of spirits in possession of common carriers, see section 2901 (c).

SEC. 3032. FORTIFICATION OF WINES.

(a) PURE SWEET WINES.—Any producer of pure sweet wines may use in the preparation of such sweet wines, under such regulations and after the filing of such notices and bonds, together with the keeping of such records and the rendition of such reports as to materials and products as the Commissioner, with the approval of the Secretary, may prescribe, wine spirits produced by any duly authorized distiller, and the Commissioner, in determining the liability of any distiller of wine spirits to assessment under section 2846, is authorized to allow such distiller credit in his computations for the wine spirits withdrawn to be used in fortifying sweet wines under this chapter.

(b) CITRUS-FRUIT WINES.—The provisions of this section shall apply to the use of citrus-fruit brandy in the preparation of fortified citrus-fruit wines in the same manner and to the same extent as such provisions apply to the use of wine spirits in the fortification of sweet wines, except that no brandy (other than a citrus-fruit brandy) may be used in the fortification of citrus-fruit wine and a citrus-fruit brandy prepared from one kind of citrus fruit may not be used for the fortification of a citrus-fruit wine prepared from another kind of citrus fruit or for the fortification of a wine prepared from any fruit other than citrus fruit.

(c) FRUIT WINES.—The provisions of this section shall apply to the use of peach brandy, cherry brandy, berry brandy, apricot brandy, prune brandy, plum brandy, pear brandy, and apple brandy, in the preparation, respectively, of fortified peach wines, cherry wines, berry wines, apricot wines, prune wines, plum wines, pear wines, and apple wines, in the same manner and to the same extent as such provisions apply to the use of wine spirits in the fortification of sweet wines; except that (1) no brandy other than peach brandy may be used in the fortification of peach wine and peach brandy may not be used for the fortification of any wine other than peach wine, (2) no brandy other than cherry brandy may be used in the fortification of cherry wine and cherry brandy may not be used for the fortification of any wine other than cherry wine, (3) no brandy other than berry brandy may be used in the fortification of berry wine and a berry brandy prepared from one kind of berry may not be used for the fortification of a berry wine prepared from another kind of berry or for the fortification of any wine other than berry wine, (4) no brandy other than apricot brandy may be used in the fortification of apricot wine and apricot brandy may not be used for the fortification of any wine other than apricot wine, (5) no brandy other than prune brandy may be used in the fortification of prune wine and prune brandy may not be used for the fortification of any wine other than prune wine, (6) no brandy other than pear brandy may be used in the fortification of pear wine and pear brandy may not be used for the fortification of any wine other than pear wine, and (7) no brandy other than plum brandy may be used in the fortification of plum wine and plum brandy may not be used for the fortification of any wine other than plum wine and (8) no brandy other than apple brandy may be used in the fortification of apple wine and apple brandy may not be used for the fortification of any wine other than apple wine.

(d) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3033. WITHDRAWAL OF WINE SPIRITS.

(a) REGULATIONS.—Under such regulations and official supervision, and upon the execution of such entries and the giving of such bonds, bills of lading, and other security as the Commissioner, with the approval of the Secretary, shall prescribe, any producer of pure sweet wines as defined by section 3036 (a) may withdraw wine spirits from any internal revenue bonded warehouse in original packages or from any registered distillery in any quantity not less than eighty wine gallons, and may use so much of the same as may be required by him under such regulations, and after the filing of such notices and bonds and the keeping of such records and the rendition of such reports as to materials and products and the disposition of the same as the Commissioner, with the approval of the Secretary, shall prescribe in fortifying the pure sweet wines made by him, and for no other purpose, in accordance with the limitations and provisions of this section; and the Commissioner, with the approval of the Secretary, is authorized whenever he shall deem it to be necessary for the prevention of violations of this law to prescribe that wine spirits withdrawn under this section shall not be used to fortify wines except at a certain distance prescribed by him from any distillery, rectifying house, winery, or other establishment used for producing or storing distilled spirits, or for making or storing wines other than wines which are so fortified, and that in the building in which such fortification of wines is practiced no wines or spirits other than those permitted by this regulation shall be stored in any room or part of the building in which fortification of wines is practiced.

(b) CROSS REFERENCES.—

For loss allowance in case of grape brandy withdrawn for use and fortification of sweet wines and accidentally destroyed prior to such use, while stored in the fortifying room on the winery premises, see section 2901 (b).

For loss allowance in case of spirits in possession of common carriers, see section 2901 (c).

(c) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3034. SUPERVISION OF FORTIFICATION OF SWEET WINE.

(a) USE.—The use of wine spirits for the fortification of sweet wines under this subchapter shall be under the immediate supervision of an officer of internal revenue, who shall make returns describing the kinds and quantities of wine so fortified, and shall affix such stamps and seals to the packages containing such wines as may be prescribed by the Commissioner, with the approval of the Secretary; and the Commissioner, with the approval of the Secretary, shall provide by regulations the time within which wines so fortified with the wine spirits so withdrawn may be subject to inspection, and for final accounting for the use of such wine spirits and for rewarehousing or for payment of the tax on any portion of such wine spirits which remain not used in fortifying pure sweet wines.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3035. POWER OF SECRETARY TO AUTHORIZE AMELIORATION AND FORTIFICATION OF WINE WITHOUT SUPERVISION.

The Secretary may, by regulations, authorize the amelioration of wine by the winemaker and the fortification of wine, without supervision by any officer of the United States, whenever he determines that such authorization may be made without danger to the revenue.

SEC. 3036. WINE SPIRITS AND PURE SWEET WINE.

(a) DEFINITIONS.—The wine spirits mentioned in section 3032 (a) is the product resulting from the distillation of fermented grape juice, to which water may have been added prior to, during, or after fermentation, for the sole purpose of facilitating the fermentation and economical distillation thereof, and shall be held to include the product from grapes or their residues commonly known as grape brandy, and shall include commercial grape brandy which may have been colored with burnt sugar or caramel; and the pure sweet wine which may be fortified with wine spirits under the provisions of this chapter is fermented or partially fermented grape juice only, with the usual cellar treatment, and shall contain no other substance whatever introduced before, at the time of, or after fermentation, except as herein expressly provided: *Provided*, That the addition of pure boiled or condensed grape must or pure crystallized cane or beet sugar, or pure dextrose sugar containing, respectively, not less than 95 per centum of actual sugar, calculated on a dry basis, or water, or any or all of them, to the pure grape juice before fermentation, or to the fermented product of such grape juice, or to both, prior to the fortification herein provided for, either for the purpose of perfecting sweet wines according to commercial standards or for mechanical purposes, shall not be excluded by the definition of pure sweet wine aforesaid: *Provided, however*, That the cane or beet sugar, or pure dextrose sugar added for sweetening purposes shall not be in excess of 11 per centum of the weight of the wine to be fortified: *And provided further*, That the addition of water herein authorized shall be under such regulations as the Commissioner, with the approval of the Secretary, may from time to time prescribe: *Provided, however*, That records kept in accordance with such regulations as to the percentage of saccharine, acid, alcoholic, and added water content of the wine offered for fortification shall be open to inspection by any official of the Department of Agriculture thereto duly authorized by the Secretary of Agriculture; but in no case shall such wines to which water has been added be eligible for fortification under the provisions of this chapter, where the same, after fermentation and before fortification, have an alcoholic strength of less than 5 per centum of their volume.

(b) APPLICATION TO CITRUS-FRUIT WINES.—The provisions of this section shall apply to the use of citrus-fruit brandy in the preparation of fortified citrus-fruit wines in the same manner and to the same extent as such provisions apply to the use of wine spirits in the fortification of sweet wines, except that no brandy (other than a citrus-fruit brandy) may be used in the fortification of citrus-fruit wine and a citrus-fruit brandy prepared from one kind of citrus fruit may not be used for the fortification of a citrus-fruit wine prepared from another kind of citrus fruit or for the fortification of a wine prepared from any fruit other than citrus fruit.

(c) APPLICATION TO FRUIT WINES.—The provisions of this section shall apply to the use of peach brandy, cherry brandy, berry brandy, apricot brandy, prune brandy, plum brandy, pear brandy, and apple brandy, in the preparation, respectively, of fortified peach wines, cherry wines, berry wines, apricot wines, prune wines, plum wines, pear wines, and apple wines, in the same manner and to the same extent as such provisions apply to the use of wine spirits in the fortification of sweet wines; except that (1) no brandy other than peach brandy may be used in the fortification of peach wine and peach brandy may not be used for the fortification of any wine other than peach wine, (2) no brandy other than cherry brandy may be used in the fortification of cherry wine and cherry brandy may not be used for the fortification of any wine other than cherry wine, (3) no brandy other than berry brandy may be used in the fortification of berry wine and a berry brandy prepared from one

kind of berry may not be used for the fortification of a berry wine prepared from another kind of berry or for the fortification of any wine other than berry wine, (4) no brandy other than apricot brandy may be used in the fortification of apricot wine and apricot brandy may not be used for the fortification of any wine other than apricot wine, (5) no brandy other than prune brandy may be used in the fortification of prune wine and prune brandy may not be used for the fortification of any wine other than prune wine, (6) no brandy other than pear brandy may be used in the fortification of pear wine and pear brandy may not be used for the fortification of any wine other than pear wine, and (7) no brandy other than plum brandy may be used in the fortification of plum wine and plum brandy may not be used for the fortification of any wine other than plum wine, and (8) no brandy other than apple brandy may be used in the fortification of apple wine and apple brandy may not be used for the fortification of any wine other than apple wine.

SEC. 3037. REMOVAL OF DOMESTIC WINES FREE OF TAX.

(a) REGULATIONS.—Under such regulations and upon the execution of such notices, entries, bonds, and other security as the Commissioner, with the approval of the Secretary, may prescribe, domestic wines subject to the taxes imposed by section 3030(a), may be removed from the winery where produced, free of tax, for storage on other bonded winery or bonded storeroom premises, or from such premises to other such bonded premises, or for exportation from the United States or for use as distilling material at any regularly registered distillery or industrial alcohol plant: *Provided*, however, That the distiller using any such wine as distilling material shall, subject to the provisions of section 2846, be held to pay the tax on the product of such wines as will include both the alcoholic strength therein produced by fermentation and that obtained from the brandy or wine spirits added to such wines at the time of fortification: *Provided further*, That suitable samples of brandy or fruit spirits may be withdrawn under rules and regulations to be prescribed by the Commissioner, subject to the approval of the Secretary, which samples shall be tax-free if for laboratory analysis and tax-paid if for any other use: *Provided further*, That the Commissioner, under rules and regulations to be by him prescribed subject to the approval of the Secretary, shall remit or refund all fortification taxes assessed or paid upon the quantity of fortifying spirits contained in wines exported, or which have become unfit for use as wine and are used as distilling material.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3038. GRAPE AND LIKE WINES FOR INDUSTRIAL USE.

(a) REGULATIONS.—Under regulations prescribed by the Commissioner with the approval of the Secretary, it shall be lawful to produce grape wines, citrus-fruit wines, peach wines, cherry wines, berry wines, apricot wines, prune wines, plum wines, pear wines, and apple wines on bonded winery premises by the usual method, and to transport and use the same, and like wines heretofore produced and now stored on bonded winery premises, as distilling material in any fruit-brandy distillery or industrial-alcohol plant.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3039. ALLOWANCE FOR LOSS DURING STORAGE OR CELLAR TREATMENT.

(a) POWER OF COMMISSIONER.—The Commissioner, with the approval of the Secretary, is authorized to make such allowances for

unavoidable loss of wines while on storage or during cellar treatment as in his judgment may be just and proper.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3040. REQUIREMENTS ON PRODUCERS.

(a) NOTICE, BONDS, AND STAMPS.—Every person producing after February 24, 1919, or having in his possession or under his control on February 24, 1919, any wines subject to the tax imposed in paragraphs (1) and (2) of section 3030(a) shall file such notice, describing the premises on which such wines are produced or stored; shall execute a bond in such form; shall make such inventories under oath; and shall, prior to sale or removal for consumption, affix to each cask, barrel, bottle, or other immediate container, and to each case or other shipping container, of such wine, such marks, labels, or stamps as the Commissioner, with the approval of the Secretary, may from time to time prescribe as to each; and the premises described in such notice shall, for the purpose of this chapter, be regarded as bonded premises.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3041. SPIRIT METERS, LOCKS, AND SEALS.

(a) REGULATIONS.—The Commissioner, by regulations to be approved by the Secretary, may require the use at each fruit distillery of such spirit meters, and such locks and seals to be affixed to fermenters, tanks, or other vessels and to such pipe connections as may in his judgment be necessary or expedient.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3042. ASSIGNMENT OF STOREKEEPER-GAUGERS TO FRUIT DISTILLERIES AND WINERIES.

(a) POWER OF COMMISSIONER.—The Commissioner is authorized to assign to any fruit distillery and to each winery where wines are to be fortified such number of storekeeper-gaugers as may be necessary for the proper supervision of the manufacture of brandy or the making or fortifying of wines subject to tax imposed by this chapter.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3043. PENALTIES AND FORFEITURES.

(a) OFFENSES.—Whoever evades or attempts to evade any tax imposed by sections 3030 or 3031, or any requirement of this subchapter, or regulation issued pursuant thereto, or whoever, otherwise than as provided in this subchapter, recovers or attempts to recover any spirits from domestic or imported wine, shall, on conviction, be punished for each such offense by a fine of not exceeding $5,000, or imprisonment for not more than five years, or both, and in addition thereto by a penalty of double the tax evaded, or attempted to be evaded, to be assessed and collected in the same manner as taxes are assessed and collected, and all wines, spirits, liqueurs, cordials, or similar compounds as to which such violation occurs shall be forfeited to the United States. But the provisions of this section and of section 3254 (g) relating to rectification, or other internal revenue laws of the United States, shall not be held to apply to or prohibit the mixing or blending of wines subject to tax under the provisions of sections 3030 or 3031, with each other or with other wines for the sole purpose of perfecting such wines according to commercial standards: *Provided*, That nothing herein contained shall be con-

strued as prohibiting the use of tax-paid grain or other ethyl alcohol in the fortification of sweet wines as defined in sections 3036 and 3044.

(b) CROSS REFERENCES.—

For forfeiture of wines in case special tax has not been paid or business of distiller is carried on without bond or with intent to defraud the Government of tax, see sections 2833 and 3253.

For penalty and forfeiture imposed upon rectifiers and wholesale liquor dealers for committing offenses not specifically covered by law, see section 2806 (g).

For penalties and forfeitures for other violations, see section 3173.

SEC. 3044. DEFINITIONS.

(a) NATURAL WINE.—Natural wine within the meaning of this subchapter shall be deemed to be the product made from the normal alcoholic fermentation of the juice of sound, ripe grapes, without addition or abstraction, except such as may occur in the usual cellar treatment of clarifying and aging.

(b) WINE.—The product made from the juice of sound, ripe grapes by complete fermentation of the must under proper cellar treatment and corrected by the addition (under the supervision of a storekeeper-gauger) of a solution of water and pure cane, beet, or dextrose sugar (containing, respectively, not less than 95 per centum of actual sugar, calculated on a dry basis) to the must or to the wine, to correct natural deficiencies, when such addition shall not increase the volume of the resultant product more than 35 per centum, and the resultant product does not contain less than five parts per thousand of acid before fermentation and not more than 13 per centum of alcohol after complete fermentation, shall be deemed to be wine within the meaning of this subchapter, and may be labeled, transported, and sold as "wine," qualified by the name of the locality where produced, and may be further qualified by the name of its own particular type or variety.

(c) SWEET WINE.—Wine as defined in this section may be sweetened with cane sugar or beet sugar or pure condensed grape must and fortified under the provisions of this subchapter, and wines so sweetened or fortified shall be considered sweet wine within the meaning of this subchapter.

(d) PURE SWEET WINE.—

For definition of pure sweet wine, see section 3036 (a).

SEC. 3045. APPLICATION OF NATURAL WINE PROVISIONS TO CITRUS-FRUIT WINES AND OTHER LIKE WINES.

The provisions of the internal revenue laws applicable to natural wine shall apply in the same manner and to the same extent to citrus-fruit wines, peach wines, cherry wines, berry wines, apricot wines, prune wines, plum wines, pear wines, and apple wines, which are the products, respectively, of normal alcoholic fermentation of the juice of sound ripe (1) citrus-fruit (except lemons and limes), (2) peaches, (3) cherries, (4) berries, (5) apricots, (6) prunes, (7) plums, (8) pears, (9) apples, with or without the addition of dry cane, beet, or dextrose sugar (containing, respectively, not less than 95 per centum of actual sugar, calculated on a dry basis) for the purpose of perfecting the product according to standards, but without the addition or abstraction of other substances, except as may occur in the usual cellar treatment of clarifying or aging.

SUBCHAPTER C—INDUSTRIAL ALCOHOL

Part I—Denaturation

SEC. 3070. WITHDRAWAL FROM BOND TAX FREE.

(a) FOR INDUSTRIAL USE.—Domestic alcohol of such degree of proof as may be prescribed by the Commissioner, and approved by the Secretary, may be withdrawn from bond without the payment of internal

revenue tax, for use in the arts and industries, and for fuel, light, and power, provided said alcohol shall have been mixed in the presence and under the direction of an authorized Government officer, after withdrawal from the distillery warehouse, with methyl alcohol or other denaturing material or materials, or admixture of the same, suitable to the use for which the alcohol is withdrawn, but which destroys its character as a beverage and renders it unfit for liquid medicinal purposes; such denaturing to be done upon the application of any registered distillery in denaturing bonded warehouses specially designated or set apart for denaturing purposes only, and under conditions prescribed by the Commissioner with the approval of the Secretary.

The character and quantity of the said denaturing material and the conditions upon which said alcohol may be withdrawn free of tax shall be prescribed by the Commissioner, who shall, with the approval of the Secretary, make all necessary regulations for carrying into effect the provisions of this subsection.

Distillers, manufacturers, dealers and all other persons furnishing, handling or using alcohol withdrawn from bond under the provisions of this section shall keep such books and records, execute such bonds and render such returns as the Commissioner, with the approval of the Secretary, may by regulation require. Such books and records shall be open at all times to the inspection of any internal revenue officer or agent.

(b) FOR USE IN MANUFACTURE OF CHEMICALS.—Notwithstanding anything contained in subsection (a), domestic alcohol when suitably denatured may be withdrawn from bond without the payment of internal revenue tax and used in the manufacture of ether and chloroform and other definite chemical substances where said alcohol is changed into some other chemical substance and does not appear in the finished product as alcohol. Rum of not less than one hundred and fifty degrees proof may be withdrawn, for denaturation only, in accordance with the provisions of subsection (a).

(c) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3071. DRAWING OFF AND TRANSFER OF ALCOHOL FOR DENATURATION.

For provisions relating to the drawing off and transfer of alcohol for denaturation, see section 3108 (a).

SEC. 3072. UNLAWFUL USE OR CONCEALMENT OF DENATURED ALCOHOL.

Any person who withdraws alcohol free of tax under the provisions of section 3070 (a) and regulations made in pursuance thereof, and who removes or conceals same, or is concerned in removing, depositing or concealing same for the purpose of preventing the same from being denatured under governmental supervision, and any person who uses alcohol withdrawn from bond under the provisions of said section for manuacturing any beverage or liquid medicinal preparation, or knowingly sells any beverage or liquid medicinal preparation made in whole or in part from such alcohol, or knowingly violates any of the provisions of section 3070 (a) or 3073, or (except as provided in section 3073) who shall recover or attempt to recover by redistillation or by any other process or means, any alcohol rendered unfit for beverage or liquid medicinal purposes under the provisions of section 3070 (a), or who knowingly uses, sells, conceals, or otherwise disposes of alcohol so recovered or redistilled, shall on conviction of each offense be fined not more than $5,000, or be imprisoned not more than five years, or both, and shall, in addition, forfeit to the United States all personal property used in connection with his business, together with the buildings and lots or parcels of ground

constituting the premises on which said unlawful acts are performed or permitted to be performed.

SEC. 3073. RECOVERY OF SPIRITS FOR REUSE IN MANUFACTURE.

(a) REGULATIONS.—Manufacturers employing processes in which alcohol, used free of tax under the provisions of section 3070 (a), is expressed or evaporated from the articles manufactured, shall be permitted to recover such alcohol and to have such alcohol restored to a condition suitable solely for reuse in manufacturing processes under such regulations as the Commissioner, with the approval of the Secretary, shall prescribe.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3074. SALE OF ABANDONED SPIRITS FOR DENATURATION WITHOUT COLLECTION OF TAX.

(a) REGULATIONS.—Notwithstanding the provisions of section 2805 (b) of this chapter, any distilled spirits abandoned to the United States may be sold, in such cases as the Commissioner may by regulation provide, to the proprietor of any industrial alcohol plant for denaturation, or redistillation and denaturation, without the payment of the internal-revenue tax thereon.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

Part II—Industrial Alcohol Plants

SEC. 3100. ESTABLISHMENT OF INDUSTRIAL ALCOHOL PLANTS.

(a) REQUIREMENTS.—Any person establishing a plant for the production of industrial alcohol shall, before operation, make application to the commissioner for registration of his plant, file bond, and receive permit for the operation of such plant.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3101. ESTABLISHMENT OF INDUSTRIAL ALCOHOL WAREHOUSES.

(a) REQUIREMENTS.—Warehouses for the storage and distribution of alcohol may be established upon filing of application and bond, and issuance of permit at such places, either in connection with the manufacturing plant or elsewhere, as the Commissioner may determine; and the entry and storage of alcohol therein, and the withdrawals of alcohol therefrom shall be made in such containers and by such means as the Commissioner by regulation may prescribe. Permanent tanks and other structures located on the industrial alcohol plant premises and approved by the Commissioner, shall be deemed to be warehouses within the meaning of this section.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3102. ESTABLISHMENT OF DENATURING PLANTS.

Upon the filing of application and bond and issuance of permit denaturing plants may be established upon the premises of any industrial alcohol plant, or elsewhere, and shall be used exclusively for the denaturation of alcohol by the admixture of such denaturing materials as shall render the alcohol, or any compound in which it is authorized to be used, unfit for use as an intoxicating beverage.

SEC. 3103. EXEMPTION OF INDUSTRIAL ALCOHOL PLANTS AND WAREHOUSES FROM CERTAIN LAWS.

Industrial alcohol plants and bonded warehouses established under the provisions of this part shall be exempt from the provisions of sections 3154, 3244, 3258, 3259, 3260, 3263, 3264, 3266, 3267,

3268, 3269, 3271, 3273, 3274, 3275, 3279, 3280, 3283, 3284, 3285, 3286, 3287, 3288, 3289, 3290, 3291, 3292, 3293, 3294, 3295, 3302, 3303, 3307, 3308, 3309, 3310, 3311, 3312, 3313, 3314, and 3327 of the Revised Statutes; sections 48 to 60, inclusive, and sections 62 and 67 of the Act of August 27, 1894 (Twenty-eighth Statutes, pages 563 to 568), as such sections existed on October 28, 1919, and from such other provisions of laws existing on October 28, 1919, relating to distilleries and bonded warehouses as may, by regulations, be declared inapplicable to industrial alcohol plants and bonded warehouses established under this subchapter.

Regulations may be made embodying any provision of the sections above enumerated.

SEC. 3104. WITHDRAWAL OF FERMENTED LIQUORS TO INDUSTRIAL ALCOHOL PLANTS.

(a) REQUIREMENTS.—Fermented liquors may be conveyed without payment of tax from the brewery premises where produced to a contiguous industrial alcohol plant, to be used as distilling material, and the residue from such distillation, containing less than one-half of 1 per centum of alcohol by volume, which is to be used in making beverages, may be manipulated by cooling, flavoring, carbonating, settling, and filtering on the distillery premises or elsewhere.

The removal of the taxable fermented liquor from the brewery to the distillery and the operation of the distillery and removal of the residue therefrom shall be under the supervision of such officer or officers as the Commissioner shall deem proper, and the Commissioner, with the approval of the Secretary, is hereby authorized to make such regulations from time to time as may be necessary to give force and effect to this section and to safeguard the revenue.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3105. REGULATIONS FOR ESTABLISHING, BONDING, AND OPERATION OF PLANTS AND WAREHOUSES.

(a) REQUIREMENTS.—The Commissioner shall from time to time issue regulations respecting the establishment, bonding, and operation of industrial alcohol plants, denaturing plants, and bonded warehouses authorized herein, and the distribution, sale, export, and use of alcohol which may be necessary, advisable, or proper, to secure the revenue, to prevent diversion of the alcohol to illegal uses, and to place the nonbeverage alcohol industry and other industries using such alcohol as a chemical raw material or for other lawful purpose upon the highest possible plane of scientific and commercial efficiency consistent with the interests of the Government, and which shall insure an ample supply of such alcohol and promote its use in scientific research and the development of fuels, dyes, and other lawful products.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3106. PRODUCTION, USE, OR SALE OF ALCOHOL.

(a) REQUIREMENTS.—Alcohol may be produced at any industrial alcohol plant established under the provisions of this part, from any raw materials or by any processes suitable for the production of alcohol, and, under regulations, may be used at any industrial alcohol plant or bonded warehouse or sold or disposed of for any lawful purpose, as in this part provided.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3107. TRANSFER OF ALCOHOL TO OTHER PLANTS OR WAREHOUSES.

Alcohol produced at any registered industrial alcohol plant or stored in any bonded warehouse may be transferred under regulations to any other registered industrial alcohol plant or bonded warehouse for any lawful purpose.

SEC. 3108. WITHDRAWAL OF ALCOHOL TAX-FREE.

(a) FOR DENATURATION.—Alcohol produced at any industrial alcohol plant or stored in any bonded warehouse may, under regulations, be withdrawn tax free as provided by existing law from such plant or warehouse for transfer to any denaturing plant for denaturation, or may, under regulations, before or after denaturation, be removed from any such plant or warehouse for any lawful tax-free purpose.

(b) FOR USE BY FEDERAL OR STATE AGENCIES.—Alcohol may be withdrawn, under regulations, from any industrial plant or bonded warehouse tax free by the United States or any governmental agency thereof, or by the several States and Territories or any municipal subdivision thereof or by the District of Columbia.

(c) FOR USE IN RESEARCH, HOSPITALS, OR CHARITABLE CLINICS.—Alcohol may be withdrawn, under regulations, from any industrial plant or bonded warehouse tax free for the use of any scientific university or college of learning, any laboratory for use exclusively in scientific research, or for use in any hospital or sanitarium, or for the use of any clinic operated for charity and not for profit, including use in the compounding of bona fide medicines for treatment outside of such clinics of patients thereof, but not for sale.

(d) CONDITIONS OF EXEMPTIONS.—But any person permitted to obtain alcohol tax free, except the United States and the several States and Territories and subdivisions thereof, and the District of Columbia, shall first apply for and secure a permit to purchase the same and give the bonds prescribed under section 3114, but alcohol withdrawn for nonbeverage purposes for use of the United States and the several States, Territories and subdivisions thereof, and the District of Columbia may be purchased and withdrawn subject only to such regulations as may be prescribed.

(e) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3109. SALE OF DENATURED ALCOHOL TAX-FREE.

Alcohol lawfully denatured may, under regulations, be sold free of tax either for domestic use or for export.

SEC. 3110. DISTILLED VINEGAR.

Nothing in this part shall be construed to require manufacturers of distilled vinegar to raise the proof of any alcohol used in such manufacture or to denature the same.

SEC. 3111. TAXABILITY OF DENATURED ALCOHOL OR ARTICLES PRODUCED, TRANSFERRED, USED, OR SOLD IN VIOLATION OF LAW OR REGULATIONS.

Any person who shall produce, withdraw, sell, transport, or use denatured alcohol, denatured rum, or articles in violation of laws or regulations now or hereafter in force pertaining thereto, and all such denatured alcohol, denatured rum, or articles shall be subject to all provisions of law pertaining to alcohol that is not denatured, including those requiring the payment of tax thereon; and the person so producing, withdrawing, selling, transporting, or using the denatured alcohol, denatured rum, or articles shall be required to pay such tax.

SEC. 3112. TAX ON ALCOHOL.

(a) TIME OF ATTACHMENT AND LIEN.—Any tax imposed by law upon alcohol shall attach to such alcohol as soon as it is in existence as such, and all proprietors of industrial alcohol plants and bonded warehouses shall be jointly and severally liable for any and all taxes on any and all alcohol produced thereat or stored therein. Such taxes shall be a first lien on such alcohol and the premises and plant in which such alcohol is produced or stored, together with all improvements and appurtenances thereunto belonging or in any wise appertaining.

(b) COLLECTION.—Any tax payable upon alcohol under existing law may be collected either by assessment or by stamp as regulations shall provide; and if by stamp, regulations shall issue prescribing the kind of stamp to be used and the manner of affixing and canceling the same.

SEC. 3113. REFUND OF TAX ON ALCOHOL FOR LOSS OR LEAKAGE.

(a) REQUIREMENTS.—Whenever any alcohol is lost by evaporation or other shrinkage, leakage, casualty, or unavoidable cause during distillation, redistillation, denaturation, withdrawal, piping, shipment, warehousing, storage, packing, transfer, or recovery, of any such alcohol the Commissioner may remit or refund any tax incurred under existing law upon such alcohol, provided he is satisfied that the alcohol has not been diverted to any illegal use: *Provided, also*, That such allowance shall not be granted if the person claiming same is indemnified against such loss by a valid claim of insurance.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3114. ALCOHOL PERMITS.

(a) REQUIREMENTS.—No one shall manufacture alcohol, procure it tax free, denature it, deal in or use specially denatured alcohol, recover completely or specially denatured alcohol, or transport specially denatured or tax-free alcohol, without first obtaining a permit from the Commissioner so to do. All such permits may be issued for one year, and shall expire on the 31st day of December next succeeding the issuance thereof: *Provided*, That the Commissioner may without formal application or new bond extend any permit granted under this part after August 31 in any year to December 31 of the succeeding year.

Permits to purchase or procure specially denatured alcohol and tax-free alcohol shall be issued in such terms and under such conditions as the Commissioner shall by regulation prescribe.

No permit shall be issued to any person who, within one year prior to the application therefor or issuance thereof, shall not in good faith have conformed to the provisions of this part, or shall have violated the terms of any permit issued under this part, or made any false statement in the application therefor, or willfully failed to disclose any information required by regulation to be furnished, or violated any law of the United States relating to intoxicating liquor, or willfully violated any law of any State, Territory, or possession of the United States or of the District of Columbia relating to intoxicating liquor.

Every permit shall be in writing, dated when issued, and signed by the Commissioner or his authorized agent. It shall give the name and address of the person to whom it is issued and shall designate and limit the acts that are permitted and the time when and place where such acts may be performed. No permit shall be issued until a verified, written application shall have been made therefor, setting forth the qualification of the applicant and the purpose for which the alcohol or denatured alcohol is to be used.

The Commissioner may prescribe the form of all permits and applications and the facts to be set forth therein. Before any permit is granted, the Commissioner may require a bond in such form and amount as he may prescribe to insure compliance with the terms of the permit and the provisions of this part. In the event of the refusal by the Commissioner of any application for a permit, the applicant may have a review of his decision before a court of equity in the manner provided in subsection (c).

(b) VIOLATION.—If at any time there shall be filed with the Commissioner a complaint under oath setting forth facts showing, or if the Commissioner has reason to believe, that any person who has a permit is not in good faith conforming to the provisions of this part, or has violated the terms of such permit, or has made any false statement in the application therefor, or has willfully failed to disclose any information required by regulation to be furnished, or has violated any law of the United States or of any State, Territory, or possession of the United States or of the District of Columbia relating to intoxicating liquor, the Commissioner or his agent shall immediately issue an order citing such person to appear before him on a day named not more than thirty and not less than fifteen days from the date of service upon such permittee of a copy of the citation, which citation shall be accompanied by a copy of such complaint, or in the event that the proceedings be initiated by the Commissioner, with a statement of the facts constituting the violation charged, at which time a hearing shall be had unless continued for cause. Such hearings shall be held within the judicial district and within fifty miles of the place where the offense is alleged to have occurred, unless the parties agree on another place. If it be found that such person is not in good faith conforming to the provisions of this part or has violated the terms of his permit, or made any false statement in the application therefor, or willfully failed to disclose any information required by regulation to be furnished, or violated any law of the United States relating to intoxicating liquor, or willfully violated any law of any State, Territory, or possession of the United States or of the District of Columbia relating to intoxicating liquor, such permit shall be revoked, and no permit shall be granted to such person within one year thereafter. Should the permit be revoked by the Commissioner, the permittee may have a review of his decision before a court of equity in the manner provided in subsection (c). During the pendency of such action such permit shall be temporarily revoked.

(c) INACCURATE DESCRIPTION OF DENATURED ARTICLES.—Whenever the Commissioner has reason to believe that denatured alcohol, denatured rum, or articles do not correspond with the descriptions and limitations as to such alcohol, rum, or articles provided by law and regulations, he shall cause an analysis of said alcohol, rum, or articles to be made, and if upon such analysis the Commissioner shall find that said alcohol, rum, or articles do not so correspond, he shall give not less than fifteen days' notice in writing to the person who is the manufacturer thereof to show cause why said alcohol, rum, or articles should not be dealt with as other distilled spirits, such notice to be served personally or by registered mail, as the Commissioner may determine, and shall specify the time when, the place where, and the name of the agent or official before whom such person is required to appear.

If the manufacturer of said alcohol, rum, or articles fails to show to the satisfaction of the Commissioner that the alcohol, rum, or articles manufactured by him correspond to the descriptions and limitations as to such alcohol, rum, or articles provided by law and regulations, his permit to manufacture and sell the same shall be revoked. The manufacturer may by appropriate proceeding in a court of equity have the action of the Commissioner reviewed, and the court may

affirm, modify, or reverse the finding of the Commissioner as the facts and law of the case may warrant, and during the pendency of such proceedings may restrain the manufacture, sale, or other disposition of such alcohol, rum, or articles.

(d) DELIVERY TO AGENT IN CASE OF PROSECUTION OR REVOCATION.—In case of a sale of liquor or denatured alcohol or denatured rum where the delivery thereof was made by a common or other carrier the sale and delivery for purposes of prosecution or revocation of any permit shall be deemed to be made in the county or district wherein the delivery was made by such carrier to the consignee, his agent or employee, or in the county or district wherein the sale was made, or from which the shipment was made, and prosecution for such sale or delivery may be had in any such county or district.

(e) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3115. PENALTIES.

(a) VIOLATIONS AS TO OPERATION OF PLANTS OR UNLAWFUL WITHDRAWAL OF TAXABLE ALCOHOL.—Whoever operates an industrial alcohol plant or a denaturing plant without complying with the provisions of this part and lawful regulations made thereunder, or whoever withdraws or attempts to withdraw or secure tax free any alcohol subject to tax, or whoever otherwise violates any of the provisions of this part or of regulations lawfully made thereunder shall be liable, for the first offense, to a penalty of not exceeding $1,000, or imprisonment not exceeding thirty days, or both, and for a second or cognate offense to a penalty of not less than $100 nor more than $10,000, and to imprisonment of not less than thirty days nor more than one year. It shall be lawful for the Commissioner in all cases of second or cognate offense to refuse to issue for a period of one year a permit for the manufacture or use of alcohol upon the premises of any person responsible in any degree for the violation.

(b) VIOLATIONS IN GENERAL.—Any person violating the provisions of this part or of any regulations issued thereunder, for which offense a special penalty is not prescribed, shall be liable to the penalty or penalties prescribed in subsection (a). It shall be the duty of the prosecuting officer to ascertain, in the case of every violation of this part or the regulations made thereunder, for which offense a special penalty is not prescribed, whether the defendant has been previously convicted and to plead the prior conviction in the affidavit, information, or indictment.

(c) PREVIOUS CONVICTION.—If any act or offense is a violation of this part, and also of any other law in regard to the manufacture or taxation of, or traffic in, intoxicating liquor, a conviction for such act or offense under the one shall be a bar to prosecution therefor under the other.

SEC. 3116. FORFEITURES AND SEIZURES.

It shall be unlawful to have or possess any liquor or property intended for use in violating the provisions of this part, or the internal-revenue laws, or regulations prescribed under such part or laws, or which has been so used, and no property rights shall exist in any such liquor or property. A search warrant may issue as provided in title XI of the Act of June 15, 1917, 40 Stat. 228 (U. S. C., Title 18, §§ 611–633), for the seizure of such liquor or property. Nothing in this section shall in any manner limit or affect any criminal or forfeiture provision of the internal-revenue laws, or of any other law. The seizure and forfeiture of any liquor or property under the provisions of this part, and the disposition of such liquor or property subsequent to seizure and forfeiture, or the disposition of the proceeds from the sale of such liquor or property, shall be in accordance with existing laws or those hereafter in existence relating to seizures, forfeitures, and disposition of property or proceeds, for violation of the internal-revenue laws.

SEC. 3117. OFFICERS AND AGENTS AUTHORIZED TO INVESTIGATE, ISSUE SEARCH WARRANTS, AND PROSECUTE FOR VIOLATIONS.

(a) DUTIES.—The Commissioner, his assistants, agents, and inspectors, shall investigate and report violations of this part to the United States attorney for the district in which committed, who is hereby charged with the duty of prosecuting the offenders, subject to the direction of the Attorney General, as in the case of other offenses against the laws of the United States; and the Commissioner, his assistants, agents, and inspectors, may swear out warrants before United States commissioners or other officers or courts authorized to issue the same for the apprehension of such offenders, and may, subject to the control of the said United States attorney, conduct the prosecution at the committing trial for the purpose of having the offenders held for the action of a grand jury. Section 1014 of the Revised Statutes (U. S. C., Title 18, § 591) is hereby made applicable in the enforcement of this part. Officers mentioned in said section 1014 are authorized to issue search warrants under the limitations provided in title XI of the Act of June 15, 1917, 40 Stat. 228 (U. S. C., Title 18, §§ 611–633).

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3118. RELEASE OF SEIZED PROPERTY UPON EXECUTION OF BOND.

When any property is seized for violation of this part it may be released to the claimant or to any intervening party, in the discretion of the Commissioner, on a bond given and approved.

SEC. 3119. COMPLIANCE WITH COURT SUBPOENA AS TO TESTIFYING OR PRODUCING RECORDS.

No person shall be excused, on the ground that it may tend to incriminate him or subject him to a penalty or forfeiture, from attending and testifying, or producing books, papers, documents, and other evidence in obedience to a subpena of any court in any suit or proceeding based upon or growing out of any alleged violation of this part; but no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing as to which, in obedience to a subpena and under oath, he may so testify or produce evidence, but no person shall be exempt from prosecution and punishment for perjury committed in so testifying.

SEC. 3120. FORM OF AFFIDAVIT, INFORMATION, OR INDICTMENT.

In any affidavit, information, or indictment for the violation of this subchapter, separate offenses may be united in separate counts and the defendant may be tried on all at one trial and the penalty for all offenses may be imposed. It shall not be necessary in any affidavit, information, or indictment to give the name of the purchaser or to include any defensive negative averments, but it shall be sufficient to state that the act complained of was then and there prohibited and unlawful, but this provision shall not be construed to preclude the trial court from directing the furnishing the defendant a bill of particulars when it deems it proper to do so.

SEC. 3121. POWERS AND DUTIES OF PERSONS ENFORCING THIS PART.

(a) COMMISSIONER AND OTHER PERSONS.—The Commissioner, his assistants, agents, and inspectors, and all other officers, employees, or agents of the United States, whose duty it is to enforce criminal laws, shall have all the rights, privileges, powers, and protection in the enforcement of the provisions of this part which are conferred by law for the enforcement of any laws in respect of the taxation, importation, exportation, transportation, manufacture, possession, or use of, or traffic in, intoxicating liquors.

(b) DELEGATION OF DUTIES TO ASSISTANTS.—Any Act authorized by this subchapter to be done by the Commissioner may be performed by any assistant or agents designated by him for that purpose. Records, reports, or returns required to be filed with the Commissioner may be filed with an Assistant Commissioner or other person designated by the Commissioner to receive such records, reports, or returns.

(c) POWER TO SECURE RECORDS.—All records and reports kept or filed under the provisions of this part, and all liquor or property to which such records or reports relate, shall be subject to inspection at any reasonable hour by the Commissioner or any of his agents or by any public prosecutor or by any person designated by him, or by any peace officer in the State where the records or reports are kept, and copies of such records and reports duly certified by the person with whom kept or filed may be introduced in evidence with like effect as the originals thereof, and verified copies of such records shall be furnished to the Commissioner when called for.

(d) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3122. OTHER LAWS APPLICABLE.

All administrative provisions of internal-revenue law, including those relating to assessment, collection, abatement, and refund of taxes and penalties, and the seizure and forfeiture of property, are made applicable to this part in so far as they are not inconsistent with the provisions thereof.

SEC. 3123. APPLICATION OF PART TO PUERTO RICO AND VIRGIN ISLANDS.

This part, and all provisions of the internal revenue laws relating to the enforcement thereof, are hereby extended to and made applicable to Puerto Rico and the Virgin Islands, from and after August 27, 1935. The respective Insular Governments shall advance to the Treasury of the United States such funds as may be required from time to time by the Secretary of the Treasury for the purpose of defraying all expenses incurred by the Treasury Department in connection with the enforcement in Puerto Rico and the Virgin Islands of this part and regulations promulgated thereunder. The funds so advanced shall be deposited in a separate trust fund in the Treasury of the United States and shall be available to the Treasury Department for the purposes of this subsection.

SEC. 3124. DEFINITIONS.

(a) WHEN USED IN THIS PART.—

(1) The term "alcohol" means that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, from whatever source or whatever processes produced.

Spirits of less proof than one hundred and sixty degrees may, under regulations, be deemed to be alcohol for the purpose of denaturation, under the provisions of this title.

(2) The term "container" includes any receptacle, vessel, or form of package, tank, or conduit used or capable of use for holding, storing, transferring, or shipment of alcohol.

(3) The term "application" shall mean a formal written request supported by a verified statement of facts showing that the Commissioner may grant the request;

(4) The term "permit" shall mean a formal written authorization by the Commissioner setting forth specifically therein the things that are authorized;

(5) The term "bond" shall mean an obligation authorized or required by or under this part, Title I of the Liquor Law Repeal and Enforcement Act, 49 Stat. 872, or Title III of the National Prohibition Act, 41 Stat. 319, or any regulation thereunder, executed in such form and for such penal sum as may be required by the Commissioner or prescribed by regulation;

(6) The term "regulation" shall mean any regulation prescribed by the Commissioner with the approval of the Secretary of the Treasury for carrying out the provisions of this part, and the Commissioner is authorized to make such regulations.

(7) The term "articles" shall mean any substance or preparation in the manufacture of which denatured alcohol or denatured rum is used.

(8) The term "person" shall mean and include natural persons, firms, partnerships, corporations, and associations.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SUBCHAPTER D—FERMENTED LIQUORS

SEC. 3150. TAX.

(a) RATE.—There shall be levied and collected on all beer, lager beer, ale, porter, and other similar fermented liquor, containing one-half of 1 per centum, or more, of alcohol, brewed or manufactured and sold, or removed for consumption or sale, within the United States, by whatever name such liquors may be called, a tax of $5 for every barrel containing not more than thirty-one gallons, and at a like rate for any other quantity or for the fractional parts of a barrel authorized and defined by law. In estimating and computing such tax, the fractional parts of a barrel shall be halves, thirds, quarters, sixths, and eighths; and any fractional part of a barrel, containing less than one-eighth, shall be accounted one-eighth; more than one-eighth, and not more than one-sixth, shall be accounted one-sixth; more than one-sixth, and not more than one-fourth, shall be accounted one-fourth; more than one-fourth, and not more than one-third, shall be accounted one-third; more than one-third, and not more than one-half, shall be accounted one-half; more than one-half, and not more than one barrel, shall be accounted one barrel; and more than one barrel, and not more than sixty-three gallons, shall be accounted two barrels, or a hogshead.

The provisions of this section requiring the accounting of hogsheads, barrels, and fractional parts of barrels at the next higher quantity shall not apply where the contents of such hogsheads, barrels, or fractional parts of barrels are within the limits of tolerance established by the Commissioner by regulations which he is hereby authorized to prescribe with the approval of the Secretary; and no assessment shall be made and no tax shall be collected for any excess in any case where the contents of the hogsheads, barrels, or fractional parts of barrels heretofore or hereafter used are within the limits of the tolerance so prescribed.

(b) PAYMENT.—

(1) IN GENERAL.—The said tax shall be paid by the owner, agent, or superintendent of the brewery or premises in which such fermented liquors are made, and in the manner and at the time hereinafter specified.

(2) UNFERMENTED WORTS SOLD BY ONE BREWER TO ANOTHER.—When malt liquor or tun liquor, in the first stages of fermentation, known as unfermented worts, of whatever kind, is sold by one brewer to another for the purpose of producing fermentation or enlivening old or stale ale, porter, lager beer, or other fermented liquors, it shall not be liable to a tax to be paid by the seller thereof, but the tax on the same shall be paid by the purchaser thereof, when the same, having been mixed with the old or stale beer, is sold by him as provided by law, and such sale or transfer shall be subject to such restrictions and regulations as the Commissioner may prescribe.

(c) EXEMPTION OF MATERIALS USED IN PRODUCING FERMENTED OR MALT LIQUORS.—Nothing contained in section 3155 (c) shall be so con-

strued as to authorize an assessment upon the quantity of materials used in producing or purchased for the purpose of producing, fermented or malt liquors, nor shall the quantity of materials so used or purchased be evidence, for the purpose of taxation, of the quantity of liquor produced; but the tax on all beer, lager beer, ale, porter, or other similar fermented liquor, brewed or manufactured, and sold or removed for consumption or sale, shall be paid as provided in paragraph (1) of subsection (b), and not otherwise: *Provided*, That this subsection shall not apply to cases of fraud: *And provided further*, That nothing in this subsection shall have the effect to change the rules of law respecting evidence in any prosecution or suit.

(d) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3151. TAX-PAID STAMPS AND PERMITS.

(a) SUPPLY.—The Commissioner shall cause to be prepared, for the payment of such tax, suitable stamps denoting the amount of tax required to be paid on the hogsheads, barrels, and halves, thirds, quarters, sixths, and eighths of a barrel of such fermented liquors (and shall also cause to be prepared suitable permits for the purpose hereinafter mentioned), and shall furnish the same to the collectors, who shall each be required to keep on hand at all times a sufficient supply of permits and a supply of stamps equal in amount to two months' sales thereof, if there be any brewery or brewery warehouse in his district; and such stamps shall be sold, and permits granted and delivered by such collectors, only to the brewers of their district, respectively.

(b) COLLECTOR'S ACCOUNT.—Such collectors shall keep an account of the number of permits delivered and of the number and value of the stamps sold by them to each brewer.

(c) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3152. OTHER PROVISIONS RELATING TO STAMPS.

(a) PROCUREMENT BY BREWER.—Every brewer shall obtain, from the collector of the district in which his brewery or brewery-warehouse is situated, and not otherwise unless such collector shall fail to furnish the same upon application to him, the proper stamps.

(b) AFFIXING AND CANCELING TAX-PAID STAMPS.—Every brewer shall affix, upon the spigot-hole in the head of every hogshead, barrel, or keg in which any fermented liquor is contained, when sold or removed from such brewery or warehouse (except in case of removal under permit, as hereinafter provided), a stamp denoting the amount of the tax required upon such fermented liquor, which stamp shall be destroyed by driving through the same the faucet through which the liquor is to be withdrawn, or an air-faucet of equal size, at the time the hogshead, barrel, or keg is tapped, in case it is tapped through the other spigot-hole (of which there shall be but two, one in the head and one in the side), and shall also, at the time of affixing such stamp, cancel the same by writing or imprinting thereon the name of the person, firm, or corporation by whom such liquor was made, or the intitial letters thereof, and the date when canceled: *Provided, however*, That the Commissioner may, in his discretion, authorize the use of such other tapping devices or faucets as will permit the affixing and destruction of stamps in a manner consistent with the protection of the revenue.

(c) INSTRUMENTS FOR ATTACHING, PROTECTING, AND CANCELING STAMPS.—The instruments or other means prescribed under section 3301 (a) for attaching, protecting, and canceling stamps for fermented liquors shall be furnished by the United States to the persons using the stamps to be affixed therewith, under such regulations as the Commissioner may prescribe.

(d) ISSUE FOR RESTAMPING.—The Commissioner may, under regulations prescribed by him with the approval of the Secretary, issue stamps for restamping packages of fermented liquors which have been duly stamped but from which the stamps have been lost or destroyed by unavoidable accident.

(e) AUTHORITY TO DISCONTINUE EXPORT STAMPS.—The Commissioner, with the approval of the Secretary, is authorized to discontinue the use of export fermented-liquor stamps whenever in his judgment the interests of the Government will be subserved thereby.

(f) GENERAL STAMP PROVISIONS.—

For general provisions relating to stamps, see subchapter A of chapter 28.

(g) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3153. REMOVALS FREE OF TAX.

(a) FROM BREWERY TO WAREHOUSE UNDER PERMIT.—Any brewer may remove or transport, or cause to be removed or transported, from his brewery or other place of manufacture to a depot, warehouse, or other place used exclusively for storage or sale in bulk, and occupied by him, in another part of the same collection district, or in another collection district, but to no other place, malt liquor of his own manufacture, known as lager beer, in quantities of not less than six barrels, and malt liquor of his own manufacture, known as ale or porter, or any other malt liquor of his own manufacture not heretofore mentioned, in quantities not less than fifty barrels at a time, without affixing the proper stamps on said vessels of lager beer, ale, porter, or other malt liquor, at the brewery or place of manufacture, under a permit, which shall be granted, upon application, by the collector of the district in which said malt liquor is manufactured, and under such regulations as the Commissioner may prescribe; and thereafter the manufacturer of said malt liquor shall stamp the same, when it leaves such depot or warehouse, in the same manner and under the same penalties and liabilities as when stamped at the brewery as provided in section 3152 (b).

And the collector of the district in which such depot or warehouse is situated shall furnish the manufacturer with the stamps for stamping the same, as if the said malt liquor had been manufactured in his district. And said permit must be affixed to every such vessel or cask so removed, and canceled or destroyed in such manner as the Commissioner may prescribe, and under the same penalties and liabilities as provided in section 3159 (d).

(b) FROM BREWERY OR WAREHOUSE FOR EXPORT.—Fermented liquor may be removed from the place of manufacture, or storage, for export to a foreign country, without payment of tax, in such packages and under such regulations, and upon the giving of such notices, entries, bonds, and other security, as the Commissioner, with the approval of the Secretary, may from time to time prescribe; and no drawback of tax shall be allowed on fermented liquor exported.

(c) FOR MANUFACTURING PURPOSES WHEN UNFIT FOR BEVERAGE USE.—When fermented liquor has become sour or damaged, so as to be incapable of use as such, brewers may sell the same for manufacturing purposes, and may remove the same to places where it may be used for such purposes, in casks, or other vessels, unlike those ordinarily used for fermented liquors, containing respectively not less than one barrel each, and having the nature of their contents marked upon them, without affixing thereon the permit, stamp or stamps required.

(d) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3154. REFUNDS AND CREDITS.

(a) ALLOWANCE.—The Commissioner shall make refund, or in lieu thereof, if he so elects, allow credit to a brewer in the amount of tax paid by such brewer on any beer, lager beer, ale, porter, or other similar fermented malt liquor manufactured by such brewer which has become unsalable by reason of its condition, upon the filing of a claim therefor by the brewer and proof by him to the satisfaction of the Commissioner that such beer, lager beer, ale, porter, or other similar fermented malt liquor (1) was fully tax-paid, (2) was lawfully removed from his brewery to his bottling house on or after March 22, 1933, (3) never was removed from such bottling house, except in the process of destruction or for return to the brewery, (4) had become unsalable without fraud, connivance, or collusion on his part, and (5) was destroyed by him in such bottling house in the presence of a representative of the Bureau of Internal Revenue, or was returned from such bottling house to the brewery in which made for use therein as brewing material.

(b) TIME FOR FILING CLAIM.—No such claim shall be allowed unless filed within ninety days after such destruction or return to the brewery for use as brewing material, or, in the case of any beer, lager beer, ale, porter, or other similar fermented malt liquor so destroyed or returned before June 26, 1936, within ninety days after such date.

(c) CREDIT BY STAMP.—The Commissioner is authorized to issue to the brewer to whom a credit is allowed pursuant to this section stamps in an amount equal to such credit, for use by him in the payment of the tax upon beer, lager beer, ale, porter, or other similar fermented malt liquor manufactured by him.

(d) RULES AND REGULATIONS.—The Commissioner, with the approval of the Secretary, is authorized to make such rules and regulations as may be necessary to carry out the provisions of this section.

(e) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3155. REQUIREMENTS ON BREWERS.

(a) NOTICE OF BUSINESS.—Every brewer shall, before commencing or continuing business, file with the officer designated for that purpose by the Commissioner a notice in writing and in the form prescribed by the Commissioner, with the approval of the Secretary. Such notice shall set forth (a) the name and residence of the brewer, and the names and residences of all such persons interested or to be interested in the business, directly or indirectly, as the Commissioner shall prescribe, (b) the precise place where the business is to be carried on, including a description of the premises on which the brewery is situated, the title of the brewer to the premises, and the name of the owner thereof, and (c) such additional particulars as the Commissioner shall prescribe as necessary for the protection of the revenue.

(b) BONDS.—Every brewer, on filing notice as provided by law of his intention to commence or continue business, shall execute a bond to the United States in a penal sum equal to the amount of the tax on fermented malt liquor which, in the opinion of the Commissioner, said brewer will be liable to pay during any one month: *Provided*, That the penal sum of any such bond shall not exceed $100,000 nor be less than $1,000. The bond shall be conditioned that the brewer shall pay, or cause to be paid, as herein provided, the tax required by law on all beer, lager beer, ale, porter, and other fermented liquors made by or for him, before the same is sold or removed for consumption or sale, except as hereinafter provided; and that he shall keep, or cause to be kept, in the manner required by law, a book which shall be open to inspection by the proper officers, as by law required; and that he shall in all respects faithfully comply, without

fraud or evasion, with all requirements of law relating to the manufacture and sale of any malt liquors aforesaid. Once in every four years, or whenever required so to do by the Commissioner, or such officer as may be designated by the Commissioner, the brewer shall execute a new bond in the penal sum prescribed in pursuance of this section, and conditioned as above provided, which bond shall be in lieu of any former bond or bonds of such brewer in respect to all liabilities accruing after its approval.

(c) Books and Monthly Statement.—Every person who owns or occupies any brewery, or premises used or intended to be used for the purpose of brewing or making such fermented liquors, or who has such premises under his control or superintendence, as agent for the owner or occupant, or has in his possession or custody any brewing materials, utensils, or apparatus, used or intended to be used on said premises in the manufacture of beer, lager beer, ale, porter, or other similar fermented liquors, either as owner, agent, or superintendent, shall, from day to day, enter, or cause to be entered, in a book to be kept by him for that purpose, the kind of such malt liquors, the estimated quantity produced in barrels, and the actual quantity sold or removed for consumption or sale in barrels or fractional parts of barrels. He shall also, from day to day, enter, or cause to be entered, in a separate book to be kept by him for that purpose, an account of all materials by him purchased for the purpose of producing such fermented liquors, including grain and malt.

And he shall render to the collector, or the proper deputy collector, on or before the 10th day of each month, a true statement, in writing, in duplicate, taken from his books, of the estimated quantity in barrels of such malt liquors brewed, and the actual quantity sold or removed for consumption or sale during the preceding month; and shall verify, or cause to be verified, the said statement, and the facts therein set forth, by oath, to be taken before the collector of the district, or proper deputy collector, according to the form required by law.

Said books shall be open at all times for the inspection of any collector, deputy collector, inspector, or revenue agent, who may take memorandums and transcripts therefrom.

(d) Monthly Verification of Entries in Books.—The entries made in such books shall, on or before the 10th day of each month, be verified by the oath of the person by whom they are made. The said oath shall be written in the book at the end of such entries, and be certified by the officer administering the same, and shall be in form as follows:

"I do swear (or affirm) that the foregoing entries were made by me; and that they state truly, according to the best of my knowledge and belief, the estimated quantity of the whole amount of such malt liquors brewed, and the actual quantity sold, and the actual quantity removed, from the brewery owned by ————, in the county of ————; and, further, that I have no knowledge of any matter or thing required by law to be stated in said entries which has been omitted therefrom."

And the owner, agent, or superintendent aforesaid shall also, in case the original entries made in his book were not made by himself, subjoin thereto the following oath, to be taken in manner as aforesaid:

"I do swear (or affirm) that, to the best of my knowledge and belief, the foregoing entries fully set forth all the matters therein required by law; and that the same are just and true; and that I have taken all the means in my power to make them so."

(e) Stamping and Monthly Report of Retail Sales.—Every brewer who sells fermented liquor at retail at the brewery or other place where the same is made, shall affix and cancel the proper stamps

upon the hogsheads, barrels, or kegs in which the same is contained, and shall keep an account of the quantity so sold by him, and of the number and size of the hogsheads, barrels, or kegs in which the same has been contained, and shall make a report thereof, verified by oath, monthly to the collector.

(f) BRANDING NAME OF MANUFACTURER AND PLACE OF MANUFACTURE ON CONTAINERS.—Every brewer shall, by branding, mark or cause to be marked upon every hogshead, barrel, or keg containing the fermented liquor made by him, before it is sold or removed from the brewery or brewery warehouse, or other place of manufacture, the name of the person, firm, or corporation by whom such liquor was manufactured, and the place of manufacture; and every person other than the owner thereof, or his agent authorized so to do, who intentionally removes or defaces such marks therefrom, shall be liable to a penalty of $50 for each cask or other vessel from which the mark is so removed or defaced: *Provided*, That when a brewer purchases fermented liquor finished and ready for sale from another brewer, in order to supply the customers of such purchaser, the purchaser may, upon written notice to the collector of his intention so to do, and under such regulations as the Commissioner may prescribe, furnish his own vessels, branded with his name and the place where his brewery is situated, to be filled with the fermented liquor so purchased, and to be so removed; the proper stamps to be affixed and canceled, as aforesaid, by the manufacturer before removal.

(g) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3156. PERMIT TO OPERATE BREWERY TEMPORARILY AT ANOTHER PLACE.

(a) REQUIREMENTS.—Whenever, in the opinion of the collector of any district, it becomes requisite or proper, by reason of an accident to any brewery therein by fire or flood, or of such brewery undergoing repairs, or of other circumstances, that the brewer carrying on the same shall be permitted to conduct his business wholly or in part at some other place within such district or an adjoining district for a temporary period, it shall be lawful for such collector, under such regulations and subject to such limitation of time as the Commissioner may prescribe, to issue a permit to such brewer, authorizing him to conduct his business wholly or in part, according to the circumstances, at such other place, for a period to be stated in such permit; and such brewer shall not be required to pay another special tax for the purpose.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3157. BOTTLING FERMENTED LIQUORS.

(a) REQUIREMENTS.—Every person who withdraws any fermented liquor from any hogshead, barrel, or keg upon which the proper stamp has not been affixed for the purpose of bottling the same, or who carries on or attempts to carry on the business of bottling fermented liquor in any brewery or other place in which fermented liquor is made, or upon any premises having communciation with such brewery, or any warehouse, shall be liable to a fine of $500, and the property used in such bottling or business shall be liable to forfeiture: *Provided, however*, That this section shall not be construed to prevent the withdrawal and transfer of unfermented, partially fermented, or fermented liquors from any of the vats in any brewery by way of a pipe line or other conduit to another building or place for the sole purpose of bottling the same, such pipe line or conduit to be constructed and operated in such manner and with such cisterns, vats, tanks, valves, cocks, faucets, and gauges, or other utensils or apparatus, either on the premises of the brewery or the bottling house,

and with such changes of or additions thereto, and such locks, seals, or other fastenings, and under such rules and regulations as shall be from time to time prescribed by the Commissioner, subject to the approval of the Secretary, and all locks and seals prescribed shall be provided by the Commissioner at the expense of the United States: *Provided further*, That the tax imposed by law on fermented liquor shall be paid on all fermented liquor removed from a brewery to a bottling house by means of a pipe or conduit, at the time of such removal by the cancelation and defacement, by the officer designated by the Commissioner, in the presence of the brewer, of the number of stamps denoting the tax on the fermented liquor thus removed, or in such other manner as may be prescribed by regulations issued by the Commissioner with the approval of the Secretary. The stamps thus canceled and defaced shall be disposed of and accounted for in the manner directed by the Commissioner, with the approval of the Secretary. And any violation of the rules and regulations prescribed by the Commissioner, with the approval of the Secretary, in pursuance of these provisions, shall be subject to the penalties above provided by this section. Every owner, agent, or superintendent of any brewery or bottling house who removes, or connives at the removal of, any fermented liquor through a pipe line or conduit, without payment of the tax thereon, or who attempts in any manner to defraud the revenue as above, shall forfeit all the liquors made by and for him, and all the vessels, utensils, and apparatus used in making the same.

(b) RULES AND REGULATIONS.—The Commissioner is hereby authorized, with the approval of the Secretary, to make all rules and regulations necessary to carry out the provisions of this section.

(c) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3158. BREWERY PREMISES.

The brewery premises shall consist of the land and buildings described in the brewer's notice and shall be used solely for the purposes of manufacturing beer, lager beer, ale, porter, and similar fermented malt liquors, cereal beverages containing less than one-half of 1 per centum of alcohol by volume, vitamins, ice, malt, and malt syrup; of drying spent grain from the brewery; of recovering carbon dioxide and yeast; and of storing bottles, packages, and supplies necessary or incidental to all such manufacture. The brewery bottling house shall be used solely for the purposes of bottling beer, lager beer, ale, porter, and similar fermented malt liquors, and cereal beverages containing less than one-half of 1 per centum of alcohol by volume. Notwithstanding the foregoing provisions, where any such brewery premises or brewery bottling house is, on June 26, 1936, being used by any brewer for purposes other than those herein described, or the brewery bottling house is, on such date, being used for the bottling of soft drinks, the use of the brewery and bottling house premises for such purposes may be continued by such brewer. The brewery bottling house of any brewery shall not be used for the bottling of the product of any other brewery. Any brewer who uses his brewery or bottling house contrary to the provisions of this subsection shall be fined not more than $50 with respect to each day upon which any such use occurs.

SEC. 3159. PENALTIES AND FORFEITURES.

(a) EVASION OF TAX OR NONCOMPLIANCE WITH REQUIREMENTS ON BREWERS.—Every owner, agent, or superintendent of any brewery, vessels, or utensils used in making fermented liquors, who evades or attempts to evade the payment of the tax thereon, or fraudulently neglects or refuses to make true and exact entry and report of the same in the manner required by law, or to do, or cause to be done, any of the things by law required to be done by him, or who inten-

tionally makes false entry in said book or in said statement, or knowingly allows or procures the same to be done, shall—

(1) FORFEITURES.—Forfeit, for every such offense, all the liquors made by him or for him, and all the vessels, utensils, and apparatus used in making the same, and

(2) PENALTIES.—Be liable to a penalty of not less than $500 nor more than $1,000, to be recovered with costs of suit, and shall be deemed guilty of a misdemeanor, and be imprisoned for a term not exceeding one year.

(b) NEGLECT TO KEEP BOOKS OR FURNISH ACCOUNTS.—Every brewer who neglects to keep books or refuses to furnish the account and duplicate thereof as provided by law, or refuses to permit the proper officer to examine the books in the manner provided, shall, for every such refusal or neglect, forfeit and pay the sum of $300.

(c) FLAGRANT AND WILLFUL REMOVAL OF MALT LIQUORS WITHOUT TAX PAYMENT.—For flagrant and willful removal of taxable malt liquors for consumption or sale, without payment of tax thereon, all the right, title, and interest of each person, who has knowingly suffered or permitted such removal or has connived at the same, in the lands and buildings constituting the brewery premises and bottling house shall be forfeited by a proceeding in rem in the District Court of the United States having jurisdiction thereof.

(d) FRAUD OR NEGLECT IN AFFIXING OR CANCELING STAMPS.—Every brewer who refuses or neglects to affix and cancel, in the manner provided under section 3152 (b), the stamps required by law, or who affixes a false or fraudulent stamp, or knowingly permits the same to be done, shall pay a penalty of $100 for each hogshead, barrel, or keg on which such omission or fraud occurs, and be imprisoned not more than one year.

(e) SALE, REMOVAL, OR RECEIPT WITHOUT PROPER STAMP OR PERMIT.—Whenever any brewer, cartman, agent for transportation, or other person, sells, removes, receives, or purchases, or in any way aids in the sale, removal, receipt, or purchase, of any fermented liquor contained in any hogshead, barrel, keg, or other vessel from any brewery or brewery warehouse, upon which the stamp, or permit, in case of removal, required by law, has not been affixed, or on which a false or fraudulent stamp, or permit, in case of removal, is affixed, with knowledge that it is such, or on which a stamp, or permit, in case of removal, once canceled, is used a second time, he shall be fined $100 and imprisoned for not more than one year.

(f) WITHDRAWAL FROM IMPROPERLY STAMPED CONTAINERS OR WITHOUT DESTROYING STAMPS, PENALTY.—Whenever any retail dealer, or other person, withdraws or aids in the withdrawal of any fermented liquor from any hogshead, barrel, keg, or other vessel containing the same, without destroying or defacing the stamp affixed thereon, or withdraws or aids in the withdrawal of any fermented liquor from any hogshead, barrel, keg, or other vessel, upon which the proper stamp has not been affixed or on which a false or fraudulent stamp is affixed, he shall be fined $100 and imprisoned not more than one year.

(g) COUNTERFEITING STAMPS AND PERMITS AND TRAFFICKING IN USED STAMPS, PENALTY.—Every person who makes, sells, or uses any false or counterfeit stamp or permit, or die for printing or making stamps or permits, which is in imitation of or purports to be a lawful stamp, permit, or die of the kind before mentioned in this chapter, or who procures the same to be done, and every person who shall remove, or cause to be removed, from any cask or package of fermented liquors, any stamp denoting the tax thereon, with intent to reuse such stamp, or who, with intent to defraud the revenue, knowingly uses, or permits to be used, any stamp removed from another cask or package, or receives, buys, sells, gives away, or has in his possession, any stamp so removed, or makes any fraudu-

lent use of any stamp for fermented liquors, shall be fined not less than $100 nor more than $1,000, and imprisoned not less than six months nor more than three years.

(h) POSSESSION WITH TAX NOT PAID, FORFEITURE.—The ownership or possession by any person of any fermented liquor after its sale or removal from the brewery or warehouse, or other place where it was made, upon which the tax required has not been paid, shall render such liquor liable to seizure wherever found, and to forfeiture, removal under said permits excepted.

And the absence of the proper stamps from any hogshead, barrel, keg, or other vessel containing fermented liquor, after its sale or removal from the brewery where it was made, or warehouse as aforesaid, shall be notice to all persons that the tax has not been paid thereon, and shall be prima facie evidence of the nonpayment thereof.

(i) REMOVAL OR DEFACEMENT OF STAMPS BY OTHERS THAN THE OWNER.—Every person, other than the purchaser or owner of any fermented liquor, or person acting on his behalf, or as his agent, who intentionally removes or defaces the stamp or permit affixed upon the hogshead, barrel, keg, or other vessel, in which the same is contained, shall be liable to a fine of $50 for each such vessel from which the stamp or permit is so removed or defaced, and to render compensation to such purchaser or owner for all damages sustained by him therefrom.

(j) INTENTIONAL REMOVAL OR DEFACEMENT OF MANUFACTURER'S MARKS ON CONTAINERS.—

For penalty imposed for intentional removal or defacement of manufacturer's marks required upon a hogshead, barrel, keg, or other vessel containing fermented liquor, see section 3155 (f).

(k) VIOLATIONS OF PROVISIONS RELATING TO BOTTLING.—

For penalties and forfeitures imposed for violating provisions relating to bottling of fermented liquors, see section 3157.

(l) OTHER VIOLATIONS.—

For penalty and forfeiture imposed upon wholesale liquor dealers for committing offenses not specifically covered by law, see section 2806 (g).

SEC. 3160. GALLON DEFINED.

The word "gallon," wherever used in the internal revenue law, relating to beer, lager beer, ale, porter, and other similar fermented liquors, shall be held and taken to mean a wine gallon, the liquid measure containing two hundred and thirty-one cubic inches.

SUBCHAPTER E—MISCELLANEOUS GENERAL PROVISIONS

SEC. 3170. TRANSFER AND DELEGATION OF POWERS.

The Secretary is authorized to confer and impose upon the Commissioner and any of his assistants, agents, or employees, and upon any other officer, employee, or agent of the Treasury Department, any of the rights, privileges, powers, duties, and protection conferred or imposed upon the Secretary, or any officer or employee of the Treasury Department, or by any law now or hereafter in force relating to the taxation, exportation, transportation, manufacture, possession, or use of, or traffic in, distilled spirits, wine, fermented liquors, or denatured alcohol.

SEC. 3171. RECORDS, STATEMENTS, AND RETURNS.

(a) REQUIREMENTS.—Every person liable to any tax imposed by this chapter, or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3172. DISCRETIONARY METHOD FOR COLLECTING TAX.

(a) POWER OF COMMISSIONER.—Whether or not the method of collecting any tax imposed by this chapter is specifically provided herein, any such tax may, under regulations prescribed by the Commissioner with the approval of the Secretary, be collected by stamp, coupon, serial-numbered ticket, or such other reasonable device or method as may be necessary or helpful in securing a complete and prompt collection of the tax. All administrative and penalty provisions of subchapters A, B, and C of chapter 11, in so far as applicable, shall apply to the collection of any tax which the Commissioner determines or prescribes shall be collected in such manner.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3173. PENALTIES AND FORFEITURES.

(a) REMOVAL OR TRANSPORTATION OF LIQUORS OR WINES UNDER IMPROPER BRANDS.—Whenever any person ships, transports, or removes any spirituous or fermented liquors or wines, under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the casks or packages containing the same, or causes such act to be done, he shall forfeit said liquors or wines, and casks or packages, and be subject to pay a fine of $500.

(b) OTHER VIOLATIONS.—

(1) Any person required to pay, or to collect, account for and pay over any tax on distilled spirits, wines, or fermented malt liquors, or required by law or regulations made under authority thereof to make a return or supply any information for the purposes of the computation, assessment or collection of any such tax, who fails to pay, collect, or truly account for and pay over any such tax, make any such return or supply any such information at the time or times required by law or regulation shall in addition to other penalties provided by law be subject to a penalty of not more than $1,000.

(2) Any person who willfully refuses to pay, collect, or truly account for and pay over any such tax, make such return or supply such information at the time or times required by law or regulation, or who willfully attempts in any manner to evade such tax shall be guilty of a misdemeanor and in addition to other penalties provided by law shall be fined not more than $10,000 or imprisoned for not more than one year, or both, together with the costs of prosecution.

(3) Any person who willfully refuses to pay, collect, or truly account for and pay over any such tax shall in addition to other penalties provided by law be liable to a penalty of the amount of the tax evaded, or not paid, collected, or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected: *Provided, however*, That no penalty shall be assessed under this paragraph for any offense for which a penalty may be assessed under authority of section 3612, or of section 2801 (f) or 3043, or for any offense for which a penalty has been recovered under section 2806 (e).

(4) The term "person" as used in this subsection includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(c) POSSESSION OF DEVICES FOR EMITTING GAS, SMOKE, ETC; EXPLOSIVES AND FIREARMS.—

(1) Whoever, when violating any law of the United States, or of any Territory or possession of the United States, or of the Dis-

trict of Columbia, in regard to the manufacture, taxation, or transportation of or traffic in distilled spirits, wines, or fermented malt liquors, or when aiding in any such violation, has in his possession or in his control any device capable of causing emission of smoke, gas, or fumes, and which may be used for the purpose of hindering, delaying, or preventing pursuit or capture, any explosive, or any firearm (as defined in section 2733), except a machine gun, or a shotgun or rifle having a barrel of less than eighteen inches in length, shall be fined not more than $5,000 or be imprisoned for not more than ten years, or both, and all persons engaged in any such violation or in aiding in any such violation shall be held to be in possession or control of such device, firearm, or explosive.

(2) Whoever, when violating any such law, has in his possession or in his control a machine gun, or any shotgun or rifle having a barrel of less than eighteen inches in length, shall be punished by imprisonment for not more than twenty years; and all persons engaged in any such violation or in aiding in any such violation shall be held to be in possession and control of such machine gun, shotgun, or rifle.

(3) Every such firearm or device for emitting gas, smoke, or fumes, and every such explosive, machine gun, shotgun, or rifle, in the possession or control of any person when violating any such law, shall be seized and shall be forfeited and disposed of in the manner provided by section 2730.

(4) As used in this subsection the term "machine gun" means any weapon which shoots, or is designed to shoot, automatically or semi-automatically, more than one shot, without manual reloading, by a single function of the trigger.

(d) RETURN ON BOND OF VESSEL OR VEHICLE SEIZED FOR VIOLATION; DISCRETION OF COURT; DEFINITIONS.—Notwithstanding any provisions of law relating to the return on bond of any vessel or vehicle seized for the violation of any law of the United States, the court having jurisdiction of the subject matter, may, in its discretion and upon good cause shown by the United States, refuse to order such return of any such vessel or vehicle to the claimant thereof.

As used in this subsection the word "vessel" includes every description of watercraft used, or capable of being used, as a means of transportation in water or in water and air; and the word "vehicle" includes every animal and description of carriage or other contrivance used, or capable of being used, as a means of transportation on land or through the air.

SEC. 3174. TERRITORIAL EXTENT OF LAW.

The internal revenue laws imposing taxes on distilled spirits and fermented liquors shall be held to extend to such articles produced anywhere within the exterior boundaries of the United States, whether the same be within a collection district or not.

SEC. 3175. OTHER LAWS APPLICABLE.

All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, shall be extended to and made a part of this chapter.

SEC. 3176. RULES AND REGULATIONS.

(a) POWER OF COMMISSIONER.—The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this chapter.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agent, see section 3170.

SEC. 3177. MANUFACTURING BONDED WAREHOUSES.

(a) ESTABLISHMENT AND USE.—All medicines, preparations, compositions, perfumery, cosmetics, cordials, and other liquors manu-

factured wholly or in part of domestic spirits, intended for exportation, as provided by law, in order to be manufactured and sold or removed, without being charged with duty and without having a stamp affixed thereto, shall, under such regulations as the Secretary may prescribe, be made and manufactured in warehouses similarly constructed to those known and designated in Treasury regulations as bonded warehouses, class six: *Provided*, That such manufacturer shall first give satisfactory bonds to the collector for the faithful observance of all the provisions of law and the regulations as aforesaid, in amount not less than half of that required by the regulations of the Secretary from persons allowed bonded warehouses.

(b) MATERIALS FOR MANUFACTURE.—

(1) MATERIALS EXPORTABLE FREE OF TAX.—Any manufacturer of the articles aforesaid, or of any of them, having such bonded warehouse as aforesaid, shall be at liberty, under such regulations as the Secretary may prescribe, to convey therein any materials to be used in such manufacture which are allowed by the provisions of law to be exported free from tax or duty, as well as the necessary materials, implements, packages, vessels, brands, and labels for the preparation, putting up, and export of the said manufactured articles; and every article so used shall be exempt from the payment of stamp and excise duty by such manufacturer. Articles and materials so to be used may be transferred from any bonded warehouse in which the same may be, under such regulations as the Secretary may prescribe, into any bonded warehouse in which such manufacture may be conducted, and may be used in such manufacture, and when so used shall be exempt from stamp and excise duty; and the receipt of the officer in charge as aforesaid shall be received as a voucher for the manufacture of such articles.

(2) IMPORTED MATERIALS.—Any materials imported into the United States may, under such rules as the Secretary may prescribe, and under the direction of the proper officer, be removed in original packages from on shipboard, or from the bonded warehouse in which the same may be, into the bonded warehouse in which such manufacture may be carried on, for the purpose of being used in such manufacture, without payment of duties thereon, and may there be used in such manufacture. No article so removed, nor any article manufactured in said bonded warehouse, shall be taken therefrom except for exportation, under the direction of the proper officer having charge thereof as aforesaid, whose certificate, describing the articles by their mark or otherwise, the quantity, the date of importation, and name of vessel, with such additional particulars as may from time to time be required, shall be received by the collector of customs in cancellation of the bond, or return of the amount of foreign import duties.

(c) SUPERVISION.—All labor performed and services rendered under these regulations shall be under the supervision of an officer of the customs, and at the expense of the manufacturer.

(d) REMOVAL.—

(1) IN GENERAL.—Such goods, when manufactured in such warehouses, may be removed for exportation under the direction of the proper officer having charge thereof, who shall be designated by the Secretary, without being charged with duty, and without having a stamp affixed thereto.

(2) TO PACIFIC COAST.—Any article manufactured in a bonded warehouse established under subsection (a), and situated in any of the Atlantic States, may be removed therefrom for transportation to a customs bonded warehouse at any port on the Pacific coast of the United States, for the purpose only of being exported therefrom, under such regulations and upon the execution of such bonds or other security as the Secretary may prescribe.

(3) CROSS REFERENCES.—

For special provisions relating to removal of manufactures of imported materials, see paragraph (2) of subsection (b).

For provisions relating specifically to withdrawal of distilled spirits from distillery warehouses for use in manufacturing bonded warehouses, see section 2891.

SEC. 3178. SPECIAL PROVISIONS RELATING TO DISTILLED SPIRITS AND WINES RECTIFIED IN BONDED MANUFACTURING WAREHOUSES.

Distilled spirits and wines which are rectified in bonded manufacturing warehouses, class six, and distilled spirits which are reduced in proof and bottled in such warehouses, shall be deemed to have been manufactured within the meaning of section 311 of the Tariff Act of 1930, 46 Stat. 692 (U. S. C., Title 19, sec. 1311), and may be withdrawn as provided in such section, and likewise for shipment in bond to Puerto Rico, subject to the provisions of such section, and under such regulations as the Secretary may prescribe, there to be withdrawn for consumption or be rewarehoused and subsequently withdrawn for consumption: *Provided*, That no internal-revenue tax shall be imposed on distilled spirits and wines rectified in class six warehouses if such distilled spirits and wines are exported or shipped in accordance with the provisions of such section, and that no person rectifying distilled spirits or wines in such warehouses shall be subject by reason of such rectification to the payment of special tax as a rectifier.

SEC. 3179. EXEMPTION AND DRAWBACK IN CASE OF EXPORTATION.

(a) EXEMPTION.—Under such rules and regulations as the Commissioner with the approval of the Secretary may prescribe, the amount of any internal revenue tax erroneously or illegally collected in respect to exported articles may be refunded to the exporter of the article, instead of to the manufacturer, if the manufacturer waives any claim for the amount so to be refunded.

(b) DRAWBACK.—Upon the exportation of bottled distilled spirits and wines manufactured or produced in the United States on which an internal-revenue tax has been paid, there shall be allowed, under regulations to be prescribed by the Commissioner, with the approval of the Secretary, a drawback equal in amount to the tax found to have been paid on such bottled distilled spirits and wines: *Provided*, That such distilled spirits and wines have been bottled especially for export, under regulations prescribed by the Commissioner, with the approval of the Secretary. The Secretary is authorized to prescribe regulations governing the determination and payment of drawback of internal-revenue tax on domestic distilled spirits and wines, including the requirement of such notices, bonds, bills of lading, and other evidence of payment of tax and exportation as the Secretary deems necessary.

(c) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3180. DISTILLERIES ERECTED PRIOR TO JULY 20, 1868.

(a) REQUIREMENTS.—In any case where the owner of a distillery or distilling apparatus, erected prior to July 20, 1868, has only an estate for a term of years or other estate less than fee-simple in the lot or tract of land on which the distillery is situated, the evidence of title to which shall have been duly recorded prior to that date; or in like case, where the lease or other evidence of title is held but was not required by the laws of the State to be recorded in order to be valid at the time of its execution; or in any case of such prior erection where the title was then, and has continued to be, in litigation; or in any case of such prior erection where such owner is possessed of the fee, but encumbered with a mortgage executed and duly recorded prior to July 20, 1868, and not due, or in any case of such prior erec-

tion where the fee is held by a femme-covert, minor, person of unsound mind, or other person incapable of giving consent, as required in section 2815 (b) (1) (B), the value of such lot or tract of land, together with the building and distilling apparatus, shall be appraised in the manner to be prescribed by the Commissioner pursuant to section 2815 (b) (1) (C); and the officer designated by the Commissioner may, at the discretion of the Commissioner, be authorized to accept, in lieu of the said written consent, the bond of such distiller, in such form as the Commissioner may prescribe, with not less than two personal sureties or one corporate surety, conditioned that in case the distillery, distilling apparatus, or any part thereof, shall by final judgment be forfeited for the violation of any of the provisions of law, the obligors shall pay the amount stated in said bond. Said sureties shall be residents of the collection district or county, or of an adjoining county in the same State in which the distillery is situated, and owners of unencumbered real estate in said district or county, or adjoining county, equal to such appraised value, and the penal sum of said bond shall be equal to the appraised value of said lot or tract of land together with the buildings and distilling apparatus.

(b) BOND.—The officer designated by the Commissioner may at any time, at the discretion of the Commissioner, accept such bond as is authorized to be given by the distiller in lieu of the written consent of the owner of the fee in the case of a distillery erected prior to July 20, 1868, notwithstanding such distillery has since then been increased by the addition of land or buildings adjacent or contiguous thereto, not owned by the distiller himself in fee; such bond to be for and in respect of such addition only, if the distillery be one which the distiller owns in fee or in respect to which he has procured the written consent of the owner of the fee or other encumbrance, otherwise to be for and in respect of the entire distillery as increased by such addition.

(c) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 3181. CROSS REFERENCES.

For provision authorizing and directing officers of internal revenue to withhold release of distilled spirits from bottling plants unless a certificate of label approval has been obtained or the application of the bottler for exemption has been granted, see section 5 (e) of the Federal Alcohol Administration Act, as amended by section 505 of the Liquor Tax Administration Act, c. 830, 49 Stat. 1966 (U. S. C., Title 27, Sup. II, § 205 (e)).

For power of marshals or deputy marshals to arrest persons operating illicit distilleries, see section 9 of the act of March 1, 1879, c. 125, 20 Stat. 341 (U. S. C., Title 18, § 593).

For authority to issue warrants of arrest for violation of internal revenue laws upon the sworn complaint of district attorneys, collectors, deputy collectors, revenue agents, or private citizens, see the act of March 2, 1901, c. 814, 31 Stat. 956 (U. S. C., Title 18, § 594).

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CHAPTER 27—OCCUPATIONAL TAXES

SUBCHAPTER A—SPECIAL PROVISIONS

Part I—Oleomargarine

SEC. 3200. TAX.

(a) MANUFACTURERS.—Manufacturers of oleomargarine shall pay a special tax of $600.

(b) WHOLESALE DEALERS.—

(1) IN GENERAL.—Wholesale dealers in oleomargarine shall pay a special tax of $480: *Provided*, That wholesale dealers who vend no other oleomargarine or butterine except that upon which a tax of one-fourth of 1 cent per pound is imposed by section 2301 (a) shall pay $200.

(2) MANUFACTURERS SELLING AT WHOLESALE.—Any manufacturer of oleomargarine who has given the required bond and paid the required special tax, and who sells only oleomargarine of his own production, at the place of manufacture, in the original packages to which the tax-paid stamps are affixed, shall not be required to pay the special tax of a wholesale dealer in oleomargarine on account of such sales.

(c) RETAIL DEALERS.—Retail dealers in oleomargarine shall pay a special tax of $48: *Provided*, That such retail dealers as vend no other oleomargarine or butterine except that upon which is imposed by section 2301 (a) a tax of one-fourth of 1 cent per pound, shall pay $6.

SEC. 3201. PENALTIES.

(a) MANUFACTURERS.—Every person who carries on the business of a manufacturer of oleomargarine without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than $1,000 and not more than $5,000; and

(b) WHOLESALE DEALERS.—Every person who carries on the business of a wholesale dealer in oleomargarine without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than $500 nor more than $2,000; and

(c) RETAIL DEALERS.—Every person who carries on the business of a retail dealer in oleomargarine without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than $50 nor more than $500 for each and every offense.

SEC. 3202. DEFINITIONS.

For definitions of the following, see the sections enumerated below: Oleomargarine, section 2300; Manufacturers, section 2302 (a); Wholesale dealers, section 2303 (a); Retail dealers, section 2304 (a).

Part II—Adulterated and Process or Renovated Butter

SEC. 3206. TAX.

(a) MANUFACTURERS.—

(1) PROCESS OR RENOVATED BUTTER.—Manufacturers of process or renovated butter shall pay a special tax of $50 a year; and

(2) ADULTERATED BUTTER.—Manufacturers of adulterated butter shall pay a special tax of $600 a year.

(b) WHOLESALE DEALERS IN ADULTERATED BUTTER.—Wholesale dealers in adulterated butter shall pay a special tax of $480 a year.

(c) RETAIL DEALERS IN ADULTERATED BUTTER.—Retail dealers in adulterated butter shall pay a special tax of $48 a year.

SEC. 3207. PENALTIES.

(a) MANUFACTURERS OF PROCESS, RENOVATED, OR ADULTERATED BUTTER.—Every person who carries on the business of a manufacturer of process or renovated butter or adulterated butter without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than $1,000 and not more than $5,000; and

(b) DEALERS IN ADULTERATED BUTTER.—Every person who carries on the business of a dealer in adulterated butter without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than $50 nor more than $500 for each offense.

SEC. 3208. DEFINITIONS.

For definitions of the following, see the sections enumerated below: Butter, section 2320 (a); Adulterated butter, section 2320 (b); Process or renovated butter, section 2320 (c); Manufacturers of process, or renovated, or adulterated butter, section 2322 (a); Dealers in adulterated butter, section 2323 (a); Retail dealers in adulterated butter, section 2323 (b).

Part III—Filled Cheese

SEC. 3210. TAX.

(a) MANUFACTURERS.—Manufacturers of filled cheese shall pay a special tax of $400 a year for each and every factory.

(b) WHOLESALE DEALERS.—

(1) IN GENERAL.—Wholesale dealers in filled cheese shall pay a special tax of $250 a year.

(2) MANUFACTURERS SELLING AT WHOLESALE.—Any manufacturer of filled cheese who has given the required bond and paid the required special tax, and who sells only filled cheese of his own production, at the place of manufacture, in the original packages, to which the tax-paid stamps are affixed, shall not be required to pay the special tax of a wholesale dealer in filled cheese on account of such sales.

(c) RETAIL DEALERS.—Retail dealers in filled cheese shall pay a special tax of $12 a year.

SEC. 3211. PENALTIES.

(a) MANUFACTURERS.—Every person, firm, or corporation who carries on the business of a manufacturer of filled cheese without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than $400 and not more than $3,000; and

(b) WHOLESALE DEALERS.—Every person, firm, or corporation who carries on the business of a wholesale dealer in filled cheese without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than $250 nor more than $1,000; and

(c) RETAIL DEALERS.—Every person, firm, or corporation who carries on the business of a retail dealer in filled cheese without having paid the special tax therefor, as required by law, shall, besides being liable for the payment of the tax, be fined not less than $40 nor more than $500 for each and every offense.

SEC. 3212. DEFINITIONS.

For definitions of the following, see the sections enumerated below: Cheese, section 2350 (a); Filled cheese, section 2350 (b); Manufacturers, section 2352 (a); Wholesale dealers, section 2353 (a); Retail dealers, section 2354 (a).

Part IV—Mixed Flour

SEC. 3215. TAX.

(a) RATE.—Every person, firm, or corporation, before engaging in the business of making, packing, or repacking mixed flour, shall pay a special tax at the rate of $12 a year.

(b) PAYMENT AND POSTING.—The tax imposed by subsection (a) shall be paid and posted in accordance with the provisions of section 3273 (b), and subject to the fines and penalties imposed by section 3274 for any violation thereof.

SEC. 3216. PENALTIES.

(a) POSTING AND PAYMENT OF TAX.—

For penalties imposed for violation of provisions relating to the posting and payment of the tax, see section 3215 (b).

(b) SECOND OFFENSES.—

For penalties imposed for second offenses, see section 2386 (h).

(c) RECOVERY.—

For recovery of penalties, see section 2387.

SEC. 3217. DEFINITION.

For definition of mixed flour, see section 2380.

Part V—Narcotics

SEC. 3220. TAX.

On or before July 1 of each year every person who imports, manufactures, produces, compounds, sells, deals in, dispenses, or gives away opium or coca leaves, or any compound, manufacture, salt, derivative, or preparation thereof, shall pay the special taxes hereinafter provided. Every person upon first engaging in any of such activities shall immediately pay the proportionate part of the tax for the period ending on the following June 30.

(a) IMPORTERS, MANUFACTURERS, OR PRODUCERS.—Importers, manufacturers, producers, or compounders, lawfully entitled to import, manufacture, produce, or compound any of the aforesaid drugs, $24 per annum;

(b) WHOLESALE DEALERS.—Wholesale dealers, lawfully entitled to sell and deal in any of the aforesaid drugs, $12 per annum;

(c) RETAIL DEALERS.—Retail dealers, lawfully entitled to sell and deal in any of the aforesaid drugs, $3 per annum;

(d) PHYSICIANS, DENTISTS, VETERINARY SURGEONS, AND OTHER PRACTITIONERS.—Physicians, dentists, veterinary surgeons, and other practitioners, lawfully entitled to distribute, dispense, give away, or administer any of the aforesaid drugs to patients upon whom they in the course of their professional practice are in attendance, $1 per annum or fraction thereof during which they engage in any of such activities;

(e) PERSONS ENGAGED IN RESEARCH, INSTRUCTION, OR ANALYSIS.—Persons not registered as an importer, manufacturer, producer, or compounder and lawfully entitled to obtain and use in a laboratory any of the aforesaid drugs for the purpose of research, instruction, or analysis shall pay $1 per annum, but such persons shall keep such special records relating to receipt, disposal, and stocks on hand of the aforesaid drugs as the Commissioner of Narcotics, with the approval of the Secretary, may by regulation require. Such special records shall be open at all times to the inspection of any duly authorized officer, employee, or agent of the Treasury Department.

(f) PERSONS NOT OTHERWISE TAXED.—

For a tax of $1 a year on persons not otherwise taxed, dispensing preparations and remedies of limited narcotic content, see section 2551 (a).

(g) PERSONS IN CANAL ZONE.—

For authority of the President to issue Executive orders providing for the imposition of a special tax upon all persons in the Canal Zone who produce, import, compound, deal in, dispense, distribute, sell, or give away opium or coca leaves, their salts, derivatives, or preparations, see section 2564 (b).

SEC. 3221. REGISTRATION.

(a) REQUIREMENTS.—On or before July 1 of each year every person who engages in any of the activities enumerated in section 3220 shall register with the collector of the district his name or style, place of business and place or places where such business is to be carried on, and every person upon first engaging in any such activities shall immediately make like registration.

(b) TRANSFER OF DUTIES.—

For authority of the Secretary to delegate such powers and duties, see subchapter D.

SEC. 3222. EXEMPTION FROM TAX AND REGISTRATION.

(a) EMPLOYEES.—No employee of any person who has registered and paid special tax as required in this part acting within the scope of his employment, shall be required to register and pay special tax provided by sections 3220 and 3221.

(b) GOVERNMENT AND STATE OFFICIALS.—Officials of the United States, Territorial, District of Columbia, or insular possessions, State or municipal governments, who in the exercise of their official duties engage in any of the business herein described, shall not be required to register, nor pay special tax, but their right to this exemption shall be evidenced in such manner as the Secretary may by regulations prescribe.

(c) CROSS REFERENCES.—

(1) CANAL ZONE.—

For authority of the President to issue Executive orders providing for the registration of all persons in the Canal Zone who produce, import, compound, deal in, dispense, distribute, sell, or give away opium or coca leaves, their salts, derivatives, or preparations, see section 2564.

(2) TRANSFER OF DUTIES.—

For authority of the Secretary to delegate such powers and duties, see subchapter D.

SEC. 3223. POSSESSION OF STAMPED PACKAGES AS EVIDENCE OF TAX LIABILITY.

For possession of original stamped packages as prima facie evidence of liability to special tax, see section 2553 (a).

SEC. 3224. UNLAWFUL ACTS IN CASE OF FAILURE TO REGISTER AND PAY SPECIAL TAX.

(a) TRAFFICKING.—It shall be unlawful for any person required to register under the provisions of this part or section 2551 (a) to import, manufacture, produce, compound, sell, deal in, dispense, distribute, administer, or give away any of the aforesaid drugs without having registered and paid the special tax as imposed by this part, or section 2551 (a).

(b) TRANSPORTATION.—It shall be unlawful for any person who shall not have registered and paid the special tax as required by sections 3220 and 3221 to send, ship, carry, or deliver any of the aforesaid drugs from any State or Territory or the District of Columbia, or any insular possession of the United States, to any person in any other State or Territory or the District of Columbia or any insular possession of the United States: *Provided*, That nothing contained in this subsection shall apply to common carriers engaged in transporting the aforesaid drugs, or to any employee acting within the scope of his

employment, of any person who shall have registered and paid the special tax as required by sections 3220 and 3221, or to any person who shall deliver any such drug which has been prescribed or dispensed by a physician, dentist, or veterinarian required to register under the terms of this part or section 2551 (a), who has been employed to prescribe for the particular patient receiving such drug, or to any United States, State, county, municipal, district, Territorial, or insular officer or official acting within the scope of his official duties.

(c) POSSESSION.—It shall be unlawful for any person who has not registered and paid the special tax as provided for by this part or section 2551 (a), to have in his possession or under his control any of the aforesaid drugs; and such possession or control shall be presumptive evidence of a violation of this subsection and subsection (a), and also a violation of the provisions of sections 3220 and 3221: *Provided*, That this subsection shall not apply to any employee of a registered person, or to a nurse under the supervision of a physician, dentist, or veterinary surgeon registered under this part or section 2551 (a), having such possession or control by virtue of his employment or occupation and not on his own account; or to the possession of any of the aforesaid drugs which has or have been prescribed in good faith by a physician, dentist, or veterinary surgeon registered under this part or section 2551 (a); or to any United States, State, county, municipal, District, Territorial, or insular officer or official who has possession of any said drugs, by reason of his official duties, or to a warehouseman holding possession for a person registered and who has paid the taxes under this part and subchapter A of chapter 23; or to common carriers engaged in transporting such drugs: *Provided further*, That it shall not be necessary to negative any of the aforesaid exemptions in any complaint, information, indictment, or other writ or proceeding laid or brought under this part or subchapter A of chapter 23; and the burden of proof of any such exemption shall be upon the defendant.

SEC. 3225. PENALTIES.

For penalties for violating or failing to comply with any of the provisions of this part, see section 2557 (b) (1).

SEC. 3226. LIST OF SPECIAL TAXPAYERS.

(a) SUPPLY.—Collectors are authorized to furnish upon written request, to any person, a certified copy of the names of any or all persons who may be listed in their respective collection districts as special taxpayers under the provisions of this part or section 2551 (a), upon payment of a fee of $1 for each 100 names or fraction thereof in the copy so requested.

(b) TRANSFER OF DUTIES.—

For authority of the Secretary to delegate such powers and duties, see subchapter D.

SEC. 3227. OTHER LAWS APPLICABLE.

(a) All provisions of law relating to special taxes, as far as necessary shall be extended and made applicable to the special tax imposed by this part.

(b) All laws relating to the assessment, collection, remission, and refund of internal revenue taxes, including section 3761, so far as applicable to and not inconsistent with the provisions of this part and subchapter A of chapter 23, shall be extended and made applicable to the special taxes imposed by this part and section 2551 (a).

SEC. 3228. DEFINITIONS.

(a) PERSON.—The word "person" as used in this part and subchapter A of chapter 23 shall be construed to mean and include a partnership, association, company, or corporation, as well as a natural person.

(b) IMPORTER, MANUFACTURER, OR PRODUCER.—Every person who imports, manufactures, compounds, or otherwise produces for sale

or distribution any of the drugs mentioned in section 3220 shall be deemed to be an importer, manufacturer, or producer.

(c) WHOLESALE DEALER.—Every person who sells, or offers for sale, any of said drugs in the original stamped packages as provided in section 2553 (a) shall be deemed a wholesale dealer.

(d) RETAIL DEALER.—Every person who sells or dispenses from original stamped packages as provided in section 2553 (a) shall be deemed a retail dealer: *Provided*, That the office, or if none, the residence, of any person shall be considered for the purposes of this part and subchapter A of chapter 23 his place of business.

Part VI—Marihuana

SEC. 3230. TAX.

(a) LIABILITY AND TIME FOR PAYMENT OF TAX.—Every person who imports, manufactures, produces, compounds, sells, deals in, dispenses, prescribes, administers, or gives away marihuana shall (1) before engaging in any of the above-mentioned activities, and (2) thereafter, on or before July 1 of each year, pay the following special taxes respectively:

(1) IMPORTERS, MANUFACTURERS, AND COMPOUNDERS.—Importers, manufacturers, and compounders of marihuana, $24 per year.

(2) PRODUCERS.—Producers of marihuana (except those included within subdivision (4) of this subsection), $1 per year, or fraction thereof, during which they engage in such activity.

(3) PHYSICIANS, DENTISTS, VETERINARY SURGEONS, AND OTHER PRACTITIONERS.—Physicians, dentists, veterinary surgeons, and other practitioners who distribute, dispense, give away, administer, or prescribe marihuana to patients upon whom they in the course of their professional practice are in attendance, $1 per year or fraction thereof during which they engage in any of such activities.

(4) PERSONS ENGAGED IN RESEARCH, INSTRUCTION, OR ANALYSIS.—Any person not registered as an importer, manufacturer, producer, or compounder who obtains and uses marihuana in a laboratory for the purpose of research, instruction, or analysis, or who produces marihuana for any such purpose, $1 per year, or fraction thereof, during which he engages in such activities.

(5) PERSONS NOT OTHERWISE TAXED.—Any person who is not a physician, dentist, veterinary surgeon, or other practitioner and who deals in, dispenses, or gives away marihuana, $3 per year: *Provided*, That any person who has registered and paid the special tax as an importer, manufacturer, compounder, or producer, as required by subdivisions (1) and (2) of this subsection, may deal in, dispense, or give away marihuana imported, manufactured, compounded, or produced by him without further payment of the tax imposed by this section.

(b) COMPUTATION OF TAX.—Where a tax under subdivision (1) or (5) of subsection (a) is payable on July 1 of any year it shall be computed for one year; where any such tax is payable on any other day it shall be computed proportionately from the first day of the month in which the liability for the tax accrued to the following July 1.

(c) LIABILITY IN CASE OF ACTIVITIES IN MORE THAN ONE PLACE.—In the event that any person subject to a tax imposed by this section engages in any of the activities enumerated in subsection (a) of this section at more than one place, such person shall pay the tax with respect to each such place.

(d) LIABILITY IN CASE OF MORE THAN ONE ACTIVITY BY SAME PERSON AT SAME TIME.—Except as otherwise provided, whenever more than one of the activities enumerated in subsection (a) of this section is carried on by the same person at the same time, such person shall pay the tax for each such activity, according to the respective rates prescribed.

SEC. 3231. REGISTRATION.

Any person subject to the tax imposed by section 3230 shall, upon payment of such tax, register his name or style and his place or places of business with the collector of the district in which such place or places of business are located.

SEC. 3232. EXEMPTION FROM TAX AND REGISTRATION.

(a) EMPLOYEES.—No employee of any person who has paid the special tax and registered, as required by sections 3230 and 3231, acting within the scope of his employment, shall be required to register and pay such special tax.

(b) GOVERNMENT AND STATE OFFICIALS.—

(1) IN GENERAL.—An officer or employee of the United States, any State, Territory, the District of Columbia, or insular possession, or political subdivision, who, in the exercise of his official duties, engages in any of the activities enumerated in section 3230 shall not be required to register or pay the special tax, but his right to this exemption shall be evidenced in such manner as the Secretary may by regulations prescribe.

(2) CROSS REFERENCE.—

For authority of the President to issue executive orders providing for the registration and the imposition of special taxes upon persons in the Virgin Islands, see section 2603 (b).

SEC. 3233. RETURNS.

(a) REGISTRANTS.—Any person who shall be registered under the provisions of section 3231 in any internal-revenue district shall, whenever required so to do by the collector of the district, render to the collector a true and correct statement or return, verified by affidavits, setting forth the quantity of marihuana received or harvested by him during such period immediately preceding the demand of the collector, not exceeding three months, as the said collector may fix and determine. If such person is not solely a producer, he shall set forth in such statement or return the names of the persons from whom said marihuana was received, the quantity in each instance received from such persons, and the date when received.

(b) PERSONS LIABLE FOR TAX.—

For general requirement as to records, statements and returns in the case of persons liable for tax, see section 2594.

SEC. 3234. UNLAWFUL ACTS IN CASE OF FAILURE TO REGISTER AND PAY SPECIAL TAX.

(a) TRAFFICKING.—

(1) LIABILITY.—It shall be unlawful for any person required to register and pay the special tax under the provisions of sections 3230 and 3231 to import, manufacture, produce, compound, sell, deal in, dispense, distribute, prescribe, administer, or give away marihuana without having so registered and paid such tax.

(2) ENFORCEMENT OF LIABILITY.—In any suit or proceeding to enforce the liability imposed by this section or sections 3230 and 3231, if proof is made that marihuana was at any time growing upon land under the control of the defendant, such proof shall be presumptive evidence that at such time the defendant was a producer and liable under this section as well as under sections 3230 and 3231.

(b) TRANSPORTATION.—It shall be unlawful for any person who shall not have paid the special tax and registered, as required by sections 3230 and 3231, to send, ship, carry, transport, or deliver any marihuana within any Territory, the District of Columbia, or any insular possession, or from any State, Territory, the District of Columbia, any insular possession of the United States, or the Canal Zone, into any other State, Territory, the District of Columbia, or insular possession of the United States: *Provided*, That nothing contained in this section shall apply to any common carrier engaged in

transporting marihuana; or to any employee of any person who shall have registered and paid the special tax as required by sections 3230 and 3231 while acting within the scope of his employment; or to any person who shall deliver marihuana which has been prescribed or dispensed by a physician, dentist, veterinary surgeon, or other practitioner registered under section 3231, who has been employed to prescribe for the particular patient receiving such marihuana; or to any United States, State, county, municipal, District, Territorial, or insular officer or official acting within the scope of his official duties.

SEC. 3235. PENALTIES.

For penalties for violating or failing to comply with any of the provisions of this part, see section 2596.

SEC. 3236. LIST OF SPECIAL TAXPAYERS.

Collectors are authorized to furnish, upon written request, to any person a certified copy of the names of any or all persons who may be listed in their respective collection districts as special taxpayers under section 3230, upon payment of a fee of $1 for each one hundred of such names or fraction thereof upon such copy so requested.

SEC. 3237. OTHER LAWS APPLICABLE.

All provisions of law (including penalties) applicable in respect of the taxes imposed by sections 2550 and 3220 shall, insofar as not inconsistent with this part, be applicable in respect of the taxes imposed by this part.

SEC. 3238. DEFINITIONS.

When used in this part and subchapter C of chapter 23.

(a) PERSON.—The term "person" means an individual, a partnership, trust, association, company, or corporation and includes an officer or employee of a trust, association, company, or corporation, or a member or employee of a partnership, who, as such officer, employee, or member, is under a duty to perform any act in respect of which any violation of this part or subchapter C of chapter 23 occurs.

(b) MARIHUANA.—The term "marihuana" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

(c) PRODUCER.—The term "producer" means any person who (1) plants, cultivates, or in any way facilitates the natural growth of marihuana; or (2) harvests and transfers or makes use of marihuana.

(d) TRANSFER OR TRANSFERRED.—The term "transfer" or "transferred" means any type of disposition resulting in a change of possession but shall not include a transfer to a common carrier for the purpose of transporting marihuana.

SEC. 3239. CROSS REFERENCE.

For provisions authorizing seizure and confiscation of marihuana for persons violating this part, see section 2598 of chapter 23.

For provisions giving the Secretary authority to prescribe rules and regulations to enforce this part, see section 2599 of chapter 23.

For authority of the Secretary to delegate the powers conferred on him by this part to officers and employees of the Treasury Department, see section 2600 of chapter 23.

For the territorial extent of this part, see section 2602 of chapter 23.

For administration of the special taxes in Puerto Rico, see section 2603 (a) of chapter 23.

For burden of proof in the case of exemptions in this part, see section 2597 of chapter 23.

Part VII—Liquor

SEC. 3250. TAX.

(a) WHOLESALE DEALERS IN LIQUORS.—

(1) IN GENERAL.—Wholesale dealers in liquors shall pay a special tax of $100.

(2) WHOLESALE DEALERS IN LIQUORS DEALING IN WINES OR WINES AND MALT LIQUORS.—

For the designation of wholesale dealers in liquors as wholesale dealers in wines or wholesale dealers in wines and malt liquors, and the issuance of the appropriate special tax stamps, see section 3254 (b).

(3) RETAILERS SELLING AT WHOLESALE.—Except as provided in section 3254 (c) (2), a qualified retail dealer in liquors may not sell distilled spirits, wines, or malt liquors in quantities of five wine-gallons or more to the same person at the same time without incurring liability to special tax as a wholesale dealer in liquors.

(4) DISTILLERS SELLING AT WHOLESALE.—No distiller who has given the required bond and who sells only distilled spirits of his own production at the place of manufacture, or at the place of storage in bond, in the original packages to which the tax-paid stamps are affixed, shall be required to pay the special tax of a wholesale dealer in liquors on account of such sales.

(5) RETAIL DEALERS IN LIQUIDATION.—

For exemption of retailers liquidating entire stock from payment of special tax as wholesalers, see section 3251 (c).

(6) CREDITORS, FIDUCIARIES, OFFICERS OF COURT, AND PARTNERS.—

For exemption of creditors, fiduciaries, officers of court, and partners from the payment of any special tax by reason of casual sales, see section 3251 (a) and (b).

(b) RETAIL DEALERS IN LIQUORS.—

(1) IN GENERAL.—Except as provided in paragraph (3) of subsection (e), retail dealers in liquors shall pay a special tax of $25.

(2) RETAIL DRUG STORES OR PHARMACIES.—The tax required to be paid by paragraph (1) shall, in the case of a retail drug store or pharmacy making sales of liquors through a duly licensed pharmacist, be designated as a "medicinal spirits stamp tax."

(3) RETAIL DEALERS IN LIQUORS DEALING IN WINES OR WINES AND MALT LIQUORS.—

For the designation of retail dealers in liquors as retail dealers in wines and malt liquors, and the issuance of appropriate special tax stamps, see section 3254 (c) (1).

(4) WHOLESALERS SELLING AT RETAIL.—A qualified wholesale dealer in liquors may not sell distilled spirits, wines, or malt liquors in quantities of less than five wine gallons without incurring liability to special tax as a retail dealer in liquors.

(5) CREDITORS, FIDUCIARIES, OFFICERS OF COURT, AND PARTNERS.—

For exemption of creditors, fiduciaries, officers of court, and partners from the payment of any special tax by reason of casual sales, see section 3251 (a) and (b).

(c) BREWERS.—

(1) IN GENERAL.—Brewers shall pay $100 in respect of each brewery: *Provided*, That any brewer of less than 500 barrels a year shall pay the sum of $50.

(2) CROSS REFERENCE.—

For effect upon special tax of purchases or sales of malt liquors by brewers, see paragraph (3) of subsection (d).

(d) WHOLESALE DEALERS IN MALT LIQUORS.—

(1) IN GENERAL.—Wholesale dealers in malt liquors shall pay a special tax of $50.

(2) RETAILERS SELLING AT WHOLESALE.—A qualified retail dealer in malt liquors may not sell such liquors in quantities of five gallons or more to the same person at the same time without incurring lia-

bility to special tax as a wholesale dealer in malt liquors. No retail dealer in malt liquors shall be held to be a wholesale dealer in malt liquors solely by reason of sales of five gallons or more to the same person at the same time if such sales are for immediate consumption on the premises where sold.

(3) BREWERS SELLING AT WHOLESALE.—No brewer shall be obliged to pay special tax as a dealer by reason of selling in the original stamped hogsheads, barrels, or kegs, whether at the place of manufacture or elsewhere, malt liquors manufactured by him, or purchased and procured by him in his own hogsheads, barrels, or kegs, under provisions of section 3155 (f), but the quantity of malt liquors so purchased shall be included in calculating the liability to brewers' special tax of both the brewer who manufactures and sells the same and the brewer who purchases the same.

(4) RETAIL DEALERS IN LIQUIDATION.—

For exemption of retailers liquidating entire stock from payment of special tax as wholesalers, see section 3251 (c).

(e) RETAIL DEALERS IN MALT LIQUORS.—

(1) IN GENERAL.—Retail dealers in malt liquors shall pay a special tax of $20.

(2) WHOLESALERS SELLING AT RETAIL.—A qualified wholesale dealer in malt liquors may not sell such liquors in quantities of less than five gallons without incurring liability to special tax as a retail dealer in malt liquors.

(3) PERSONS SELLING TO ENTERTAINMENTS AND OUTINGS.—Notwithstanding the provisions of this part, each person making sales of fermented malt liquor or wine to the members, guests, or patrons of bona-fide fairs, reunions, picnics, carnivals, or other similar outings, and each fraternal, civic, church, labor, charitable, benevolent, or ex-service men's organization making sales of fermented malt liquor or wine on the ocasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, if such person or organization is not otherwise engaged in business as a wholesale or retail liquor dealer or as a wholesale or retail malt liquor dealer, shall pay, before any such sales are made and in lieu of the special taxes imposed by paragraph (1) of this subsection and of subsection (b) a special tax of $2 as a retail dealer in malt liquors, if fermented malt liquor only is sold, or a special tax of $2 as a retail dealer in liquors if wine only, or wine and fermented malt liquor only, are sold for each calendar month in which any such sales are made.

(4) BREWERS SELLING AT RETAIL.—No collection of special tax as a retail dealer in malt liquors shall be made from brewers for selling malt liquors of their own manufacture in the original stamped eighth-barrel packages.

(5) OTHER PROVISIONS.—

For other provisions relating to brewers as dealers, see paragraph (3) of subsection (d).

(6) TRANSFER OF DUTIES.—

For transfer of the powers and duties of the Commissioner and his agents, see section 3170.

(f) RECTIFIERS.—

(1) RATE OF TAX.—Rectifiers of distilled spirits shall pay a special tax of $200: *Provided*, That any rectifier of less than 500 barrels a year, counting 40 gallons of proof spirits to the barrel, shall pay $100.

(2) PROHIBITED PREMISES.—No officer shall collect any special tax for rectifying distilled spirits on any premises distant less than six hundred feet (or less than the distance permitted by the Secretary of the Treasury in the particular case) in a direct line from any distillery. And every officer who collects any special tax in violation of this section shall be liable to a penalty of $5,000 for each offense.

(g) WINEMAKERS.—Nothing in this chapter or chapter 26 shall be construed to impose a special tax upon winemakers who have qualified as such under the internal-revenue laws and regulations, and who sell wines of their own production where the same are made or at the general business office of such winemaker: *Provided*, That no winemaker shall have more than one place of business for the sale of such wine that shall be exempt from the special tax.

(h) APOTHECARIES.—No special tax shall be imposed upon apothecaries as to wines or spirituous liquors which they use exclusively in the preparation or making up of medicines unfit for use for beverage purposes.

(i) MANUFACTURERS OF CHEMICALS AND FLAVORING EXTRACTS.—No special tax shall be imposed upon manufacturing chemists or flavoring-extract manufacturers for recovering tax-paid alcohol or spirituous liquors from dregs or marc of percolation, or extraction, if such recovered alcohol or spirituous liquors be again used in the manufacture of medicines or flavoring extracts of the kind in the production of which originally used.

(j) MANUFACTURERS OF STILLS.—

(1) IN GENERAL.—Manufacturers of stills shall each pay a special tax of $50, and $20 for each still or worm for distilling made by him.

(2) DISTILLERS MANUFACTURING OWN STILLS.—Paragraph (1) of this subsection and section 3254 (h) shall not apply to distillers in registered distilleries who manufacture for their own use wooden stills, but each of said distillers shall give notice to the collector of the district in which his distillery is located of each still manufactured before the same is used.

(3) DRAWBACK.—Upon all stills manufactured for export, and actually exported, there shall be allowed a drawback, where the tax thereon has been paid, under such rules and regulations as the Commissioner, with the approval of the Secretary, shall prescribe.

(k) CROSS REFERENCE.—

For transfer of the powers and duties of the Commissioner and his agents, see section 3170.

SEC. 3251. CASUAL SALES.

(a) BY CREDITORS, FIDUCIARIES, AND OFFICERS OF COURT.—No special tax shall be held to accrue on a sale of distilled spirits, wines, or malt liquors made by a person who is not otherwise a dealer in liquors, where such spirits, wines, or liquors have been received by the person so selling as security for or in payment of a debt, or as executor, administrator, or other fiduciary, or have been levied on by any officer, under order or process of any court or magistrate, and where such spirits are sold by such person in one parcel only, or at public auction in parcels not less than twenty wine-gallons.

(b) BY RETIRING OR DECEASED PARTNERS TO INCOMING OR REMAINING PARTNERS.—No special tax shall be held to accrue on a sale of distilled spirits, wines, or malt liquors made by a retiring partner, or the representatives of a deceased partner to the incoming, remaining, or surviving partner or partners of a firm.

(c) BY RETAIL DEALERS IN LIQUIDATION.—The special tax of a wholesale dealer in liquors or wholesale dealer in malt liquors shall not be held to apply to a retail dealer in liquors or a retail dealer in malt liquors, because of such retail dealer selling out his entire stock of liquors in one parcel, or in parcels embracing not less than his entire stock of distilled spirits, of wines, or of malt liquors. Section 2860 shall not be held to prohibit a rectifier or liquor dealer from purchasing, in quantities greater than twenty wine-gallons, the distilled spirits sold in one parcel as aforesaid.

SEC. 3252. RETAIL LIQUOR DEALERS' RECORDS.

(a) REQUIREMENT.—Each retail liquor dealer shall provide at his own expense, and keep in his place of business, a record in book form, or shall keep all invoices of, and bills for, all distilled spirits, wines, and fermented malt liquors received, the quantity thereof, and from whom and the date when received.

(b) INSPECTION.—Such records, invoices, and bills shall be open to inspection during the usual business hours of the retailer by Government officers upon identification and request.

(c) PRESERVATION.—Such records, invoices, and bills shall be kept for a period of two years after the time of the transactions to which they relate.

(d) PENALTY.—For each willful violation of the provisions hereof the retailer shall be subject to a fine of $25.

SEC. 3253. PENALTIES AND FORFEITURES FOR NONPAYMENT OF SPECIAL TAX.

Any person who shall carry on the business of a brewer, rectifier, wholesale liquor dealer, retail liquor dealer, wholesale dealer in malt liquors, retail dealer in malt liquors, or manufacturer of stills, and willfully fails to pay the special tax as required by law, shall, for every such offense, be fined not less than $100 nor more than $5,000 and be imprisoned for not less than thirty days nor more than two years. And all distilled spirits or wines, and all stills or other apparatus, fit or intended to be used for the distillation or rectification of spirits, or for the compounding of liquors, owned by such person, wherever found, and all distilled spirits or wines and personal property found in the distillery or rectifying establishment, or in any building, room, yard, or enclosure connected therewith and used with or constituting a part of the premises, shall be forfeited to the United States.

SEC. 3254. DEFINITIONS.

(a) DISTILLER.—

For definition of distiller, see section 2809 (a).

(b) WHOLESALE DEALER IN LIQUORS.—Except as otherwise provided, every person who sells, or offers for sale, foreign or domestic distilled spirits, wines, or malt liquors in quantities of five wine-gallons or more to the same person at the same time, shall be regarded as a wholesale dealer in liquors: *Provided*, That the Commissioner may, by regulations, with the approval of the Secretary, provide for the issuance of a stamp denoting payment of such special tax as a "wholesale dealer in wines" or a "wholesale dealer in wines and malt liquors" if, as the case may be, wines only, or wines and malt liquors only, are sold by a wholesale dealer in liquors.

(c) RETAIL DEALER IN LIQUORS.—Except as otherwise provided, (1) every person who sells, or offers for sale, foreign or domestic distilled spirits, wines, or malt liquors in less quantities than five wine-gallons to the same person at the same time, shall be regarded as a retail dealer in liquors: *Provided*, That the Commissioner may, by regulations, with the approval of the Secretary, provide for the issuance of a stamp denoting payment of such special tax as a "retail dealer in wines" or a "retail dealer in wines and malt liquors" if, as the case may be, wines only, or wines and malt liquors only, are sold by a retail dealer in liquors.

(2) No retail dealer in liquors shall be held to be a wholesale dealer in liquors solely by reason of sales of five wine-gallons or more to the same person at the same time if such sales are for immediate consumption on the premises where sold.

(d) BREWER.—Every person who manufactures fermented liquors of any name or description, for sale, from malt, wholly or in part, or from any substitute therefor, shall be deemed a brewer.

(e) WHOLESALE DEALER IN MALT LIQUORS.—Except as otherwise provided, every person who sells, or offers for sale, malt liquors in quantities of five gallons or more, to the same person at the same time, and who does not deal in distilled spirits or wines at wholesale, shall be regarded as a wholesale dealer in malt liquors.

(f) RETAIL DEALER IN MALT LIQUORS.—Except as otherwise provided, every person who sells, or offers for sale, malt liquors in less quantities than five gallons to the same person at the same time, and does not deal in distilled spirits or wines, shall be regarded as a retail dealer in malt liquors.

(g) RECTIFIER.—Every person who rectifies, purifies, or refines distilled spirits or wines by any process other than by original and continuous distillation from mash, wort, or wash, through continuous closed vessels and pipes, until the manufacture thereof is complete, and every wholesale or retail liquor dealer who has in his possession any still or leach tub, or who keeps any other apparatus for the purpose of refining in any manner distilled spirits, and every person who, without rectifying, purifying, or refining distilled spirits, shall, by mixing such spirits, wine, or other liquor with any material, manufacture any spurious, imitation, or compound liquors for sale, under the name of whisky, brandy, gin, rum, wine, spirits, cordials, or wine bitters, or any other name, shall be regarded as a rectifier, and as being engaged in the business of rectifying: *Provided*, That nothing in this subsection or section 3250 (f) (1) shall be held to prohibit the purifying or refining of spirits in the course of original and continuous distillation through any material which will not remain incorporated with such spirits when the manufacture thereof is complete.

(h) MANUFACTURER OF STILLS.—Any person who manufactures any still or worm to be used in distilling shall be deemed a manufacturer of stills.

SEC. 3255. LIABILITY IN CASE OF BUSINESS IN MORE THAN ONE LOCATION.

(a) RETAIL DEALERS IN LIQUORS OR MALT LIQUORS.—Any retail dealer in liquors or retail dealer in malt liquors whose business is such as to require him to travel from place to place in different States of the United States may, under regulations prescribed by the Commissioner, with the approval of the Secretary, procure a special-tax stamp "At Large" covering his activities throughout the United States with the payment of but one special tax as a retail dealer in liquors or as a retail dealer in malt liquors, as the case may be.

(b) DEALERS IN LIQUORS OR MALT LIQUORS.—Nothing contained in this chapter shall prevent the issue, under such regulations as the Commissioner may prescribe, of special tax stamps to persons carrying on the business of retail dealers in liquors, or retail dealers in malt liquors, upon passenger railroad trains or upon steamboats or other vessels engaged in the business of carrying passengers.

(c) DEALERS IN LIQUORS OR MALT LIQUORS MAKING SALES ON PURCHASER DEALERS' PREMISES.—No wholesale or retail dealer in liquors or wholesale or retail dealer in malt liquors who has paid the special tax as such a dealer shall again be required to pay special tax as such dealer on account of sales of beer, lager beer, ale, porter, or other similar fermented malt liquor to wholesale or retail dealers in liquors or wholesale or retail dealers in malt liquors consummated at the purchaser's place of business covered by the stamp issued to him to denote the payment of the special tax imposed upon such dealers.

Part VIII—Firearms

SEC. 3260. TAX.

(a) RATE.—Upon first engaging in business, and thereafter on or before the 1st day of July of each year, every importer, manufac-

turer, and dealer in firearms shall pay a special tax at the following rates:

(1) IMPORTERS OR MANUFACTURERS.—Importers or manufacturers, $500 a year;

(2) DEALERS OTHER THAN PAWNBROKERS.—Dealers, other than pawnbrokers, $200 a year;

(3) PAWNBROKERS.—Pawnbrokers, $300 a year:

Provided, That manufacturers and dealers in guns with two attached barrels from which only a single discharge can be made from either barrel without manual reloading shall pay the following taxes: Manufacturers, $25 per year; dealers, $1 per year.

(b) COMPUTATION OF TAX.—Where the tax is payable on the 1st day of July in any year it shall be computed for one year; where the tax is payable on any other day it shall be computed proportionately from the 1st day of the month in which the liability to the tax accrued to the 1st day of July following.

SEC. 3261. REGISTRATION.

(a) IMPORTERS, MANUFACTURERS, AND DEALERS.—Upon first engaging in business, and thereafter on or before the 1st day of July of each year, every importer, manufacturer, and dealer in firearms shall register with the collector of internal revenue for each district in which such business is to be carried on his name or style, principal place of business, and places of business in such district.

(b) PERSONS IN GENERAL.—Every person possessing a firearm shall register, with the collector of the district in which he resides, the number or other mark identifying such firearm, together with his name, address, place where such firearm is usually kept, and place of business or employment, and, if such person is other than a natural person, the name and home address of an executive officer thereof: *Provided*, That no person shall be required to register under this subsection with respect to any firearm acquired after July 26, 1934, and in conformity with the provisions of this part and subchapter B of chapter 25.

(c) PRESUMPTION OF POSSESSION.—Whenever on trial for a violation of section 2726 (a) hereof the defendant is shown to have or to have had possession of such firearm at any time after September 24, 1934, without having registered as required by subsection (b), such possession shall create a presumption that such firearm came into the possession of the defendant subsequent to July 26, 1934, but this presumption shall not be conclusive.

SEC. 3262. EXEMPTIONS.

For provisions exempting certain transfers, see section 2721.

SEC. 3263. UNLAWFUL ACTS IN CASE OF FAILURE TO REGISTER AND PAY SPECIAL TAX.

(a) IMPORTATION, MANUFACTURE OR DEALING IN FIREARMS.—It shall be unlawful for any person required to register under the provisions of section 3261 to import, manufacture, or deal in firearms without having registered and paid the tax imposed by section 3260.

(b) TRANSPORTATION IN INTERSTATE COMMERCE.—It shall be unlawful for any person who is required to register as provided in section 3261 (b) and who shall not have so registered, or any other person who has not in his possession a stamp-affixed order as provided in section 2723, to ship, carry, or deliver any firearm in interstate commerce.

SEC. 3264. OTHER LAWS APPLICABLE.

For provisions relating to special taxes, and other provisions relating to the tax on narcotics made applicable to the taxes imposed by this part, see section 2731.

SEC. 3265. DEFINITIONS.

For definitions of firearm, machine gun, importer, manufacturer, dealer, and other terms used in this part, see section 2733.

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SEC. 3266. TRANSACTIONS BETWEEN REGISTERED PERSONS.

For provisions exempting dealings between registered persons in certain respects, see section 2733 (d).

SUBCHAPTER B—GENERAL PROVISIONS

SEC. 3270. REGISTRATION.

(a) REQUIREMENTS.—Every person engaged in any trade or business on which a special tax is imposed by law shall register with the collector of the district his name or style, place of residence, trade or business, and the place where such trade or business is to be carried on. In case of a firm or company, the names of the several persons constituting the same, and the places of residence, shall be so registered.

(b) CROSS REFERENCES.—

For registration in case of narcotics, marihuana, and firearms, see sections 3221, 3231, and 3261, respectively.

For transfer of powers and duties of Commissioner and his agents in case of liquor, see section 3170.

SEC. 3271. PAYMENT OF TAX.

(a) CONDITION PRECEDENT TO DOING BUSINESS.—No person shall be engaged in or carry on any trade or business mentioned in this chapter until he has paid a special tax therefor in the manner provided in this chapter.

(b) DUE DATE.—All special taxes shall become due on the 1st day of July in each year, or on commencing any trade or business on which such tax is imposed. In the former case the tax shall be reckoned for one year, and in the latter case it shall be reckoned proportionately, from the 1st day of the month in which the liability to a special tax commenced, to and including the 30th day of June following.

(c) HOW PAID.—

(1) STAMP.—All special taxes imposed by law, including the tax on stills or worms, shall be paid by stamps denoting the tax.

(2) ASSESSMENT.—

For authority of Commissioner to make assessments where the special taxes have not been duly paid by stamp, at the time and in the manner provided by law, see section 3640.

SEC. 3272. RETURNS.

(a) TIME FOR FILING.—It shall be the duty of the special taxpayers to render their returns with remittances to the collector at such times within the calendar month in which the special tax liability commenced as shall enable him to receive such returns, duly signed and verified, together with the remittances, not later than the last day of the month, except in cases of sickness or absence, as provided for in section 3634.

(b) TRANSFER OF DUTIES.—

For transfer of powers and dutes of Commissioner and his agents in case of narcotics and liquor, see subchapter D of chapter 23 and section 3170.

(c) PENALTIES.—

For penalties imposed for failure to file returns or for making false or fraudulent returns, see section 3612.

SEC. 3273. STAMPS.

(a) SUPPLY.—The Commissioner is required to procure appropriate stamps for the payment of all special taxes imposed by law, including the tax on stills or worms; and the provisions of section 2802 (a) and of sections 3300, 3301, and 3302, and all other provisions of law relating to the preparation and issue of stamps for distilled spirits, fermented liquors, tobacco, and cigars, shall, so far as applicable, extend to and include such stamps for special taxes; and the Commissioner shall have authority to make all needful regulations relative thereto.

(b) POSTING.—Every person engaged in any business, avocation, or employment, who is thereby made liable to a special tax, shall place and keep conspicuously in his establishment or place of business all stamps denoting the payment of said special tax.

(c) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see subchapter D of chapter 23 and section 3170.

SEC. 3274. PENALTIES RELATING TO POSTING OF SPECIAL TAX STAMP.

Any person who shall, through negligence, fail to place and keep stamps denoting the payment of the special tax as provided in section 3273 (b) shall be liable to a penalty equal to the special tax for which his business rendered him liable, and the costs of prosecution; but in no case shall said penalty be less than $10. And where the failure to comply with the provisions of section 3273 (b) shall be through willful neglect or refusal, then the penalty shall be double the amount above prescribed: *Provided*, That nothing in this section shall in any way affect the liability of any person for exercising or carrying on any trade, business, or profession, or doing any act for the exercising, carrying on, or doing of which a special tax is imposed by law, without the payment thereof.

SEC. 3275. LIST OF SPECIAL TAXPAYERS FOR PUBLIC INSPECTION.

(a) IN COLLECTOR'S OFFICE.—Each collector shall, under regulations of the Commissioner, place and keep conspicuously in his office, for public inspection, an alphabetical list of the names of all persons who shall have paid special taxes within his district, and shall state thereon the time, place, and business for which such special taxes have been paid, and upon application of any prosecuting officer of any State, county, or municipality, he shall furnish a certified copy thereof, as of a public record, for which a fee of $1 for each one hundred words or fraction thereof in the copy or copies so requested, may be charged.

(b) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents in case of narcotics and liquor, see subchapter D of chapter 23 and section 3170.

SEC. 3276. APPLICATION OF STATE LAWS.

The payment of any tax imposed by the internal revenue laws for carrying on any trade or business shall not be held to exempt any person from any penalty or punishment provided by the laws of any State for carrying on the same within such State, or in any manner to authorize the commencement or continuance of such trade or business contrary to the laws of such State or in places prohibited by municipal law; nor shall the payment of any such tax be held to prohibit any State from placing a duty or tax on the same trade or business, for State or other purposes.

SEC. 3277. LIABILITY OF PARTNERS.

Any number of persons doing business in copartnership at any one place shall be required to pay but one special tax.

SEC. 3278. LIABILITY IN CASE OF BUSINESS IN MORE THAN ONE LOCATION.

The payment of the special tax imposed shall not exempt from an additional special tax the person carrying on a trade or business in any other place than that stated in the collector's register; but nothing herein contained shall require a special tax for the storage of goods, wares, or merchandise in other places than the place of business, nor, except as provided in this chapter for the sale by manufacturers or producers of their own goods, wares, and merchandise, at the place of production or manufacture, and at their principal office or place of business, provided no goods, wares, or merchandise shall be kept except as samples at said office or place of business.

SEC. 3279. LIABILITY IN CASE OF DIFFERENT BUSINESSES OF SAME OWNERSHIP AND LOCATION.

Whenever more than one of the pursuits or occupations described in this chapter are carried on in the same place by the same person at the same time, except as otherwise provided in this chapter the tax shall be paid for each according to the rates severally prescribed.

SEC. 3280. LIABILITY IN CASE OF DEATH OR CHANGE OF LOCATION.

(a) REQUIREMENTS.—When any person who has paid the special tax for any trade or business dies, his wife or child, or executors or administrators or other legal representatives, may occupy the house or premises, and in like manner carry on, for the residue of the term for which the tax is paid, the same trade or business as the deceased before carried on, in the same house and upon the same premises, without the payment of any additional tax. And when any person removes from the house or premises for which any trade or business was taxed to any other place, he may carry on the trade or business specified in the collector's register at the place to which he removes, without the payment of any additional tax: *Provided*, That all cases of death, change, or removal, as aforesaid, with the name of the successor to any person deceased, or of the person making such change or removal, shall be registered with the collector, under regulations to be prescribed by the Commissioner.

(b) REGISTRATION.—

For registration in case of narcotics, marihuana, and firearms, see sections 3221, 3231, and 3261, respectively.

(c) TRANSFER OF DUTIES.—

For transfer of powers and duties of Commissioner and his agents, in case of liquor, see section 3170.

SEC. 3281. DISCRETIONARY METHOD ALLOWED COMMISSIONER FOR COLLECTING TAX.

Whether or not the method of collecting any tax imposed by section 3220 is specifically provided in this chapter, any such tax may, under regulations prescribed by the Commissioner with the approval of the Secretary, be collected by stamp, coupon, serial-numbered ticket, or such other reasonable device or method as may be necessary or helpful in securing a complete and prompt collection of the tax. All administrative and penalty provisions of subchapters A, B, and C of chapter 11, in so far as applicable, shall apply to the collection of any tax which the Commissioner determines or prescribes shall be collected in such manner.

SEC. 3282. APPLICATION OF SUBCHAPTER.

The provisions of this subchapter, so far as applicable, shall extend to and include and apply to the special taxes imposed under subchapter A, and to the persons upon whom they are imposed.

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CHAPTER 28—PROVISIONS COMMON TO MISCELLANEOUS TAXES

SUBCHAPTER A—GENERAL PROVISIONS

Part I—Stamps, Marks, and Brands

SEC. 3300. ESTABLISHMENT AND ALTERATION.

(a) AUTHORIZATION.—The Commissioner, with the approval of the Secretary, may establish and, from time to time, alter or change the form, style, character, material, and device of any stamp, mark, or label used under any provision of the laws relating to internal revenue.

(b) APPLICATION OF PENALTY AND FORFEITURE PROVISIONS.—All pains, penalties, fines, and forfeitures provided by law relating to internal revenue stamps shall apply to and have full force and effect in relation to any and all stamps so established by the Commissioner.

(c) CROSS REFERENCES.

For other provisions giving the Commissioner general authority to establish, alter, and renew stamps, see section 3901 (a) (2).

For special authority to provide suitable stamps in case of—

Tobacco, snuff, cigars, and cigarettes, see section 2002.

Documents, other instruments, and playing cards, see section 1809 (b) (1).

Oleomargarine, see sections 2301 (c) (1) and 2313.

Adulterated and process or renovated butter, see sections 2321 (c) (1) and 2327 (d).

Filled cheese, see sections 2351 (c) and 2361.

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Narcotics and marihuana, see sections 2550 (c) (1), 2552, 2590 (c), and 2592 (b).

White phosphorus matches, see sections 2651 (c), 2652, and 2659 (a).

Cotton futures, see section 1920 (c).

Distilled spirits, see sections 2802 and 2803.

Fermented liquors, see sections 3151 and 3152.

Occupational taxes, see section 3273.

Shotguns, rifles, and machine guns, see section 2720 (c).

SEC. 3301. ATTACHMENT AND CANCELLATION.

(a) GENERAL AUTHORITY TO PRESCRIBE METHODS AND INSTRUMENTS.—The stamps referred to in the preceding section shall be attached, protected, removed, canceled, obliterated, and destroyed, in such manner and by such instruments or other means as the Commissioner, with the approval of the Secretary, may prescribe; and he is authorized and empowered to make, with the approval of the Secretary, all needful regulations relating thereto.

(b) CROSS REFERENCES.

For authority of the Commissioner to prescribe cancellation of stamps by perforation, see section 3303.

For special provisions relating to the attachment, protection, cancellation, and special issue of stamps in the case of—

Tobacco and snuff, see section 2103.

Cigars and cigarettes, see section 2112.

Documents, other instruments, and playing cards, see sections 1815 and 1816.

Oleomargarine, see section 2313.

Adulterated and process or renovated butter, see section 2327 (d).

Filled cheese, see section 2361.

Mixed flour, see section 2388 (a).

Narcotics and marihuana, see sections 2552, 2568, and 2592.

White phosphorus matches, see section 2659 (a).

Distilled spirits, see sections 2802 and 2803.

Fermented liquors, see section 3152.

Shotguns, rifles, and machine guns, see section 2731.

SEC. 3302. EXPENSE.

The stamps or device or instrument or means of removal or obliteration referred to in sections 3300 and 3301 shall entail no additional expense upon the persons required to affix or use the same.

SEC. 3303. CANCELLATION OF STAMPS BY PERFORATION.

In lieu of or in addition to other requirements of law in that respect, all stamps used for denoting internal revenue taxes may, in the discretion of the Commissioner, be canceled by perforations to be made in such manner and form as the Commissioner may, by regulation, prescribe.

SEC. 3304. REDEMPTION OF STAMPS.

(a) AUTHORIZATION.—The Commissioner, subject to regulations prescribed by the Secretary, may, upon receipt of satisfactory evidence of the facts, make allowance for or redeem such of the stamps, issued under authority of law, to denote the payment of any internal revenue tax, as may have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use, or which through mistake may have been improperly or unnecessarily used, or where the rates or duties represented thereby have been excessive in amount, paid in error, or in any manner wrongfully collected.

(b) METHOD AND CONDITIONS OF ALLOWANCE.—Such allowance or redemption may be made, either by giving other stamps in lieu of the stamps so allowed for or redeemed, or by refunding the amount or value to the owner thereof, deducting therefrom, in case of repayment, the percentage, if any, allowed to the purchaser thereof; but no allowance or redemption shall be made in any case until the stamps so spoiled or rendered useless shall have been returned to the Commissioner, or until satisfactory proof has been made showing the reason why the same can not be returned; or, if so required by the said Commissioner, when the person presenting the same can not satisfactorily trace the history of said stamps from their issuance to the presentation of his claim as aforesaid.

(c) TIME FOR FILING CLAIMS.—No claim for the redemption of or allowance for stamps shall be allowed unless presented within four years after the purchase of such stamps from the Government.

(d) FINALITY OF COMMISSIONER'S DECISIONS.—The finding of facts in and the decision of the Commissioner upon the merits of any claim presented under or authorized by this section shall, in the absence of fraud or mistake in mathematical calculation, be final and not subject to revision by any accounting officer.

(e) TOBACCO AND CIGARS.

For special provisions relating to redemption of spoiled stamps, in the case of tobacco, snuff, cigars, or cigarettes, see section 2198.

SEC. 3305. TRANSMISSION OF STAMPS TO INTERNAL REVENUE OFFICERS.

The transmission of internal revenue stamps to the officers of the internal revenue service shall be made through the mails of the United States in registered packages.

Part II—Assessment, Collection, and Refund

SEC. 3310. RETURNS AND PAYMENT OF TAX.

(a) MONTHLY RETURNS.—All returns required to be made monthly by any person liable to tax shall be made on or before the 10th day of each month, and the tax assessed or due thereon shall be returned by the Commissioner to the collector on or before the last day of each month.

(b) OTHER RETURNS.—All returns for which no provision is otherwise made shall be made on or before the 10th day of the month succeeding the time when the tax is due and liable to be assessed, and the tax thereon shall be returned as herein provided for monthly returns, and shall be due and payable on or before the last day of the month in which the assessment is so made.

(c) ADDITION TO TAX IN CASE OF NONPAYMENT.—When the said tax is not paid on or before the last day of the month, as aforesaid,

the collector shall add a penalty of 5 per centum, together with interest at the rate of 6 per centum per annum, upon such tax from the time the same became due; but no interest for a fraction of a month shall be demanded: *Provided*, That notice of the time when such tax becomes due and payable is given in such manner as may be prescribed by the Commissioner.

(d) DEMAND FOR TAX, PENALTY, AND INTEREST.—It shall then be the duty of the collector, in case of the nonpayment of said tax on or before the last day of the month, as aforesaid, to demand payment thereof, with 5 per centum added thereto, and interest at the rate of 6 per centum per annum, as aforesaid, in the manner prescribed by law; and

(e) DISTRAINT.—If said tax, penalty, and interest, are not paid within ten days after such demand, it shall be lawful for the collector or his deputy to make distraint therefor, as provided by law.

SEC. 3311. ASSESSMENT OF UNPAID TAXES PAYABLE BY STAMP.

Whenever any article upon which a tax is required to be paid by means of a stamp is sold or removed for sale by the manufacturer thereof, without the use of the proper stamp, in addition to the penalties imposed by law for such sale or removal, it shall be the duty of the Commissioner, within a period of not more than four years (except as provided in section 3312) after such removal or sale, upon such information as he can obtain, to estimate the amount of the tax which has been omitted to be paid, and to make an assessment therefor upon the manufacturer or producer of such article. He shall certify such assessment to the collector, who shall immediately demand payment of such tax, and upon the neglect or refusal of payment by such manufacturer or producer, shall proceed to collect the same in the manner provided for the collection of other assessed taxes.

SEC. 3312. PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION.

Except in the case of income, estate, and gift taxes—

(a) GENERAL RULE.—All internal revenue taxes shall (except as provided in subsections (b), (c), and (d)) be assessed within four years after such taxes became due, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of five years after such taxes became due.

(b) FALSE RETURN OR NO RETURN.—In case of a false or fraudulent return with intent to evade tax, or of a failure to file a return within the time required by law, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(c) WILLFUL ATTEMPT TO EVADE TAX.—In case of a willful attempt in any manner to defeat or evade tax, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(d) COLLECTION AFTER ASSESSMENT.—Where the assessment of any tax imposed by this title has been made within the statutory period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court, but only if begun—

(1) Within six years after the assessment of the tax, or

(2) Prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the taxpayer.

SEC. 3313. PERIOD OF LIMITATION UPON REFUNDS AND CREDITS.

All claims for the refunding or crediting of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty alleged to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected must, except as otherwise provided by law in the case of income, war-profits, excess-profits, estate, and gift taxes, be pre-

sented to the Commissioner within four years next after the payment of such tax, penalty, or sum. The amount of the refund (in the case of taxes other than income, war-profits, excess-profits, estate, and gift taxes) shall not exceed the portion of the tax, penalty, or sum paid during the four years immediately preceding the filing of the claim, or if no claim was filed, then during the four years immediately preceding the allowance of the refund.

SEC. 3314. CROSS REFERENCE.

For other provisions relating to assessment, collection, and refund, see subtitle D.

Part III—Penalties and Forfeitures

SEC. 3320. POSSESSION WITH INTENT TO SELL IN FRAUD OF LAW OR TO EVADE TAX.

(a) PENALTY.—Every person who shall have in his custody or possession any goods, wares, merchandise, articles, or objects on which taxes are imposed by law, for the purpose of selling the same in fraud of the internal revenue laws, or with design to avoid payment of the taxes imposed thereon, shall be liable to a penalty of $500 or not less than double the amount of taxes fraudulently attempted to be evaded.

(b) FORFEITURE.

For the forfeiture provision relating to such offenses, see section 3720 (a).

SEC. 3321. REMOVAL OR CONCEALMENT WITH INTENT TO DEFRAUD THE REVENUE.

(a) PENALTY.—Every person who removes, deposits, or conceals, or is concerned in removing, depositing, or concealing any goods or commodities for or in respect whereof any tax is or shall be imposed, with intent to defraud the United States of such tax or any part thereof, shall be liable to a fine of not more than $5,000 or be imprisoned for not more than 3 years, or both.

(b) FORFEITURE.—

(1) GOODS.—Whenever any goods or commodities for or in respect whereof any tax is or shall be imposed, or any materials, utensils, or vessels proper or intended to be made use of for or in the making of such goods or commodities are removed, or are deposited or concealed in any place, with intent to defraud the United States of such tax, or any part thereof, all such goods and commodities, and all such materials, utensils, and vessels, respectively, shall be forfeited.

(2) PACKAGES.—In every such case all the casks, vessels, cases, or other packages whatsoever, containing, or which shall have contained, such goods or commodities, respectively, shall be forfeited.

(3) CONVEYANCES.—Every vessel, boat, cart, carriage, or other conveyance whatsoever, and all horses or other animals, and all things used in the removal or for the deposit or concealment thereof, respectively, shall be forfeited.

(c) CROSS REFERENCE.

For provisions relating to distilled spirits and equipment subject to forfeiture, distraint, or judicial process, see sections 2805 and 2807.

SEC. 3322. FORFEITURE OF PACKAGES CONTAINING FORFEITED GOODS.

In every case where any goods or commodities are forfeited under any internal revenue law, all casks, vessels, cases, or other packages whatsoever, containing, or which shall have contained such goods or commodities, respectively, shall be forfeited.

SEC. 3323. PROVISIONS RELATING TO EMPTIED STAMPED PACKAGES.

(a) PENALTIES.—

(1) DISPOSAL AND RECEIPT.—Whenever any person sells, gives, purchases, or receives any box, barrel, bag, vessel, package, wrapper, cover, or envelope of any kind, stamped, branded, or marked

in any way so as to show that the contents or intended contents thereof have been duly inspected, or that the tax thereon has been paid, or that any provision of the internal revenue laws has been complied with, whether such stamping, branding, or marking may have been a duly authorized act or may be false and counterfeit, or otherwise without authority of law, said box, barrel, bag, vessel, package, wrapper, cover, or envelope being empty, or containing anything else than the contents which were therein when said articles had been so lawfully stamped, branded, or marked by an officer of the revenue, he shall be liable to a penalty of not less than $50 nor more than $500.

(2) MANUFACTURING, STAMPING, OR BRANDING.—Every person who makes, manufactures, or produces any box, barrel, bag, vessel, package, wrapper, cover, or envelope, stamped, branded, or marked, as above described, or stamps, brands, or marks the same, as hereinbefore recited, shall be liable to penalty as before provided in this section.

(3) FRAUD.—Every person who violates the foregoing provisions of this section, with intent to defraud the revenue, or to defraud any person, shall be liable to a fine of not less than $1,000 nor more than $5,000, or to imprisonment for not less than six months nor more than five years, or to both, at the discretion of the court.

(b) FORFEITURE.—All articles sold, given, purchased, received, made, manufactured, produced, branded, stamped, or marked in violation of the provisions of this section, and all their contents, shall be forfeited to the United States.

SEC. 3324. PENALTY FOR SALES TO EVADE TAX.

(a) NONENFORCEABILITY OF CONTRACT.—Whenever any person who is liable to pay any tax upon any goods, wares, or merchandise, sells or causes or allows the same to be sold before the tax is paid to which said property is liable, with intent to avoid such tax, or in fraud of the internal revenue laws, any debt contracted in such sale, and any security given therefor, unless the same shall have been bona fide transferred to an innocent holder, shall be void, and the collection thereof shall not be enforced in any court.

(b) FORFEITURE OF SUM PAID ON CONTRACT.—If such goods, wares, or merchandise have been paid for, in whole or in part, the sum so paid shall be deemed forfeited.

(c) MOIETY.—Any person who shall sue for the same in an action of debt shall recover from the seller the amount so paid, one-half to his own use and the other half to the use of the United States.

SEC. 3325. PENALTIES FOR FALSE STATEMENTS TO PURCHASERS REGARDING TAX.

Whoever in connection with the sale or lease, or offer for sale or lease, of any article, or for the purpose of making such sale or lease, makes any statement, written or oral, (1) intended or calculated to lead any person to believe that any part of the price at which such article is sold or leased, or offered for sale or lease, consists of a tax imposed under the authority of the United States, or (2) ascribing a particular part of such price to a tax imposed under the authority of the United States, knowing that such statement is false or that the tax is not so great as the portion of such price ascribed to such tax, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $1,000 or by imprisonment not exceeding one year, or both.

SEC. 3326. PENALTY FOR FRAUDULENTLY CLAIMING DRAWBACK.

Whenever any person fraudulently claims or seeks to obtain an allowance of drawback on goods, wares, or merchandise on which no internal tax shall have been paid, or fraudulently claims any

greater allowance of drawback than the tax actually paid, he shall forfeit triple the amount wrongfully or fraudulently claimed or sought to be obtained, or the sum of $500, at the election of the Secretary.

Part IV—Miscellaneous Provisions

SEC. 3330. WITNESSING OF RETURNS IN LIEU OF OATH.

The Commissioner, with the approval of the Secretary, may by regulation prescribe that any return required by any internal revenue law (except returns required under income or estate tax laws) to be under oath may, if the amount of the tax covered thereby is not in excess of $10, be signed or acknowledged before two witnesses instead of under oath.

SEC. 3331. EXEMPTION FROM TAX OF DOMESTIC GOODS PURCHASED FOR THE UNITED STATES.

The privilege existing by provision of law on December 1, 1873 or thereafter of purchasing supplies of goods imported from foreign countries for the use of the United States, duty free, shall be extended, under such regulations as the Secretary may prescribe, to all articles of domestic production which are subject to tax by the provisions of this subtitle.

SEC. 3332. EXEMPTION FROM TAX OF EXPORTS TO FOREIGN COUNTRIES.

For exemption from tax in case of—
Tobacco, snuff, cigars, and cigarettes, see section 2135.
Playing cards, see section 1830.
Oleomargarine, see section 2307.
Adulterated butter, see section 2327.
Mixed flour, see section 2385.
Firearms, see sections 2705 and 2727.
Distilled spirits, see sections 2885, 2905, and 3179.
Wines, see section 3037 (a).
Fermented liquors, see section 3153 (c).

SEC. 3333. DRAWBACK IN CASE OF EXPORTS TO FOREIGN COUNTRIES.

For drawback on exports to foreign countries in case of—
Tobacco, snuff, cigars, and cigarettes, see section 2136.
Distilled spirits, see sections 2887 and 3179.
Stills, see section 3250 (j) (3).
For allowance of drawbacks on shipments to Puerto Rico or the Philippine Islands, see sections 3361 (c) and 3341 (c).

SEC. 3334. EXTENSION OF TIME FOR FILING RETURNS.

For authority of collectors to grant extensions of time for the filing of returns (except in the case of income tax), see section 3634.

SEC. 3335. CROSS REFERENCE.

For other administrative provisions, see subtitle D.

SUBCHAPTER B—PROVISIONS OF SPECIAL APPLICATION TO THE PHILIPPINES, VIRGIN ISLANDS, AND PUERTO RICO

Part I—Philippine Islands

SEC. 3340. SHIPMENTS TO THE UNITED STATES.

(a) TAX IMPOSED IN UNITED STATES.—

(1) AMOUNT.—There shall be levied, collected, and paid, in the United States, upon articles, goods, wares, or merchandise coming into the United States from the Philippine Islands a tax equal to the internal-revenue tax imposed in the United States upon the like articles, goods, wares, or merchandise of domestic manufacture.

(2) PAYMENT.—Such tax shall be paid by internal revenue stamp or stamps, to be provided by the Commissioner, and to be affixed in such manner and under such regulations as he, with the approval of the Secretary, shall prescribe.

(b) EXEMPTION FROM TAX IMPOSED IN THE PHILIPPINE ISLANDS.—Such articles, goods, wares, or merchandise shipped from said islands to the United States shall be exempt from the payment of any tax imposed by the internal revenue laws of the Philippine Islands.

SEC. 3341. SHIPMENTS FROM THE UNITED STATES.

(a) TAX IMPOSED IN PHILIPPINE ISLANDS.—

(1) AMOUNT.—There shall be levied, collected, and paid in the Philippine Islands, upon articles, goods, wares, or merchandise going into the Philippine Islands from the United States, a tax equal to the internal revenue tax imposed in the Philippine Islands upon the like articles, goods, wares, or merchandise of Philippine Islands manufacture.

(2) PAYMENT.—Such tax shall be paid by internal revenue stamps or otherwise, as provided by the laws of the Philippine Islands.

(b) EXEMPTION FROM TAX IMPOSED IN UNITED STATES.—Such articles, goods, wares, or merchandise going into the Philippine Islands from the United States shall be exempt from the payment of any tax imposed by the internal revenue laws of the United States.

(c) DRAWBACK OF TAX PAID IN THE UNITED STATES.—All provisions of law existing on March 4, 1915, for the allowance of drawback of internal revenue tax on articles exported from the United States are, so far as applicable, extended to like articles upon which an internal revenue tax has been paid when shipped from the United States to the Philippine Islands.

SEC. 3342. IMPORTS FROM COUNTRIES OTHER THAN THE UNITED STATES.

In addition to the customs taxes imposed in the Philippine Islands, there shall be levied, collected, and paid therein upon articles, goods, wares, or merchandise imported into the Philippine Islands from countries other than the United States the internal revenue tax imposed by the Philippine Government on like articles manufactured and consumed in the Philippine Islands or shipped thereto for consumption therein from the United States.

SEC. 3343. DEPOSIT OF INTERNAL REVENUE COLLECTIONS.

(a) PAYMENT INTO THE PHILIPPINE TREASURY.—All internal revenues collected in or for account of the Philippine Islands shall accrue intact to the general government thereof and be paid into the insular treasury.

(b) PHILIPPINE TRUST FUND.—The duties and taxes collected in the Philippine Archipelago in pursuance of the act of March 8, 1902, c. 140, 32 Stat. 54, and all duties and taxes collected in the United States upon articles coming from the Philippine Archipelago and upon foreign vessels coming therefrom, shall not be covered into the general fund of the Treasury of the United States, but shall be held as a separate fund and paid into the treasury of the Philippine Islands, to be used and expended for the government and benefit of said islands.

(c) CROSS REFERENCE.—

For special provisions relating to taxes collected in the case of coconut oil, see section 2476.

Part II—Virgin Islands

SEC. 3350. SHIPMENTS TO THE UNITED STATES.

(a) TAXES IMPOSED IN THE UNITED STATES.—Except as provided in section 3123, there shall be levied, collected, and paid in the United States, upon articles coming into the United States from the Virgin Islands, a tax equal to the internal revenue tax imposed in the United States upon like articles of domestic manufacture.

(b) EXEMPTION FROM TAX IMPOSED IN THE VIRGIN ISLANDS.—Such articles shipped from such islands to the United States shall be exempt from the payment of any tax imposed by the internal revenue laws of such islands.

SEC. 3351. SHIPMENTS FROM THE UNITED STATES.

(a) TAX IMPOSED IN VIRGIN ISLANDS.—There shall be levied, collected, and paid in the Virgin Islands upon articles imported from the United States, a tax equal to the internal revenue tax imposed in such islands upon like articles there manufactured.

(b) EXEMPTION FROM TAX IMPOSED IN THE UNITED STATES.—Such articles going into such islands from the United States shall be exempt from payment of any tax imposed by the internal revenue laws of the United States.

Part III—Puerto Rico

SEC. 3360. SHIPMENTS TO THE UNITED STATES.

(a) RATE OF TAX.—Except as provided in section 3123, articles of merchandise of Puerto Rican manufacture coming into the United States and withdrawn for consumption or sale shall be subject to a tax equal to the internal revenue tax imposed in the United States upon the like articles of merchandise of domestic manufacture.

(b) PAYMENT OF TAX.—

(1) UPON ENTRY INTO UNITED STATES.—Such tax shall be paid by internal revenue stamp or stamps to be purchased and provided by the Commissioner and to be procured from the collector of internal revenue at or most convenient to the port of entry of said merchandise in the United States, and to be affixed under such regulations as the Commissioner, with the approval of the Secretary, shall prescribe.

(2) BEFORE SHIPMENT FROM PUERTO RICO.—All United States internal revenue taxes imposed by law on articles of Puerto Rican manufacture coming into the United States for consumption or sale may be paid by affixing to such articles before shipment thereof a proper United States internal revenue stamp denoting such payment.

(A) APPOINTMENT OF DEPUTY COLLECTOR AT SAN JUAN.—For the purpose of carrying into effect the provisions of paragraph (2) of this subsection, the Secretary is authorized to grant to such collector of internal revenue as may be recommended by the Commissioner, and approved by the Secretary, an allowance for the salary and expenses of a deputy collector to be stationed at San Juan, Puerto Rico, the appointment of this deputy to be approved by the Secretary.

(B) BOND OF DEPUTY COLLECTOR AT SAN JUAN.—Before entering upon the duties of his office such deputy collector shall execute a bond, payable to the collector appointing him, in such amount and with such sureties as he may determine.

(C) DUTIES OF DEPUTY COLLECTOR AT SAN JUAN.—The collector will place in the hands of such deputy all stamps necessary for the payment of the proper tax on articles produced in Puerto Rico and shipped to the United States, and the said deputy, upon proper payment made for said stamps, shall issue them to manufacturers in Puerto Rico. All such stamps so issued or transferred to said deputy shall be charged to the collector and be accounted for by him as in the case of other tax-paid stamps. The deputy collector assigned to this duty shall perform such other work in connection with the inspection and stamping of such articles, and shall make such returns as the Commissioner may, by regulations approved by the Secretary, direct.

(D) GENERAL LAWS APPLICABLE.—All provisions of law relative to the appointment, duties, and compensation of deputy collectors, including office rent and other necessary expenses, shall, so far as applicable, apply to the deputy assigned to duty under the provisions of paragraph (2) of this subsection.

(c) DEPOSIT OF INTERNAL REVENUE COLLECTIONS.—All taxes collected under the internal revenue laws of the United States on articles produced in Puerto Rico and transported to the United States, or consumed in the island, shall be covered into the treasury of Puerto Rico.

SEC. 3361. SHIPMENTS FROM THE UNITED STATES.

(a) TAX IMPOSED IN PUERTO RICO.—All articles of merchandise of United States manufacture coming into Puerto Rico shall be entered at the port of entry upon payment of a tax equal in rate and amount to the internal revenue tax imposed in Puerto Rico upon the like articles of Puerto Rican manufacture.

(b) EXEMPTION FROM TAX IMPOSED IN THE UNITED STATES.—Articles, goods, wares, or merchandise going into Puerto Rico from the United States shall be exempted from the payment of any tax imposed by the internal revenue laws of the United States.

(c) DRAWBACK OF TAX PAID IN THE UNITED STATES.—All provisions of law in effect on March 4, 1915, for the allowance of drawback of internal revenue tax on articles exported from the United States are, so far as applicable, extended to like articles upon which an internal revenue tax has been paid when shipped from the United States to the island of Puerto Rico.

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CHAPTER 29—MANUFACTURERS' EXCISE AND IMPORT TAXES

SUBCHAPTER A—MANUFACTURERS' EXCISE TAXES

SEC. 3400. TAX ON TIRES AND INNER TUBES.

There shall be imposed upon the following articles sold by the manufacturer, producer, or importer, a tax at the following rates:

(1) Tires wholly or in part of rubber, 2¼ cents a pound on total weight (exclusive of metal rims or rim bases), to be deter-

mined under regulations prescribed by the Commissioner with the approval of the Secretary.

(2) Inner tubes (for tires) wholly or in part of rubber, 4 cents a pound on total weight, to be determined under regulations prescribed by the Commissioner with the approval of the Secretary.

SEC. 3401. TAX ON TOILET PREPARATIONS, ETC.

There shall be imposed upon the following articles, sold by the manufacturer, producer, or importer, a tax equivalent to 10 per centum of the price for which so sold: Perfumes, essences, extracts, toilet waters, cosmetics, petroleum jellies, hair oils, pomades, hair dressings, hair restoratives, hair dyes, aromatic cachous, toilet powders, and any similar substance, article, or preparation, by whatsoever name known or distinguished; any of the above which are used or applied or intended to be used or applied for toilet purposes.

SEC. 3403. TAX ON AUTOMOBILES, ETC.

There shall be imposed upon the following articles sold by the manufacturer, producer, or importer, a tax equivalent to the following percentages of the price for which so sold:

(a) Automobile truck chassis, automobile truck bodies, tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer (including in each of the above cases parts or accessories therefor sold on or in connection therewith or with the sale thereof), 2 per centum. A sale of an automobile truck shall, for the purposes of this subsection, be considered to be a sale of the chassis and of the body.

(b) Other automobile chassis and bodies and motor cycles (including in each case parts or accessories therefor sold on or in connection therewith or with the sale thereof), except tractors, 3 per centum. A sale of an automobile shall, for the purposes of this subsection, be considered to be a sale of the chassis and of the body.

(c) Parts or accessories (other than tires and inner tubes) for any of the articles enumerated in subsection (a) or (b), 2 per centum. For the purposes of this subsection and subsections (a) and (b), spark plugs, storage batteries, leaf springs, coils, timers, and tire chains, which are suitable for use on or in connection with, or as component parts of, any of the articles enumerated in subsection (a) or (b), shall be considered parts or accessories for such articles, whether or not primarily adapted for such use. This subsection shall not apply to chassis or bodies for automobile trucks or other automobiles. Under regulations prescribed by the Commissioner, with the approval of the Secretary, the tax under this subsection shall not apply in the case of sales of parts or accessories by the manufacturer, producer, or importer to a manufacturer or producer of any of the articles enumerated in subsection (a) or (b). If any such parts or accessories are resold by such vendee otherwise than on or in connection with, or with the sale of, an article enumerated in subsection (a) or (b) and manufactured or produced by such vendee, then for the purposes of this section the vendee shall be considered the manufacturer or producer of the parts or accessories so resold.

(d) Under regulations prescribed by the Commissioner, with the approval of the Secretary, the tax under subsection (a) or (b) shall not apply in the case of sales of bodies by the manufacturer, producer, or importer to a manufacturer or producer of automobile trucks or other automobiles to be sold by such vendee. For the purposes of subsection (a) or (b) such vendee shall be considered the manufacturer or producer of such bodies.

(e) If tires or inner tubes on which tax has been imposed under this chapter are sold on or in connection with, or with the sale of, a chassis, body, or motor cycle, there shall (under regulations pre-

scribed by the Commissioner, with the approval of the Secretary) be credited against the tax under this section an amount equal to, in the case of an automobile truck chassis or body, 2 per centum, and in the case of any other automobile chassis or body or motor cycle, 3 per centum—

(1) of the purchase price (less, in the case of tires, the part of such price attributable to the metal rim or rim base) if such tires or inner tubes were taxable under section 3400 (relating to tax on tires and inner tubes); or

(2) if such tires or inner tubes were taxable under section 3444 (relating to use by manufacturer, producer, or importer) then of the price (less, in the case of tires, the part of such price attributable to the metal rim or rim base) at which such or similar tires or inner tubes are sold, in the ordinary course of trade, by manufacturers, producers, or importers thereof, as determined by the Commissioner.

(f) (1) Where prior to August 1, 1939, any article subject to the tax imposed by this section or section 3400, relating to tax on tires and inner tubes, has been sold by the manufacturer, producer, or importer, and is on such date held by a dealer and intended for sale, there shall be refunded to the manufacturer, producer, or importer the amount of the tax, or if the tax has not been paid, the tax shall be abated.

(2) As used in this subsection the term "dealer" includes a wholesaler, jobber, or distributor. For the purposes of this subsection, an article shall be considered as "held by a dealer" if title thereto has passed to such dealer (whether or not delivery to him has been made), and if for purposes of consumption title to such article or possession thereof has not at any time been transferred to any person other than a dealer.

(3) Under regulations prescribed by the Commissioner, with the approval of the Secretary, the refund provided by this subsection—(A) may be applied as a credit against the tax shown by subsequent returns of the manufacturer, producer, or importer, and (B) may be made to the dealer instead of to the manufacturer, producer, or importer, if the manufacturer, producer, or importer waives any claim for the amount so to be refunded.

(4) When the refund, credit, or abatement provided for in this subsection has been allowed to the manufacturer, producer, or importer, he shall remit to the dealer to whom was sold the article in respect of which the refund, credit, or abatement was allowed, so much of that amount of the tax corresponding to the refund, credit, or abatement, as was included in or added to the price paid or agreed to be paid by the dealer. Upon the failure of the manufacturer, producer, or importer to make such remission he shall be liable to the dealer for damages in the amount of three times the amount thereof, and the court shall include in any judgment in favor of the dealer in any suit for the recovery of such damages, costs of the suit and a reasonable attorney's fee to be fixed by the court.

SEC. 3404. TAX ON RADIO RECEIVING SETS, ETC.

There shall be imposed upon the following articles, sold by the manufacturer, producer, or importer, a tax equivalent to 5 per centum of the price for which so sold: Chassis, cabinets, tubes, reproducing units, power packs, and phonograph mechanisms, suitable for use in connection with or as part of radio receiving sets or combination radio and phonograph sets (including in each case parts or accessories therefor sold on or in connection therewith or with the sale thereof). A sale of any two or more of the above articles shall, for the purpose of this section, be considered a sale of each separately.

SEC. 3405. TAX ON MECHANICAL REFRIGERATORS.

There shall be imposed upon the following articles, sold by the manufacturer, producer, or importer, a tax equivalent to 5 per centum of the price for which so sold:

(a) Household type refrigerators (for single or multiple cabinet installations) operated with electricity, gas, kerosene, or other means (including parts or accessories therefor sold on or in connection therewith or with the sale thereof).

(b) Cabinets, compressors, condensers, expansion units, absorbers, and controls (hereinafter referred to as "refrigerator components") for, or suitable for use as part of or with, any of the articles enumerated in subsection (a) (including in each case parts or accessories for such refrigerator components sold on or in connection therewith or with the sale thereof) except when sold as component parts of complete refrigerators or refrigerating or cooling apparatus. Under regulations prescribed by the Commissioner, with the approval of the Secretary, the tax under this subsection shall not apply in the case of sales of any such refrigerator components by the manufacturer, producer, or importer to a manufacturer or producer of refrigerators or refrigerating or cooling apparatus. If any such refrigerator components are resold by such vendee otherwise than on or in connection with, or with the sale of, complete refrigerators or refrigerating or cooling apparatus, manufactured or produced by such vendee, then for the purposes of this section the vendee shall be considered the manufacturer or producer of the refrigerator components so resold.

SEC. 3407. TAX ON FIREARMS, SHELLS, AND CARTRIDGES.

There shall be imposed upon firearms, shells, and cartridges, sold by the manufacturer, producer, or importer, a tax equivalent to 10 per centum of the price for which so sold. The tax imposed by this section shall not apply (1) to articles sold for the use of the United States, any State, Territory, or possession of the United States, any political subdivision thereof, or the District of Columbia, or (2) to pistols and revolvers.

The taxes imposed by this section shall not apply to any firearm on which the tax provided by section 2720 has been paid.

SEC. 3409. TAX ON MATCHES.

There shall be imposed on fancy wooden matches and wooden matches having a stained, dyed, or colored stick or stem, packed in boxes or in bulk, sold by the manufacturer, producer, or importer, a tax of 5 cents per one thousand matches.

SEC. 3411. TAX ON ELECTRICAL ENERGY FOR DOMESTIC OR COMMERCIAL CONSUMPTION.

(a) There shall be imposed upon electrical energy sold for domestic or commercial consumption and not for resale a tax equivalent to 3 per centum of the price for which so sold, to be paid by the vendor under such rules and regulations as the Commissioner, with the approval of the Secretary, shall prescribe. The sale of electrical energy to an owner or lessee of a building, who purchases such electrical energy for resale to the tenants therein, shall for the purposes of this section be considered as a sale for consumption and not for resale, but the resale to the tenant shall not be considered a sale for consumption.

(b) The provisions of sections 3441, 3444, and 3447 shall not be applicable with respect to the tax imposed by this section.

(c) No tax shall be imposed under this section upon electrical energy sold to the United States or to any State or Territory, or political subdivision thereof, or the District of Columbia. None of the provisions of this section shall apply to publicly owned electric and power plants, or to electric and power plants or systems owned and operated by cooperative or nonprofit corporations engaged in rural electrification. The right to exemption under this subsection

shall be evidenced in such manner as the Commissioner, with the approval of the Secretary, may, by regulation, prescribe.

SEC. 3412. TAX ON GASOLINE.

(a) There shall be imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of 1 cent a gallon, except that under regulations prescribed by the Commissioner with the approval of the Secretary the tax shall not apply in the case of sales to a producer of gasoline.

(b) If a producer or importer uses (otherwise than in the production of gasoline) gasoline sold to him free of tax, or produced or imported by him, such use shall for the purposes of this chapter be considered a sale. Any person to whom gasoline is sold tax-free under this section shall be considered the producer of such gasoline.

(c) As used in this section—

(1) the term "producer" includes a refiner, compounder, or blender, and a dealer selling gasoline exclusively to producers of gasoline, as well as a producer.

(2) the term gasoline means (A) all products commonly or commercially known or sold as gasoline (including casinghead and natural gasoline), benzol, benzene, or naphtha, regardless of their classifications or uses; and (B) any other liquid of a kind prepared, advertised, offered for sale or sold for use as, or used as, a fuel for the propulsion of motor vehicles, motor boats, or airplanes; except that it does not include any of the foregoing (other than products commonly or commercially known or sold as gasoline) sold for use otherwise than as a fuel for the propulsion of motor vehicles, motor boats, or airplanes, and otherwise than in the manufacture or production of such fuel, and does not include kerosene, gas oil, or fuel oil.

(d) Every person subject to tax under this section or section 3413 shall, before incurring any liability for tax under such sections register with the collector for the district in which is located his principal place of business (or, if he has no principal place of business in the United States, with the collector at Baltimore, Maryland) and shall give a bond, to be approved by such collector, conditioned that he shall not engage in any attempt, by himself or by collusion with others, to defraud the United States of any tax under such sections; that he shall render truly and completely all returns, statements, and inventories required by law or regulations in pursuance thereof and shall pay all taxes due under such sections; and that he shall comply with all requirements of law and regulations in pursuance thereof with respect to tax under such sections. Such bond shall be in such sum as the collector may require in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, but not less than $2,000. The collector may from time to time require new or additional bond in accordance with this subsection. Every person who fails to register or give bond as required by this subsection, or who in connection with any purchase of gasoline or lubricating oil falsely represents himself to be registered and bonded as provided by this subsection, or who willfully makes any false statement in an application for registration under this subsection, shall upon conviction thereof be fined not more than $5,000 or imprisoned not more than five years, or both, together with the costs of prosecution. If the Commissioner finds that any manufacturer or producer has at any time evaded any Federal tax on gasoline or lubricating oil, he may revoke the registration of such manufacturer or producer, and no sale to, or for resale to, such manufacturer or producer thereafter shall be tax-free under section 3413, this section, or section 3442, but such manufacturer or producer shall not be relieved of the requirement of giving bond under this subsection.

(e) Under regulations prescribed by the Commissioner with the approval of the Secretary, records required to be kept with respect to taxes under section 3413, or this section, and returns, reports, and statements with respect to such taxes filed with the Commissioner or a collector, shall be open to inspection by such officers of any State or Territory or political subdivision thereof or the District of Columbia as shall be charged with the enforcement or collection of any tax on gasoline or lubricating oils. The Commissioner and each collector shall furnish to any of such officers, upon written request, certified copies of any such statements, reports, or returns filed in his office upon the payment of a fee of $1 for each one hundred words or fraction thereof in the copy or copies requested.

SEC. 3413. TAX ON LUBRICATING OILS.

There shall be imposed upon lubricating oils sold in the United States by the manufacturer or producer a tax at the rate of 4 cents a gallon, to be paid by the manufacturer or producer. Every person liable for tax under this section shall register and file bond as provided in section 3412 (d). Under regulations prescribed by the Commissioner with the approval of the Secretary, no tax shall be imposed under this section upon lubricating oils sold to a manufacturer or producer of lubricating oils for resale by him, but for the purposes of this chapter such vendee shall be considered the manufacturer or producer of such lubricating oils.

SEC. 3414. PUBLICITY OF RETURNS.

For provisions with respect to publicity of returns under this subchapter, see subsection (a) (2) of section 55.

SEC. 3415. EFFECTIVE DATE OF SUBCHAPTER.

This subchapter shall take effect on the first day of that calendar month occurring next after the enactment of this title.

SUBCHAPTER B—IMPORT TAXES

Part I—Special Provisions

SEC. 3420. IMPOSITION OF TAX.

In addition to any other tax or duty imposed by law, there shall be imposed upon the following articles imported into the United States unless treaty provisions of the United States otherwise provide a tax at the rates specified in sections 3422 to 3425, inclusive.

SEC. 3422. PETROLEUM AND DERIVATIVES.

Crude petroleum, ½ cent per gallon; fuel oil derived from petroleum, gas oil derived from petroleum, and all liquid derivatives of crude petroleum, except lubricating oil and gasoline or other motor fuel, ½ cent per gallon; gasoline or other motor fuel, 2½ cents per gallon; lubricating oil, 4 cents per gallon; paraffin and other petroleum wax products, 1 cent per pound. The tax on the articles described in this section shall apply only with respect to the importation of such articles.

SEC. 3423. COAL.

Coal of all sizes, grades, and classifications (except culm and duff), coke manufactured therefrom; and coal or coke briquettes, 10 cents per 100 pounds. The tax on the articles described in this section shall apply only with respect to the importation of such articles, and shall not be imposed upon any such article if during the preceding calendar year the exports of the articles described in this section from the United States to the country from which such article is imported have been greater in quantity than the imports into the United States from such country of the articles described in this section.

SEC. 3424. LUMBER.

(a) Lumber, rough, or planed or dressed on one or more sides, except flooring made of maple (except Japanese maple), birch, and beech, $3 per thousand feet, board measure; but the tax on the articles described in this section shall apply only with respect to the importation of such articles. The tax imposed by this subsection shall not apply to lumber of Northern white pine (pinus strobus), Norway pine (pinus resinosa), and Western white spruce.

(b) In determining board measure for the purposes of this section no deduction shall be made on account of planing, tonguing, and grooving. As used in this section, the term "lumber" includes sawed timber. This subsection shall apply (1) unless in conflict with any international obligation of the United States or (2) if so in conflict, then on the termination of such obligation otherwise than in connection with the undertaking by the United States of a new obligation which continues such conflict.

SEC. 3425. COPPER.

Copper-bearing ores and concentrates and articles provided for in paragraph 316, 380, 381, 387, 1620, 1634, 1657, 1658, or 1659 of the Tariff Act of 1930, 4 cents per pound on the copper contained therein: *Provided*, That no tax under this section shall be imposed on copper in any of the foregoing which is lost in metallurgical processes: *Provided further*, That ores or concentrates usable as a flux or sulphur reagent in copper smelting and/or converting and having a copper content of not more than 15 per centum, when imported for fluxing purposes, shall be admitted free of said tax in an aggregate amount of not to exceed in any one year 15,000 tons of copper content. All articles dutiable under the Tariff Act of 1930, not provided for heretofore in this section, in which copper (including copper in alloys) is the component material of chief value, 3 cents per pound. All articles dutiable under the Tariff Act of 1930, not provided for heretofore in this section, containing 4 per centum or more of copper by weight, 3 per centum ad valorem or ¾ of 1 cent per pound, whichever is the lower. The tax on the articles described in this section shall apply only with respect to the importation of such articles. The Secretary is authorized to prescribe all necessary regulations for the enforcement of the provisions of this section.

Part II—Special Administrative Provisions

SEC. 3430. APPLICABILITY OF TARIFF PROVISIONS.

The tax imposed by section 3420 shall be levied, assessed, collected, and paid in the same manner as a duty imposed by the Tariff Act of 1930, 46 Stat. 590, 672 (U. S. C. Title 19, c. 4) and shall be treated for the purposes of all provisions of law relating to the customs revenue as a duty imposed by such Act, except that—

(a) the value on which such tax shall be based shall be the sum of (1) the dutiable value (under section 503 of such Act) of the article, plus (2) the customs duties, if any, imposed thereon under any provision of law;

(b) for the purposes of section 489 of such Act (relating to additional duties in certain cases of undervaluation) such tax shall not be considered an ad valorem rate of duty or a duty based upon or regulated in any manner by the value of the article, and for the purposes of section 336 of such Act (the so-called flexible tariff provision) such tax shall not be considered a duty;

(c) no drawback of such tax (except tax paid upon the importation of an article described in sections 3422, 3423, 3424, and 3425) shall be allowed under section 313 (a), (b), or (f) of the Tariff Act of 1930 or any provision of law allowing a drawback of customs duties

on articles manufactured or produced with the use of duty-paid materials;

(d) Such tax (except tax under sections 3422 to 3425, inclusive) shall be imposed in full notwithstanding any provision of law granting exemption from or reduction of duties to products of any possession of the United States; and for the purposes of taxes under section 3422 to 3425, inclusive, the term "United States" includes Puerto Rico.

SEC. 3431. RULES AND REGULATIONS.

The Secretary shall prescribe and publish all needful rules and regulations for the enforcement of this subchapter.

SEC. 3432. CROSS REFERENCE.

For tax on importation of sugar, see section 3500.

SUBCHAPTER C—GENERAL ADMINISTRATIVE PROVISIONS

SEC. 3440. DEFINITION OF SALE.

For the purposes of this chapter, the lease of an article shall be considered the sale of such article.

SEC. 3441. SALE PRICE.

(a) In determining, for the purposes of this chapter, the price for which an article is sold, there shall be included any charge for coverings and containers of whatever nature, and any charge incident to placing the article in condition packed ready for shipment, but there shall be excluded the amount of tax imposed by this chapter, whether or not stated as a separate charge. A transportation, delivery, insurance, installation, or other charge (not required by the foregoing sentence to be included) shall be excluded from the price only if the amount thereof is established to the satisfaction of the Commissioner, in accordance with the regulations.

(b) If an article is—

(1) sold at retail;

(2) sold on consignment; or

(3) sold (otherwise than through an arm's length transaction) at less than the fair market price;

the tax under this chapter shall (if based on the price for which the article is sold) be computed on the price for which such articles are sold, in the ordinary course of trade, by manufacturers or producers thereof, as determined by the Commissioner.

(c) In the case of (1) a lease, (2) a contract for the sale of an article wherein it is provided that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by installments, or (3) a conditional sale, there shall be paid upon each payment with respect to the article that portion of the total tax which is proportionate to the portion of the total amount to be paid represented by such payment.

(d) The provisions of this section shall not be applicable with respect to the tax imposed by section 3411.

SEC. 3442. TAX-FREE SALES.

Under regulations prescribed by the Commissioner with the approval of the Secretary, no tax under this chapter shall be imposed with respect to the sale of any article—

(1) for use by the vendee as material in the manufacture or production of, or as a component part of, an article enumerated in this chapter;

(2) for resale by the vendee for such use by his vendee, if such article is in due course so resold;

(3) for the exclusive use of the United States, any State, Territory of the United States, or any political subdivision of the foregoing, or the District of Columbia.

For the purposes of this chapter the manufacturer or producer to whom an article is sold under paragraph (1) or resold under paragraph (2) shall be considered the manufacturer or producer of such article. The provisions of paragraphs (1) and (2) shall not apply with respect to tires or inner tubes.

SEC. 3443. CREDITS AND REFUNDS.

(a) A credit against tax under this chapter, or a refund, may be allowed or made—

(1) to a manufacturer or producer, in the amount of any tax under this chapter which has been paid with respect to the sale of any article (other than a tire or inner tube) purchased by him and used by him as material in the manufacture or production of, or as a component part of, an article with respect to which tax under this chapter has been paid, or which has been sold free of tax by virtue of section 3442, relating to tax-free sales.

(2) to any person who has paid tax under this chapter with respect to an article, when the price on which the tax was based is readjusted by reason of return or repossession of the article or a covering or container, or by a bona fide discount, rebate, or allowance; in the amount of that part of the tax proportionate to the part of the price which is refunded or credited.

(3) to a manufacturer, producer, or importer, in the amount of tax paid by him under this chapter with respect to the sale of any article to any vendee, if the manufacturer, producer, or importer has in his possession such evidence as the regulations may prescribe that—

(A) such article was, by any person—

(i) resold for the exclusive use of the United States, any State, Territory of the United States, or any political subdivision of the foregoing, or the District of Columbia;

(ii) used or resold for use as fuel supplies, ship's stores, sea stores, or legitimate equipment on vessels of war of the United States or of any foreign nation, vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions;

(iii) in the case of products embraced in paragraph (2) of section 3412 (c) used or resold for use otherwise than as fuel for the propulsion of motor vehicles, motor boats, or airplanes, and otherwise than in the production of such fuel: *Provided, however*, That no credit or refund shall be allowed or made under this paragraph in the case of sales or uses of products commonly or commercially known or sold as gasoline, including casinghead and natural gasoline;

(iv) in the case of lubricating oils, used or resold for nonlubricating purposes.

(B) The manufacturer, producer, or importer has repaid or agreed to repay the amount of such tax to the ultimate vendor or has obtained the consent of the ultimate vendor to the allowance of the credit or refund.

(b) Credit or refund under subsection (a) shall be allowed or made only upon compliance with regulations prescribed by the Commissioner with the approval of the Secretary.

(c) Interest shall be allowed at the rate of 6 per centum per annum with respect to any amount of tax under this chapter credited or refunded, except that no interest shall be allowed with respect to any amount of tax credited or refunded under the provisions of subsection (a) hereof.

(d) No overpayment of tax under this chapter shall be credited or refunded (otherwise than under subsection (a)), in pursuance of a court decision or otherwise, unless the person who paid the tax

establishes, in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, (1) that he has not included the tax in the price of the article with respect to which it was imposed, or collected the amount of tax from the vendee, or (2) that he has repaid the amount of the tax to the ultimate purchaser of the article, or unless he files with the Commissioner written consent of such ultimate purchaser to the allowance of the credit or refund.

SEC. 3444. USE BY MANUFACTURER, PRODUCER, OR IMPORTER.

(a) If—

(1) any person manufactures, produces, or imports an article (other than a tire or inner tube) and uses it (otherwise than as material in the manufacture or production of, or as a component part of, another article to be manufactured or produced by him which will be taxable under this chapter or sold free of tax by virtue of section 3442, relating to tax-free sales); or

(2) any person manufactures, produces, or imports a tire or inner tube and sells it on or in connection with, or with the sale of, an article taxable under section 3403 (a) or (b), relating to the tax on automobiles, or uses it;

he shall be liable for tax under this chapter in the same manner as if such article was sold by him, and the tax (if based on the price for which the article is sold) shall be computed on the price at which such or similar articles are sold, in the ordinary course of trade, by manufacturers, producers, or importers thereof, as determined by the Commissioner.

(b) The provisions of this section shall not be applicable with respect to the tax imposed by section 3411.

SEC. 3445. SALES BY OTHERS THAN MANUFACTURER, PRODUCER, OR IMPORTER.

In case any person acquires from the manufacturer, producer, or importer of an article, by operation of law or as a result of any transaction not taxable under this chapter, the right to sell such article, the sale of such article by such person shall be taxable under this chapter as if made by the manufacturer, producer, or importer, and such person shall be liable for the tax.

SEC. 3446. EXEMPTION OF ARTICLES MANUFACTURED OR PRODUCED BY INDIANS.

No tax shall be imposed under this chapter on any article of native Indian handicraft manufactured or produced by Indians on Indian reservations, or in Indian schools, or by Indians under the jurisdiction of the United States Government in Alaska.

SEC. 3447. CONTRACTS PRIOR TO MAY 1, 1932.

(a) If (1) any person has, prior to May 1, 1932, made a bona fide contract for the sale, after the tax takes effect, of any article in respect of the sale of which a tax is imposed under this chapter, or in respect of which a tax is imposed under this subsection, and (2) such contract does not permit the adding to the amount to be paid under such contract, of the whole of such tax, then (unless the contract prohibits such addition) the vendee shall, in lieu of the vendor, pay so much of the tax as is not so permitted to be added to the contract price. If a contract of the character above described was made with the United States, no tax shall be collected under this chapter. If any article has, under a contract of the character above described, been delivered, prior to June 21, 1932, to any person (other than a dealer or other than a person intending to use the article as material in the manufacture or production of another article, or to sell it on or in connection with, or with the sale of, another article), no tax shall be collected under this chapter.

(b) The taxes payable by the vendee shall be paid to the vendor at the time the sale is consummated, and shall be collected, returned, and paid to the United States by such vendor in the same manner as provided in section 3467. In case of failure or refusal by the vendee to pay such taxes to the vendor, the vendor shall report the facts to the Commissioner, who shall cause collection of such taxes to be made from the vendee.

(c) The provisions of this section shall not be applicable with respect to the tax imposed by section 3411.

SEC. 3448. RETURN AND PAYMENT OF MANUFACTURERS' TAXES.

(a) Every person liable for any tax imposed by this chapter other than taxes on importation shall make monthly returns under oath in duplicate and pay the taxes imposed by this chapter to the collector for the district in which is located his principal place of business or, if he has no principal place of business in the United States, then to the collector at Baltimore, Maryland. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

(b) The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 6 per centum per annum from the time when the tax became due until paid.

SEC. 3449. APPLICABILITY OF ADMINISTRATIVE PROVISIONS.

All provisions of law (including penalties) applicable in respect of the taxes imposed by section 2700 shall, in so far as applicable and not inconsistent with this chapter, be applicable in respect of the taxes imposed by this chapter.

SEC. 3450. RULES AND REGULATIONS.

The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this chapter in so far as it relates to the taxes on articles sold by the manufacturer, producer, or importer.

SEC. 3451. EXEMPTION FROM TAX OF CERTAIN SUPPLIES FOR VESSELS.

Under regulations prescribed by the Commissioner, with the approval of the Secretary, no tax under this chapter shall be imposed upon any article sold for use as fuel supplies, ships' stores, sea stores, or legitimate equipment on vessels of war of the United States or of any foreign nation, vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions. Articles manufactured or produced with the use of articles upon the importation of which tax has been paid under this chapter, if laden for use as supplies on such vessels, shall be held to be exported for the purposes of section 3430. The term "vessels" as used in this section includes civil aircraft employed in foreign trade or trade between the United States and any of its possessions, and the term "vessels of war of the United States or of any foreign nation" includes aircraft owned by the United States or by any foreign nation and constituting a part of the armed forces thereof. The privileges granted under this section in respect of civil aircraft employed in foreign trade or trade between the United States and any of its possessions, in respect of aircraft registered in a foreign country, shall be allowed only if the Secretary of the Treasury has been advised by the Secretary of Commerce that he has found that such foreign country allows, or will allow, substantially reciprocal privileges in respect of aircraft registered in the

United States. If the Secretary of the Treasury is advised by the Secretary of Commerce that he has found that a foreign country has discontinued or will discontinue the allowance of such privileges, the privileges granted under this section shall not apply thereafter in respect of civil aircraft registered in that foreign country and employed in foreign trade or trade between the United States and any of its possessions.

SEC. 3452. EXPIRATION DATE.

No sale or importation after June 30, 1939 (or after July 31, 1939, in the case of articles taxable under section 3403, relating to the tax on automobiles, etc., or section 3400, relating to the tax on tires and inner tubes), shall be taxable under this chapter.

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CHAPTER 30—TRANSPORTATION AND COMMUNICATION

SUBCHAPTER A—TRANSPORTATION OF OIL BY PIPE LINE

SEC. 3460. TAX.

(a) COMPUTATION AND PAYMENT.—There shall be imposed upon all transportation of crude petroleum and liquid products thereof by pipe line originating before July 1, 1939—

(1) A tax equivalent to 4 per centum of the amount paid for such transportation, to be paid by the person furnishing such transportation.

(2) In case no charge for transportation is made, either by reason of ownership of the commodity transported or for any other reason, a tax equivalent to 4 per centum of the fair charge for such transportation, to be paid by the person furnishing such transportation.

(3) If (other than in the case of an arm's length transaction) the payment for transportation is less than the fair charge therefor, a tax equivalent to 4 per centum of such fair charge, to be paid by the person furnishing such transportation.

(b) FAIR CHARGE DEFINED.—For the purposes of this section, the fair charge for transportation shall be computed—

(1) from actual bona fide rates or tariffs, or

(2) if no such rates or tariffs exist, then on the basis of the actual bona fide rates or tariffs of other pipe lines for like services, as determined by the Commissioner, or

(3) if no such rates or tariffs exist, then on the basis of a reasonable charge for such transportation, as determined by the Commissioner.

SEC. 3461. RETURNS.

Every person liable for the tax imposed under section 3460 shall make monthly returns under oath in duplicate and pay such taxes to the collector for the district in which is located his principal place of business or, if he has no principal place of business in the United States, then to the collector at Baltimore, Maryland. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

SEC. 3462. PUBLICITY OF RETURNS.

For provisions with respect to publicity of returns under this subchapter, see subsection (a) (2) of section 55.

SUBCHAPTER B—TELEGRAPH, TELEPHONE, RADIO, AND CABLE FACILITIES

SEC. 3465. IMPOSITION AND RATE OF TAX.

There shall be imposed—

(a) in the case of each telegraph, telephone, cable, or radio dispatch, message, or conversation, which originates before July 1, 1939, within the United States, a tax at the following rates:

(1) Telephone conversations for which the charge is 50 cents or more and less than $1, 10 cents; for which the charge is $1 or more and less than $2, 15 cents; for which the charge is $2 or more, 20 cents;

(2) telegraph dispatches and messages, 5 per centum of the amount charged therefor; and

(3) cable and radio dispatches and messages, 10 cents; but only one payment of such tax shall be required, notwithstanding the lines or stations of one or more persons are used for the transmission of such dispatch, message, or conversation; and

(b) a tax equivalent to 5 per centum of the amount paid to any telegraph or telephone company for any leased wire or talking circuit special service furnished before July 1, 1939. This subsection shall not apply to the amount paid for so much of such service as is utilized in the conduct, by a common carrier or telephone or telegraph company or radio broadcasting station or net work, of its business as such.

SEC. 3466. EXEMPTION FROM TAX.

No tax shall be imposed under section 3465 upon any payment received for services or facilities furnished to the United States or to any State or Territory, or political subdivision thereof, or the District of Columbia, nor upon any payment received from any person for services or facilities utilized in the collection of news for the public press or radio broadcasting, or in the dissemination of news through the public press or by means of radio broadcasting, if the charge for such services or facilities is billed in writing to such person. The right to exemption under this section shall be evidenced in such manner as the Commissioner with the approval of the Secretary may by regulation prescribe.

SEC. 3467. RETURNS AND PAYMENT.

(a) The taxes imposed by section 3465 shall be paid by the person paying for the services or facilities.

(b) Each person receiving any payments specified in section 3465 shall collect the amount of the tax imposed by such section from the person making such payments, and shall on or before the last day of each month make a return, under oath, for the preceding month, and pay the taxes so collected, to the collector of the district in which his principal place of business is located, or if he has no principal place of business in the United States, to the collector at Baltimore, Maryland. Such returns shall contain such information

and be made in such manner as the Commissioner with the approval of the Secretary may by regulation prescribe. The Commissioner may extend the time for making returns and paying the taxes collected, under such rules and regulations as he shall prescribe with the approval of the Secretary, but no such extension shall be for more than 90 days.

SEC. 3468. CROSS REFERENCE.

For enforcement of liability for taxes collected, see section 3661.

SUBCHAPTER C—ADMINISTRATIVE PROVISIONS

SEC. 3470. PAYMENT OF TAXES.

The taxes imposed by this chapter shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time fixed for filing the return. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 6 per centum per annum from the time the tax became due until paid.

SEC. 3471. REFUNDS AND CREDITS.

(a) Credit or refund of any overpayment of tax imposed by subchapter B may be allowed to the person who collected the tax and paid it to the United States if such person establishes, to the satisfaction of the Commissioner, under such regulations as the Commissioner with the approval of the Secretary may prescribe, that he has repaid the amount of such tax to the person from whom he collected it, or obtained the consent of such person to the allowance of such credit or refund.

(b) Any person entitled to refund of tax under this chapter paid, or collected and paid, to the United States by him may take credit therefor against taxes due upon any monthly return.

(c) Any person making a refund of any payment on which tax under subchapter B has been collected, may repay therewith the amount of tax collected on such payment, and the amount of tax so repaid may be credited against the tax under any subsequent return.

SEC. 3472. REGULATIONS.

The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of subchapters A and B of this chapter.

SEC. 3473. APPLICABILITY OF ADMINISTRATIVE PROVISIONS.

All provisions of law (including penalties) applicable in respect of the taxes imposed by section 1700, shall, in so far as applicable and not inconsistent with this chapter, be applicable in respect of the taxes imposed by this chapter.

SEC. 3474. EFFECTIVE DATE OF CHAPTER.

This chapter shall take effect on the first day of that calendar month occurring next after the enactment of this title.

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CHAPTER 31—DOCUMENTS AND OTHER INSTRUMENTS

SEC. 3480. IMPOSITION OF TAX.

There shall be levied, collected, and paid, for and in respect of the several bonds and other documents, instruments, matters, and things mentioned and described in sections 3481 and 3482, or for or in respect of the vellum, parchment, or paper upon which such instruments, matters, or things, or any of them, are written or printed, the several taxes specified in such sections.

SEC. 3481. TRANSFER OF BONDS.

(a) IMPOSITION OF TAX.—On all sales, or agreements to sell, or memoranda of sales or deliveries of, or transfers of legal title to any of the instruments mentioned or described in section 1801 and of a kind the issue of which is taxable thereunder, whether made by any assignment in blank or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale (whether entitling the holder in any manner to the benefit of such instrument or not), on each $100 of face value or fraction thereof, 4 cents: *Provided*, That it is not intended by this chapter to impose a tax upon an agreement evidencing a deposit of instruments as collateral security for money loaned thereon, which instruments are not actually sold, nor upon the delivery or transfer for such purpose of instruments so deposited: *Provided further*, That the tax shall not be imposed on deliveries or transfers of bonds in connection with a reorganization (as defined in section 112 of the Revenue Act of 1932, 47 Stat. 196) if any of the gain or loss from the exchange or distribution involved in the delivery or transfer is not recognized under the income tax law applicable to the year in which the delivery or transfer is made: *Provided further*, That the tax shall not be imposed upon deliveries or transfers to a broker for sale, nor upon deliveries or transfers by a broker to a customer for whom and upon whose order he has purchased same, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided further*, That the tax shall not be imposed upon deliveries or transfers from a fiduciary to a nominee of such fiduciary, or from one nominee of such fiduciary to another, if such instruments continue to be held by such nominee for the same purpose for which they would be held if retained by such fiduciary, or from the nominee to such fiduciary, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided further*, That where the change of ownership is by transfer of the instrument the stamp shall be placed upon the instrument; and in cases of an agreement to sell or where the transfer is by delivery of the instrument assigned in blank there

shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale or agreement to sell before mentioned shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers. Any person liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person, who makes any such sale, or who in pursuance of any such sale delivers any certificate or evidence of the sale of any such instrument, or bill or memorandum thereof, as herein required, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding $1,000, or be imprisoned not more than six months, or both.

The tax shall not be imposed upon deliveries or transfers made after June 30, 1938, of instruments—

(1) From the owner to a custodian if under a written agreement between the parties the instruments are to be held or disposed of by such custodian for, and subject at all times to the instructions of, the owner; or from such custodian to such owner;

(2) From such custodian to a registered nominee of such custodian, or from one such nominee to another such nominee, if in either case the instruments continue to be held by such nominee for the same purpose for which they would be held if retained by such custodian; or from such nominee to such custodian.

No exemption shall be granted under this paragraph unless the deliveries or transfers are accompanied by a certificate setting forth such facts as the Commissioner, with the approval of the Secretary, may by regulation prescribe as necessary for the evidencing of the right to such exemption. No delivery or transfer to a nominee shall be exempt under this paragraph unless such nominee, in accordance with regulations prescribed by the Commissioner, with the approval of the Secretary, is registered with the Commissioner.

Any person who, with intent to evade the tax provided in this subdivision, falsely makes a certificate accompanying any delivery or transfer shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than $1,000, or imprisoned not more than six months, or both.

(b) EXPIRATION OF TAX.—Subsection (a) is repealed effective July 1, 1939.

SEC. 3482. CONVEYANCES.

Deed, instrument, or writing, delivered before July 1, 1939 (unless deposited in escrow before April 1, 1932), whereby any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his, her, or their direction, when the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds $100 and does not exceed $500, 50 cents; and for each additional $500 or fractional part thereof, 50 cents. This section shall not apply to any instrument or writing given to secure a debt.

SEC. 3483. ADMINISTRATIVE PROVISIONS.

Sections 1808 and 1809 of subchapter A of chapter 11 and subchapters B, C, and E of such chapter shall, insofar as applicable and not inconsistent with this chapter, be applicable in respect of the taxes imposed by this chapter.

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CHAPTER 32—SUGAR

SUBCHAPTER A—MANUFACTURE

SEC. 3490. TAX.

(a) RATE.—Upon manufactured sugar manufactured in the United States, there shall be levied, collected and paid a tax, to be paid by the manufacturer at the following rates:

(1) On all manufactured sugar testing by the polariscope ninety-two sugar degrees, 0.465 cent per pound, and for each additional sugar degree shown by the polariscopic test, 0.00875 cent per pound additional, and fractions of a degree in proportion;

(2) On all manufactured sugar testing by the polariscope less than ninety-two sugar degrees, 0.5144 cent per pound of the total sugars therein.

(b) EXEMPTION.—No tax shall be required to be paid upon the manufacture of manufactured sugar by, or for, the producer of the sugar beets or sugarcane from which such manufactured sugar was derived, for consumption by the producer's own family, employees, or household.

SEC. 3491. RETURNS AND PAYMENT OF TAX.

(a) RETURNS.—The manufacturer shall file on the last day of each month a return and pay the tax with respect to manufactured sugar, (1) which has been sold, or used in the production of other articles, by the manufacturer during the preceding month (if the tax has not already been paid) and (2) which has not been so sold or used within twelve months ending during the preceding calendar month, after it was manufactured (if the tax has not already been paid).

For the purpose of determining whether sugar has been sold or used within twelve months after it was manufactured sugar shall

be considered to have been sold or used in the order in which it was manufactured.

(b) PAYMENT OF TAX.—Except as otherwise provided, the taxes imposed by this chapter shall be collected by the Bureau of Internal Revenue under the direction of the Secretary. Such taxes shall be paid into the Treasury of the United States.

(c) PLACE FOR FILING RETURN AND PAYMENT OF TAX.—Any person required, pursuant to the provisions of this section and section 3492, to file a return may be required to file such return with and pay the tax shown to be due thereon to the collector for the district in which the manufacturing was done or the liability incurred.

SEC. 3492. PERSONS CLASSED AS MANUFACTURERS.

Any person who acquires any sugar which is to be manufactured into manufactured sugar but who, without further refining or otherwise improving it in quality, sells such sugar as manufactured sugar or uses such sugar as manufactured sugar in the production of other articles for sale shall be considered for the purposes of sections 3490 and 3491 the manufacturer of manufactured sugar and, as such, liable for the tax under section 3490 with respect thereto.

SEC. 3493. EXPORTATION.

(a) REFUND OF TAX PAID.—Upon the exportation from the United States to a foreign country, or the shipment from the United States to any possession of the United States except Puerto Rico, of any manufactured sugar, or any article manufactured wholly or partly from manufactured sugar, with respect to which tax under the provisions of section 3490 has been paid, the amount of such tax shall be paid by the Commissioner to the consignor named in the bill of lading under which the article was exported or shipped to a possession, or to the shipper, if the consignor waives any claim thereto in favor of such shipper: *Provided*, That no such payment shall be allowed with respect to any manufactured sugar, or article, upon which, through substitution or otherwise, a drawback of any tax paid under section 3500 has been or is to be claimed under any provisions of law made applicable by section 3501.

(b) PERIOD FOR FILING REFUND CLAIM.—No payment shall be allowed under this section unless within one year after the right to such payment has accrued a claim therefor is filed by the person entitled thereto.

SEC. 3494. USE AS LIVESTOCK FEED OR FOR DISTILLATION OF ALCOHOL.

(a) REFUND OF TAX PAID.—Upon the use of any manufactured sugar, or article manufactured therefrom, as livestock feed, or in the production of livestock feed, or for the distillation of alcohol, there shall be paid by the Commissioner to the person so using such manufactured sugar, or article manufactured therefrom, the amount of any tax paid under section 3490 with respect thereto.

(b) PERIOD FOR FILING REFUND CLAIM.—No payment shall be allowed under this section unless within one year after the right to such payment has accrued a claim therefor is filed by the person entitled thereto.

SEC. 3495. ADDITION TO TAX IN CASE OF NONPAYMENT.

If the tax is not paid when due there shall be added as part of the tax interest at 6 per centum per annum from the date the tax became due until the date of payment.

SEC. 3496. OTHER LAWS APPLICABLE.

All provisions of law, including penalties, applicable with respect to the taxes imposed under Subchapter A of chapter 29, shall, insofar as applicable and not inconsistent with the provisions of this chapter, be applicable in respect to the tax imposed by section 3490.

SEC. 3497. REGULATIONS.

The Commissioner, with the approval of the Secretary, shall prescribe such rules and regulations as may be necessary to carry out all provisions of this chapter, except Subchapter B.

SEC. 3498. EFFECTIVE DATE OF SUBCHAPTER.

This subchapter shall take effect on the first day of that calendar month occurring next after the enactment of this title.

SUBCHAPTER B—IMPORTATION

SEC. 3500. RATE OF TAX.

In addition to any other tax or duty imposed by law, there shall be imposed, under such regulations as the Commissioner of Customs shall prescribe, with the approval of the Secretary, a tax upon articles imported or brought into the United States as follows:

(1) On all manufactured sugar testing by the polariscope ninety-two sugar degrees, 0.465 cent per pound, and for each additional sugar degree shown by the polariscopic test, 0.00875 cent per pound additional, and fractions of a degree in proportion;

(2) On all manufactured sugar testing by the polariscope less than ninety-two sugar degrees 0.5144 cent per pound of the total sugars therein;

(3) On all articles composed in chief value of manufactured sugar 0.5144 cent per pound of the total sugars therein.

SEC. 3501. ASSESSMENT AND PAYMENT.

Such tax shall be levied, assessed, collected, and paid in the same manner as a duty imposed by the Tariff Act of 1930, 46 Stat. 590, 672 (U. S. C. Title 19, c. 4) and shall be treated for the purposes of all provisions of law relating to the customs revenue as a duty imposed by such Act, except that for the purposes of sections 336 and 350 of such Act (the so-called flexible-tariff and trade-agreements provisions) such tax shall not be considered a duty or import restriction, and except that no preference with respect to such tax shall be accorded any articles imported or brought into the United States.

SUBCHAPTER C—GENERAL PROVISIONS

SEC. 3506. PENALTY FOR OFFICIALS INVESTING OR SPECULATING IN SUGAR.

No person shall, while acting in any official capacity in the administration of this chapter, invest or speculate in sugar or liquid sugar, contracts relating thereto, or the stock or membership interests of any association or corporation engaged in the production or manufacturing of sugar or liquid sugar. Any person violating this section shall upon conviction thereof be fined not more than $10,000 or imprisoned not more than two years, or both.

SEC. 3507. DEFINITIONS.

For the purposes of this chapter—

(a) PERSON.—The term "person" means an individual, partnership, corporation, or association.

(b) MANUFACTURED SUGAR.—The term "manufactured sugar" means any sugar derived from sugar beets or sugarcane, which is not to be, and which shall not be, further refined or otherwise improved in quality; except sugar in liquid form which contains nonsugar solids (excluding any foreign substance that may have been added) equal to more than 6 per centum of the total soluble solids, and except also sirup of cane juice produced from sugarcane grown in continental United States.

The grades or types of sugar within the meaning of this definition shall include, but shall not be limited to, granulated sugar, lump sugar, cube sugar, powdered sugar, sugar in the form of blocks,

cones, or molded shapes, confectioners' sugar, washed sugar, centrifugal sugar, clarified sugar, turbinado sugar, plantation white sugar, muscovado sugar, refiners' soft sugar, invert sugar mush, raw sugar, sirups, molasses, and sugar mixtures.

(c) TOTAL SUGARS.—The term "total sugars" means the total amount of the sucrose (Clerget) and of the reducing or invert sugars. The total sugars contained in any grade or type of manufactured sugar shall be ascertained in the manner prescribed in paragraphs 758, 759, 762, and 763 of the United States Customs Regulations (1931 edition).

(d) UNITED STATES.—The term "United States" shall be deemed to include the States, the Territories of Hawaii and Alaska, the District of Columbia, and Puerto Rico.

SEC. 3508. TERMINATION OF TAXES.

No tax shall be imposed on the manufacture, use, or importation of sugar after June 30, 1941.

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CHAPTER 33—BITUMINOUS COAL

SEC. 3520. TAX.

(a) BASIC TAX.—

(1) RATE.—There shall be imposed upon the sale or other disposal of bituminous coal produced within the United States when sold or otherwise disposed of by the producer thereof an excise tax of 1 cent per ton of two thousand pounds.

The term "disposal" as used in this section includes consumption or use (whether in the production of coke or fuel, or otherwise) by a producer, and any transfer of title by the producer other than by sale.

(2) EXEMPTION.—The tax imposed by paragraph (1) of this subsection shall not apply in the case of a sale of coal for the exclusive use of the United States or of any State or Territory of the United States or the District of Columbia, or any political subdivision of any of them, for use in the performance of governmental functions.

(b) ADDITIONAL TAX.—

(1) RATE.—In addition to the tax imposed by subsection (a) of this section, there shall be imposed upon the sale or other disposal of bituminous coal produced within the United States, when sold or otherwise disposed of by the producer thereof, which would be subject to the application of the conditions and provisions of the code provided for in section 4 of the Act of April 26, 1937, c. 127, 50 Stat. 76, or of the provisions of section 4–A of such Act, an excise tax in an amount equal to 19½ per centum of the sale price at the mine in the case of coal disposed of by sale at the mine, or in the case of coal disposed of otherwise than by sale at the mine, and coal sold otherwise than through an arms' length transaction, 19½ per centum of the fair market value of such coal at the time of such disposal or sale.

(2) EXEMPTION.—In the case of any producer who is a code member as provided in section 4 of the Act of April 26, 1937, c. 127, 50 Stat. 76, and is so certified to the Commissioner of Internal Revenue by the Commission, the sale or disposal by such producer during the continuance of his membership in the code of coal produced by him shall be exempt from the tax imposed by this subsection.

(3) CROSS REFERENCE.—

For revocation of code membership and right to tax exemption, see section 5 (b) of such act of April 26, 1937.

SEC. 3521. PAYMENT OF TAX.

The taxes imposed by section 3520 shall be paid to the United States by the producer, and shall be payable monthly for each calendar month on or before the first business day of the second succeeding month, under such regulations and in such manner as shall be prescribed by the Commissioner, with the approval of the Secretary.

SEC. 3522. RESALE FOR GOVERNMENTAL USE.

Under regulations prescribed by the Commissioner with the approval of the Secretary, a credit against the tax imposed by subsection (a) of section 3520 or a refund may be allowed or made to any producer of coal in the amount of such tax paid with respect to the sale of coal to any vendee, if the producer has in his possession such evidence as the regulations may prescribe that such coal was resold by any person for the exclusive use of the United States or of any State, Territory of the United States, or the District of Columbia, or any political subdivision of any of them, for use in the performance of governmental functions.

SEC. 3523. MARKET VALUE.

In the case of coal disposed of otherwise than by sale at the mine, and coal sold otherwise than through an arms' length transaction, the Commissioner shall determine the market value thereof. Such market value shall equal the current market price at the mine of coal of a comparable kind, quality, and size produced for market in the locality where the coal so disposed of is produced.

SEC. 3524. OTHER LAWS APPLICABLE.

All provisions of law, including penalties and refunds, applicable in respect of the taxes imposed by Subchapter A of chapter 29, shall, insofar as applicable and not inconsistent with the provisions of this chapter, be applicable with respect to taxes imposed under this chapter.

SEC. 3525. CONSTITUTIONALITY.

No producer shall, by reason of his acceptance of the code provided for in section 4 of the Act of April 26, 1937, c. 127, 50 Stat. 76, or of the exemption from the tax provided in subsection (b) of section 3520, be held to be precluded or estopped from contesting the constitutionality of any provision of this chapter or of the code, or the validity or application of either to him or to any part of the coal produced by him.

SEC. 3526. DEFINITIONS.

As used in this chapter—

(a) COAL.—The term "coal" means bituminous coal.

(b) BITUMINOUS COAL.—The term "bituminous coal" includes all bituminous, semibituminous, and subbituminous coal and shall exclude lignite, which is defined as a lignitic coal having calorific value in British thermal units of less than seven thousand six hundred per pound and having a natural moisture content in place in the mine of 30 per centum or more.

(c) PRODUCER.—The term "producer" includes all individuals, firms, associations, corporations, trustees, and receivers engaged in the business of mining coal.

(d) INTERSTATE COMMERCE.—The term "interstate commerce" means commerce among the several States and Territories, with foreign nations, and with the District of Columbia.

(e) UNITED STATES.—The term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

SEC. 3527. TERMINATION OF TAX.

This chapter shall cease to be in effect, except as provided in section 13 of the Revised Statutes (U. S. C. Title I, § 29), and any agencies and offices established thereunder shall cease to exist on and after April 26, 1941.

SEC. 3528. EFFECTIVE DATE OF CHAPTER.

This chapter shall take effect on the first day of that calendar month occurring next after the enactment of this title.

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CHAPTER 34—INFORMATION AND RETURNS

SUBCHAPTER A—DISCOVERY OF TAX LIABILITY

SEC. 3600. CANVASS OF DISTRICTS FOR TAXABLE PERSONS AND OBJECTS.

Every collector shall, from time to time, cause his deputies to proceed through every part of his district and inquire after and concerning all persons therein who are liable to pay any internal revenue tax, and all persons owning or having the care and management of any objects liable to pay any tax, and to make a list of such persons and enumerate said objects.

SEC. 3601. ENTRY OF PREMISES FOR EXAMINATION OF TAXABLE OBJECTS.

(a) AUTHORITY.—

(1) ENTRY DURING DAY.—Any collector, deputy collector, internal revenue agent, or inspector may enter, in the daytime, any building or place where any articles or objects subject to tax are made, produced, or kept, within his district, so far as it may be necessary for the purpose of examining said articles or objects.

(2) ENTRY AT NIGHT.—When such premises are open at night, such officers may enter them while so open, in the performance of their official duties.

(b) PENALTY FOR REFUSAL TO PERMIT ENTRY OR EXAMINATION.—Any owner of such building or place, or person having the agency or superintendence of the same, who refuses to admit such officer, or to suffer him to examine such article or articles, shall, for every such refusal, forfeit $500.

(c) OTHER PENALTIES.—If any person shall—

(1) FORCIBLE OBSTRUCTION OR HINDRANCE TO OFFICERS.—Forcibly obstruct or hinder any collector, deputy collector, internal revenue agent, or inspector, in the execution of any power and authority vested in him by law, or

(2) FORCIBLE RESCUE OF SEIZED PROPERTY.—Forcibly rescue or cause to be rescued any property, articles, or objects after the same shall have been seized by him, or shall attempt or endeavor so to do, the person so offending, excepting in cases otherwise provided for, shall, for every such offense, forfeit and pay the sum of $500, or double the value of the property so rescued, or be imprisoned for a term not exceeding two years, at the discretion of the court.

SEC. 3602. SEARCH WARRANTS.

The several judges of the district courts of the United States, and the United States commissioners, may, within their respective jurisdictions, issue a search warrant, authorizing any internal revenue officer to search any premises within the same, if such officer makes oath in writing that he has reason to believe, and does believe, that a fraud upon the revenue has been or is being committed upon or by the use of the said premises.

(But see sections 3116 and 3117.)

SEC. 3603. NOTICE REQUIRING RECORDS, STATEMENTS, AND SPECIAL RETURNS.

Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records as the Commissioner deems sufficient to show whether or not such person is liable to tax.

SEC. 3604. RETURNS AS TO FORMATION, ETC., OF FOREIGN CORPORATIONS.

(a) REQUIREMENT.—Under regulations prescribed by the Commissioner with the approval of the Secretary, any attorney, accountant, fiduciary, bank, trust company, financial institution, or other person, who aids, assists, counsels, or advises in, or with respect to, the formation, organization, or reorganization of any foreign corporation, shall, within 30 days thereafter, file with the Commissioner a return.

(b) FORM AND CONTENTS OF RETURN.—Such return shall be in such form, and shall set forth, under oath, in respect of each such corporation, to the full extent of the information within the possession or knowledge or under the control of the person required to file the return, such information as the Commissioner with the approval of the Secretary prescribes by regulations as necessary for carrying out the provisions of the income tax laws. Nothing in this section shall be construed to require the divulging of privileged communications between attorney and client.

(c) PENALTY.—Any person required under subsection (a) to file a return, or to supply any information, who willfully fails to file such return, or supply such information, at the time or times required by law or regulations, shall, in lieu of other penalties provided by law for such offense, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $2,000, or imprisoned for not more than one year, or both.

SUBCHAPTER B—DETERMINATION OF TAX LIABILITY

SEC. 3611. RETURNS EXECUTED BY TAXPAYER.

When not otherwise provided for—

(a) PREPARATION.—

(1) BY TAXPAYER.—It shall be the duty of any person made liable to any special tax or other tax imposed by law, to make a list or return, verified by oath, to the collector or a deputy collector of the district where located, of the articles or objects, including the quantity of goods, wares, and merchandise, made or sold and charged with a tax, the several rates and aggregate amount, according to the forms and regulations to be prescribed by the Commissioner, with the approval of the Secretary, for which such person is liable.

(2) BY COLLECTOR OR DEPUTY COLLECTOR.—If any person liable to pay any tax, or owning, possessing, or having the care or management of property, goods, wares, and merchandise, articles or objects liable to pay any tax shall fail to make and exhibit a list or return required by law, but shall consent to disclose the particulars of any and all the property, goods, wares, and merchandise, articles, and objects liable to pay any tax, or any business or occupation liable to pay any tax as aforesaid, then, and in that case, it shall be the duty of the collector or deputy collector to make such list or return, which, being distinctly read, consented to, and signed and verified by oath by the person so owning, possessing, or having the care and management as aforesaid, may be received as the list of such person.

(b) TIME FOR FILING.—The list or return required under subsection (a) shall be made—

(1) SPECIAL TAXES.—In the case of a special tax, on or before the 31st day of July in each year, and

(2) OTHER TAXES.—In other cases before the day on which the taxes accrue.

(c) DELINQUENCY.—In case no annual list or return has been rendered by such person to the collector or deputy collector as required by law, and the person shall be absent from his or her residence or place of business at the time the collector or a deputy collector shall call for the annual list or return, it shall be the duty of such collector or deputy collector to leave at such place of residence or business, with some one of suitable age and discretion, if such be present, otherwise to deposit in the nearest post office, a note or memorandum addressed to such person, requiring him or her to render to such collector or deputy collector the list or return required by law within ten days from the date of such note or memorandum, verified by oath.

SEC. 3612. RETURNS EXECUTED BY COMMISSIONER OR COLLECTOR.

(a) AUTHORITY OF COLLECTOR.—If any person fails to make and file a return or list at the time prescribed by law or by regulation made under authority of law, or makes, willfully or otherwise, a false or fraudulent return or list, the collector or deputy collector shall make the return or list from his own knowledge and from such information as he can obtain through testimony or otherwise.

(b) AUTHORITY OF COMMISSIONER.—In any such case the Commissioner may, from his own knowledge and from such information as he can obtain through testimony or otherwise—

(1) TO MAKE RETURN.—Make a return, or

(2) TO AMEND COLLECTOR'S RETURN.—Amend any return made by a collector or deputy collector.

(c) LEGAL STATUS OF RETURNS.—Any return or list so made and subscribed by the Commissioner, or by a collector or deputy collector and approved by the Commissioner, shall be prima facie good and sufficient for all legal purposes.

(d) ADDITIONS TO TAX.—

(1) FAILURE TO FILE RETURN.—In case of any failure to make and file a return or list within the time prescribed by law, or prescribed by the Commissioner or the collector in pursuance of law, the Commissioner shall add to the tax 25 per centum of its amount, except that when a return is filed after such time and it is shown that the failure to file it was due to a reasonable cause and not to willful neglect, no such addition shall be made to the tax: *Provided*, That in the case of a failure to make and file a return required by law, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, if the last date so prescribed for filing the return is after August 30, 1935, then there shall be added to the tax, in lieu of such 25 per centum: 5 per centum if the failure is for not more than 30 days, with an additional 5 per centum for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 per centum in the aggregate.

(2) FRAUD.—In case a false or fraudulent return or list is willfully made, the Commissioner shall add to the tax 50 per centum of its amount.

(3) CROSS REFERENCE.—

For additions to tax in the case of income tax, see sections 291 and 293, and in the case of a deficiency in gift tax, see section 1019.

(e) COLLECTION OF ADDITIONS TO TAX.—The amount added to any tax under paragraphs (1) and (2) of subsection (d) shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax.

(f) DETERMINATION AND ASSESSMENT.—The Commissioner shall determine and assess all taxes, other than stamp taxes, as to which returns or lists are so made under the provisions of this section.

SEC. 3613. LISTING BY COLLECTOR OF TAXABLE OBJECTS OWNED BY NONRESIDENTS OF COLLECTION DISTRICT.

Whenever there are in any district any articles not owned or possessed by or under the care or control of any person within such district, and liable to be taxed, and of which no list has been transmitted to the collector, as required by law, the collector or one of his deputies shall enter the premises where such articles are situated and shall take such view thereof as may be necessary, and make lists of the same, according to the form prescribed. Said lists, being subscribed by such collector or deputy, shall be taken as sufficient lists of such articles for all purposes.

SEC. 3614. EXAMINATION OF BOOKS AND WITNESSES.

(a) TO DETERMINE LIABILITY OF THE TAXPAYER.—The Commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making a return where none has been made, is authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda bearing upon the matters required to be included in the return, and may require the attendance of the person rendering the return or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter required by law to be included in such return, with power to administer oaths to such person or persons.

(b) TO DETERMINE LIABILITY OF A TRANSFEREE.—The Commissioner, for the purpose of determining the liability at law or in equity of a transferee of the property of any person with respect to any Federal taxes imposed upon such person, is hereby authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books,

papers, records, or memoranda bearing upon such liability, and may require the attendance of the transferor or transferee, or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter, with power to administer oaths to such person or persons.

SEC. 3615. SUMMONS FROM COLLECTOR TO PRODUCE BOOKS AND GIVE TESTIMONY.

(a) GENERAL AUTHORITY.—It shall be lawful for the collector, subject to the provisions of this section to summon any person to appear before him and produce books at a time and place named in the summons, and to give testimony or answer interrogatories, under oath, respecting any objects or income liable to tax or the returns thereof. The collector may summon any person residing or found within the State or Territory in which his district lies; and when the person intended to be summoned does not reside and can not be found within such State or Territory, he may enter any collection district where such person may be found and there make the examination herein authorized. And to this end he may there exercise all the authority which he might lawfully exercise in the district for which he was commissioned.

(b) ACTS CREATING LIABILITY.—Such summons may be issued—

(1) REFUSAL OR NEGLECT TO COMPLY WITH NOTICE REQUIRING RETURN.—If any person, on being notified or required as provided in section 3611, shall refuse or neglect to render such list or return within the time required, or

(2) FAILURE TO RENDER RETURN ON TIME.—Whenever any person who is required to deliver a monthly or other return of objects subject to tax fails to do so at the time required, or

(3) ERRONEOUS, FALSE, OR FRAUDULENT RETURN.—Whenever any person who is required to deliver a monthly or other return of objects subject to tax delivers any return which, in the opinion of the collector, is erroneous, false, or fraudulent, or contains any undervaluation or understatement, or

(4) REFUSAL TO PERMIT EXAMINATION OF BOOKS.—Whenever any person who is required to deliver a monthly or other return of objects subject to tax refuses to allow any regularly authorized Government officer to examine his books.

(c) PERSONS LIABLE.—Such summons may be issued to—

(1) PERSONS MENTIONED IN SUBSECTION (b).—Any person mentioned in subsection (b), or

(2) PERSONS HAVING BOOKS.—Any other person having possession, custody, or care of books of account containing entries relating to the business of any person mentioned in subsection (b), or

(3) OTHER PERSONS.—Any other person the collector may deem proper.

(d) SERVICE.—Such summons shall in all cases be served by a deputy collector of the district where the person to whom it is directed may be found, by an attested copy delivered to such person in hand, or left at his last and usual place of abode, allowing such person one day for each twenty-five miles he may be required to travel, computed from the place of service to the place of examination; and the certificate of service signed by such deputy shall be evidence of the facts it states on the hearing of an application for an attachment. When the summons requires the production of books, it shall be sufficient if such books are described with reasonable certainty.

(e) ENFORCEMENT.—Whenever any person summoned under this section neglects or refuses to obey such summons, or to give testimony, or to answer interrogatories as required, the collector may apply to the judge of the district court or to a United States commissioner for the district within which the person so summoned resides

for an attachment against him as for a contempt. It shall be the duty of the judge or commissioner to hear the application, and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him to proceed to a hearing of the case; and upon such hearing the judge or the United States commissioner shall have power to make such order as he shall deem proper not inconsistent with the law for the punishment of contempts, to enforce obedience to the requirements of the summons and to punish such person for his default or disobedience.

SEC. 3616. PENALTIES.

Whenever any person—

(a) FALSE RETURNS.—Delivers or discloses to the collector or deputy any false or fraudulent list, return, account, or statement, with intent to defeat or evade the valuation, enumeration, or assessment intended to be made; or,

(b) NEGLECT TO OBEY SUMMONS.—Being duly summoned to appear to testify, or to appear and produce books as required under section 3615, neglects to appear or to produce said books—

he shall be fined not exceeding $1,000, or be imprisoned not exceeding one year, or both, at the discretion of the court, with costs of prosecution.

(c) CROSS REFERENCE.—

For additions to tax in case of fraud or of failure to file returns, see section 3612 (d).

SEC. 3617. PENALTIES AND AWARDS TO INFORMERS WITH RESPECT TO ILLEGALLY PRODUCED PETROLEUM.

(a) FAILURE TO FILE RETURN.—Any person liable for tax on any income from illegally produced petroleum, who willfully fails to make return showing such income within the time prescribed by law shall, in addition to all other penalties prescribed by law, be liable to a civil penalty of $500 plus $50 for each day during which such failure continues.

(b) REWARD FOR INFORMATION.—Any person not an officer or employee of the United States who furnishes to the Commissioner or any collector original information leading to the recovery from any other person of any penalty under this section may be awarded and paid by the Commissioner a compensation of one-half the penalty so recovered, as determined by the Commissioner.

(c) INCOME DEFINED.—As used in this section, the term "income from illegally produced petroleum" means any income (not shown on a return made within the time prescribed by law) arising out of any sale or purchase of crude petroleum withdrawn from the ground subsequent to January 1, 1932, in violation of any State or Federal law (not including illegal withdrawal the penalties for which have been mitigated or satisfied in pursuance of law prior to May 10, 1934), or arising out of any fee derived from acting as agent for any seller or purchaser in connection with a sale or purchase of such petroleum or products thereof, or any amount illegally received by any person charged with the enforcement of law with respect to such petroleum or products thereof.

SUBCHAPTER C—MISCELLANEOUS PROVISIONS

SEC. 3630. CLASSIFICATION OF AND TIME FOR TAKING LISTS OR RETURNS.

Lists or returns shall, where not otherwise specially provided for, be taken with reference to the day fixed for that purpose by this title; and where taxes accrue at other and different times, the list shall be taken with reference to the time when said taxes become due, and shall be denominated annual, monthly, and special lists or returns.

SEC. 3631. RESTRICTIONS ON EXAMINATION OF TAXPAYERS.

No taxpayer shall be subjected to unnecessary examinations or investigations, and only one inspection of a taxpayer's books of account shall be made for each taxable year unless the taxpayer requests otherwise or unless the Commissioner, after investigation, notifies the taxpayer in writing that an additional inspection is necessary.

SEC. 3632. AUTHORITY TO ADMINISTER OATHS, TAKE TESTIMONY, AND CERTIFY.

(a) INTERNAL REVENUE PERSONNEL.—

(1) PERSONS IN CHARGE OF ADMINISTRATION OF INTERNAL REVENUE LAWS GENERALLY.—Every collector, deputy collector, internal revenue agent, and internal revenue officer assigned to duty under an internal revenue agent, is authorized to administer oaths and to take evidence touching any part of the administration of the internal revenue laws with which he is charged, or where such oaths and evidence are authorized by law or regulation authorized by law to be taken.

(2) PERSONS IN CHARGE OF EXPORTS AND DRAWBACKS.—Every collector of internal revenue and every superintendent of exports and drawbacks is authorized to administer such oaths and to certify to such papers as may be necessary under any regulation prescribed under the authority of the internal revenue laws.

(b) OTHERS.—Any oath or affirmation required or authorized by any internal revenue law or by any regulations made under authority thereof may be administered by any person authorized to administer oaths for general purposes by the law of the United States, or of any State, Territory, or possession of the United States, or of the District of Columbia, wherein such oath or affirmation is administered, or by any consular officer of the United States. This subsection shall not be construed as an exclusive enumeration of the persons who may administer such oaths or affirmations.

SEC. 3633. JURISDICTION OF DISTRICT COURTS.

(a) TO ENFORCE SUMMONS.—If any person is summoned under the internal revenue laws to appear, to testify, or to produce books, papers, or other data, the district court of the United States for the district in which such person resides shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, or other data.

(b) TO ISSUE ORDERS, PROCESSES, AND JUDGMENTS—

For authority of district courts to issue orders, processes, and judgments for enforcement of internal revenue laws, see section 3799.

SEC. 3634. EXTENSION OF TIME FOR FILING RETURNS.

If the failure to file a return (other than a return of income tax) or list at the time prescribed by law or by regulation made under authority of law is due to sickness or absence, the collector may allow such further time, not exceeding thirty days, for making and filing the return or list as he deems proper.

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CHAPTER 35—ASSESSMENT

SEC. 3640. ASSESSMENT AUTHORITY.

The Commissioner is authorized and required to make the inquiries, determinations, and assessments of all taxes and penalties imposed by this title, or accruing under any former internal revenue law, where such taxes have not been duly paid by stamp at the time and in the manner provided by law.

SEC. 3641. CERTIFICATION OF ASSESSMENT LISTS TO COLLECTORS.

The Commissioner shall certify a list of such assessments when made to the proper collectors, respectively, who shall proceed to collect and account for the taxes and penalties so certified.

SEC. 3642. SUPPLEMENTAL ASSESSMENT LISTS.

(a) AUTHORIZATION.—Whenever it is ascertained that any list delivered to any collector is imperfect or incomplete in consequence of the omission of the name of any person liable to tax, or in consequence of any omission, or understatement, or undervaluation, or false or fraudulent statement contained in any return made by any person liable to tax, the Commissioner may, at any time within the period prescribed for assessment, enter on any monthly or special list:

(1) ORIGINAL ASSESSMENTS.—The name of such person so omitted, together with the amount of tax for which he may be liable, and also

(2) ADDITIONAL ASSESSMENTS.—The name of any such person in respect to whose return, as aforesaid, there has been any omission, undervaluation, understatement, or false or fraudulent statement, together with the amount for which such person may be liable, above the amount for which he may have been assessed upon any return made as aforesaid.

(b) CERTIFICATION TO COLLECTOR.—The Commissioner shall certify and return such list to the collector as required by law.

SEC. 3643. OTHER LAWS APPLICABLE.

All provisions of law for the ascertainment of liability to any tax, or the assessment or collection thereof, shall be held to apply, so far as may be necessary, to the proceedings authorized and directed under this chapter.

SEC. 3644. ESTABLISHMENT BY REGULATION OF MODE OR TIME OF ASSESSMENT.

Whenever the mode or time of assessing any tax which is imposed is not provided for, the Commissioner may establish the same by regulation.

SEC. 3645. PERIODS OF LIMITATION UPON ASSESSMENT.

For the periods of limitation prescribed for making assessments, see the following:

Income tax—Taxpayer, sections 275 and 276; Transferee and fiduciary, section 311.

Additional income tax on personal holding companies, section 507.

Excess profits tax, section 603.

Excess profits on Navy contracts, section 651.

Unjust enrichment, section 702 (a).

Estate tax—Decedent, sections 874 and 875; Transferee and fiduciary, section 900.

Gift tax—Donor sections 1016 and 1017; Transferee and fiduciary, section 1025.

Capital stock tax, section 3312.

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SEC. 3646. CROSS REFERENCES.

For prohibition of suits to restrain assessment of any tax, see section 3653.

For prohibition upon assessment of taxes against insolvent banks, see section 3798.

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CHAPTER 36—COLLECTION

SUBCHAPTER A—GENERAL PROVISIONS

SEC. 3650. COLLECTION DISTRICTS.

(a) ESTABLISHMENT AND ALTERATION.—For the purpose of assessing, levying, and collecting the taxes provided by the internal revenue laws, the President may establish convenient collection districts, and may from time to time alter said districts.

(b) NUMBER.—The whole number of collection districts for the collection of internal revenue shall not exceed 65.

(c) BOUNDARIES.—

(1) HAWAII.—The Territory of Hawaii shall constitute a district for the collection of the internal revenue of the United States, with a collector, whose office shall be at Honolulu, and deputy collectors at such other places in the several islands as the Secretary shall direct.

(2) ELSEWHERE.—For the purpose mentioned in subsection (a), the President may subdivide any State, Territory, or the District of Columbia, or may unite two or more States or Territories into one district.

SEC. 3651. COLLECTION AUTHORITY.

(a) IN GENERAL.—

(1) WITHIN DISTRICT.—It shall be the duty of the collectors or their deputies, in their respective districts, and they are authorized, to collect all the taxes imposed by law, however the same may be designated.

(2) OUTSIDE DISTRICT.—

For authority of collector or deputy to collect taxes by distraint outside his own collection district, but within the State, see section 3713.

(b) TRANSFERRED ASSESSMENTS.—Whenever a collector has on any list duly returned to him the name of any person not within his collection district who is liable to tax, or of any person so liable who has, in the collection district in which he resides, no sufficient prop-

erty subject to seizure or distraint, from which the money due for tax can be collected, such collector shall transmit a statement containing the name of the person liable to such tax, with the amount and nature thereof, duly certified under his hand, to the collector of any district to which said person shall have removed, or in which he shall have property, real or personal, liable to be seized and sold for tax. And the collector to whom the said certified statement is transmitted shall proceed to collect the said tax in the same way as if the name of the person and objects of tax contained in the said certified statement were on any list of his own collection district; and he shall, upon receiving said certified statement as aforesaid, transmit his receipt for it to the collector sending the same to him.

SEC. 3652. ESTABLISHMENT BY REGULATION OF MODE OR TIME OF COLLECTION.

Whenever the mode or time of collecting any tax which is imposed is not provided for, the Commissioner may establish the same by regulation.

SEC. 3653. PROHIBITION OF SUITS TO RESTRAIN ASSESSMENT OR COLLECTION.

(a) TAX.—Except as provided in sections 272 (a), 871 (a) and 1012 (a), no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court.

(b) LIABILITY OF TRANSFEREE OR FIDUCIARY.—No suit shall be maintained in any court for the purpose of restraining the assessment or collection of (1) the amount of the liability, at law or in equity, of a transferee of property of a taxpayer in respect of any income, war-profits, excess-profits, or estate tax, (2) the amount of the liability, at law or in equity, of a transferee of property of a donor in respect of any gift tax, or (3) the amount of the liability of a fiduciary under section 3467 of the Revised Statutes (U. S. C., Title 31, § 192) in respect of any such tax.

SEC. 3654. GENERAL POWERS AND DUTIES RELATING TO COLLECTION.

(a) COLLECTORS.—Every collector within his collection district shall see that all laws and regulations relating to the collection of internal revenue taxes are faithfully executed and complied with, and shall aid in the prevention, detection, and punishment of any frauds in relation thereto. For such purposes, he shall have power to examine all persons, books, papers, accounts, and premises, to administer oaths, and to summon any person to produce books and papers, or to appear and testify under oath before him, and to compel compliance with such summons in the same manner as provided in section 3615.

(b) DEPUTY COLLECTORS.—Every deputy collector shall have the like authority in every respect to collect the taxes levied or assessed within the portion of the district assigned to him which is by law vested in the collector himself; but each collector shall, in every respect, be responsible, both to the United States and to individuals, as the case may be, for all moneys collected, and for every act done or neglected to be done, by any of his deputies while acting as such.

(c) INTERNAL REVENUE AGENTS.—Every internal revenue agent shall see that all laws and regulations relating to the collection of internal revenue taxes are faithfully executed and complied with, and shall aid in the prevention, detection, and punishment of any frauds in relation thereto.

SEC. 3655. NOTICE AND DEMAND FOR TAX.

(a) DELIVERY.—Where it is not otherwise provided, the collector shall in person or by deputy, within ten days after receiving any list of taxes from the Commissioner, give notice to each person liable to pay any taxes stated therein, to be left at his dwelling or usual place

of business, or to be sent by mail, stating the amount of such taxes and demanding payment thereof.

(b) ADDITION TO TAX FOR NONPAYMENT.—If such person does not pay the taxes, within ten days after the service or the sending by mail of such notice, it shall be the duty of the collector or his deputy to collect the said taxes with a penalty of 5 per centum additional upon the amount of taxes, and interest at the rate of 6 per centum per annum from the date of such notice to the date of payment; except that in the case of income, estate or gift taxes, such penalties shall not apply and the interest for nonpayment of tax shall be such as is specifically provided by law with respect to such taxes.

(c) CROSS REFERENCES.—

For additions to tax for nonpayment after notice and demand in case of—

Income taxes, see sections 294 (b) and 297.
Estate taxes, see section 893.
Gift taxes, see section 1018.

SEC. 3656. PAYMENT BY CHECK.

(a) CERTIFIED CHECKS.—

(1) AUTHORITY TO RECEIVE.—It shall be lawful for collectors to receive for internal revenue taxes certified checks drawn on national and state banks and trust companies during such time and under such regulations as the Secretary may prescribe.

(2) DISCHARGE OF LIABILITY.—

(A) CHECK DULY PAID.—No person who may be indebted to the United States on account of internal revenue taxes who shall have tendered a certified check or checks as provisional payment for such taxes, in accordance with the terms of this subsection, shall be released from the obligation to make ultimate payment thereof until such certified check so received has been duly paid.

(B) CHECK UNPAID.—If any such check so received is not duly paid by the bank on which it is drawn, and so certifying, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, have a lien for the amount of such check upon all the assets of such bank; and such amount shall be paid out of its assets in preference to any or all other claims whatsoever against said bank, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such bank.

(b) UNCERTIFIED CHECKS.—

(1) AUTHORITY TO RECEIVE.—Collectors may receive uncertified checks in payment of income, war profits, and excess profits taxes, and any other taxes payable other than by stamp, during such time and under such rules and regulations as the Commissioner, with the approval of the Secretary, shall prescribe.

(2) ULTIMATE LIABILITY.—If a check so received is not paid by the bank on which it is drawn the person by whom such check has been tendered shall remain liable for the payment of the tax and for all legal penalties and additions to the same extent as if such check had not been tendered.

SEC. 3657. PAYMENT BY UNITED STATES NOTES AND CERTIFICATES OF INDEBTEDNESS.

Collectors may receive, at par with an adjustment for accrued interest, notes or certificates of indebtedness issued by the United States in payment of income, war profits, and excess profits taxes, and any other taxes payable other than by stamp, during such time and under such rules and regulations as the Commissioner, with the approval of the Secretary, shall prescribe.

SEC. 3658. FRACTIONAL PARTS OF A CENT.

In the payment of any tax under this title not payable by stamp a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

SEC. 3659. RECEIPTS FOR TAXES.

(a) IN GENERAL.—Every collector and deputy collector shall give receipts for all sums collected by him, excepting only when the same are in payment for stamps sold and delivered; but no collector or deputy collector shall issue a receipt in lieu of a stamp representing a tax.

(b) CROSS REFERENCES.—

For receipts in case of—

Income tax, see section 56 (h).
Estate tax, see section 823.
Gift tax, see section 1008 (e).

SEC. 3660. JEOPARDY ASSESSMENT.

(a) If the Commissioner believes that the collection of any tax (other than income tax, estate tax, and gift tax) under any provision of the internal-revenue laws will be jeopardized by delay, he shall, whether or not the time otherwise prescribed by law for making return and paying such tax has expired, immediately assess such tax (together with all interest and penalties the assessment of which is provided for by law). Such tax, penalties, and interest shall thereupon become immediately due and payable, and immediate notice and demand shall be made by the collector for the payment thereof. Upon failure or refusal to pay such tax, penalty, and interest, collection thereof by distraint shall be lawful without regard to the period prescribed in section 3690.

(b) The collection of the whole or any part of the amount of such assessment may be stayed by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of the amount collection of which is stayed, at the time at which, but for this section, such amount would be due.

SEC. 3661. ENFORCEMENT OF LIABILITY FOR TAXES COLLECTED.

Whenever any person is required to collect or withhold any internal-revenue tax from any other person and to pay such tax over to the United States, the amount of tax so collected or withheld shall be held to be a special fund in trust for the United States. The amount of such fund shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including penalties) as are applicable with respect to the taxes from which such fund arose.

SEC. 3662. PROHIBITION OF SUITS TO REPLEVY PROPERTY TAKEN UNDER INTERNAL REVENUE LAWS.

For statute prohibiting suits to replevy property taken under revenue laws, see section 934 R. S. (U. S. C., Title 28, section 747).

SEC. 3663. CROSS REFERENCES.

For provisions relating to collection accounts, see subchapter B of chapter 41.

For prohibition upon collection of any tax from insolvent banks, see section 3798.

SUBCHAPTER B—LIEN FOR TAXES

SEC. 3670. PROPERTY SUBJECT TO LIEN.

If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any interest, penalty, additional amount, or addition to such tax, together with any costs that may accrue in addition thereto) shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, belonging to such person.

SEC. 3671. PERIOD OF LIEN.

Unless another date is specifically fixed by law, the lien shall arise at the time the assessment list was received by the collector and shall continue until the liability for such amount is satisfied or becomes unenforceable by reason of lapse of time.

SEC. 3672. VALIDITY AGAINST MORTGAGEES, PURCHASERS, AND JUDGMENT CREDITORS.

Such lien shall not be valid as against any mortgagee, purchaser, or judgment creditor until notice thereof has been filed by the collector—

(a) UNDER STATE OR TERRITORIAL LAWS.—In accordance with the law of the State or Territory in which the property subject to the lien is situated, whenever the State or Territory has by law provided for the filing of such notice; or

(b) WITH CLERK OF DISTRICT COURT.—In the office of the clerk of the United States district court for the judicial district in which the property subject to the lien is situated, whenever the State or Territory has not by law provided for the filing of such notice; or

(c) WITH CLERK OF DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF COLUMBIA.—In the office of the clerk of the District Court of the United States for the District of Columbia, if the property subject to the lien is situated in the District of Columbia.

SEC. 3673. RELEASE OF LIEN.

Subject to such regulations as the Commissioner, with the approval of the Secretary, may prescribe, the collector charged with an assessment in respect of any tax, may issue a certificate of release of the lien if—

(a) LIABILITY SATISFIED OR UNENFORCEABLE.—The collector finds that the liability for the amount assessed, together with all interest in respect thereof, has been satisfied or has become unenforceable by reason of lapse of time; or

(b) BOND ACCEPTED.—There is furnished to the collector and accepted by him a bond that is conditioned upon the payment of the amount assessed, together with all interest in respect thereof, within the time prescribed by law (including any extension of such time), and that is in accordance with such requirements relating to terms, conditions, and form of the bond and sureties thereon, as may be specified in the regulations.

SEC. 3674. PARTIAL DISCHARGE OF PROPERTY.

(a) PROPERTY DOUBLE THE AMOUNT OF THE LIABILITY.—Subject to such regulations as the Commissioner, with the approval of the Secretary, may prescribe, the collector charged with an assessment in respect of any tax may issue a certificate of partial discharge of any part of the property subject to the lien if the collector finds that the fair market value of that part of such property remaining subject to the lien is at least double the amount of the liability remaining unsatisfied in respect of such tax and the amount of all prior liens upon such property.

(b) PART PAYMENT.—Subject to such regulations as the Commissioner, with the approval of the Secretary, may prescribe, the collector charged with an assessment in respect of any tax may issue a certificate of discharge of any part of the property subject to the lien if there is paid over to the collector in part satisfaction of the liability in respect of such tax an amount determined by the Commissioner, which shall not be less than the value, as determined by him, of the interest of the United States in the part to be so discharged. In determining such value the Commissioner shall give consideration to the fair market value of the part to be so discharged and to such liens thereon as have priority to the lien of the United States.

SEC. 3675. EFFECT OF CERTIFICATES OF RELEASE OR PARTIAL DISCHARGE.

A certificate of release or of partial discharge issued under this subchapter shall be held conclusive that the lien upon the property covered by the certificate is extinguished.

SEC. 3676. SINGLE BOND COVERING RELEASE OF LIEN AND PAYMENT OF INCOME TAX DEFICIENCY.

The Commissioner, with the approval of the Secretary, may by regulation provide for the acceptance of a single bond complying both with the requirements of section 272 (j) (relating to the extension of time for the payment of a deficiency) and the requirements of subsection (b) of section 3673.

SEC. 3677. EXTENDED APPLICATION OF PROVISIONS RELATING TO RELEASE OR PARTIAL DISCHARGE.

Sections 3673, 3674, 3675, and 3676 shall apply to a lien in respect of any internal revenue tax, whether or not the lien is imposed by this subchapter.

SEC. 3678. CIVIL ACTION TO ENFORCE LIEN ON PROPERTY.

(a) FILING.—In any case where there has been a refusal or neglect to pay any tax, and it has become necessary to seize and sell property and rights to property, whether real or personal, to satisfy the same, whether distraint proceedings have been commenced or not, the Attorney General at the request of the Commissioner may direct a civil action to be filed, in a district court of the United States, to enforce the lien of the United States for tax upon any property and rights to property, whether real or personal, or to subject any such property and rights to property owned by the delinquent, or in which he has any right, title, or interest, to the payment of such tax.

(b) PARTIES TO PROCEEDINGS.—All persons having liens upon or claiming any interest in the property or rights to property sought to be subjected as aforesaid shall be made parties to such proceedings and be brought into court.

(c) ADJUDICATION AND DECREE.—The said court shall, at the term next after the parties have been duly notified of the proceedings, unless otherwise ordered by the court, proceed to adjudicate all matters involved therein and finally determine the merits of all claims to and liens upon the property and rights to property in question, and, in all cases where a claim or interest of the United States therein is established, may decree a sale of such property and rights to property, by the proper officer of the court, and a distribution of the proceeds of such sale according to the findings of the court in respect to the interests of the parties and of the United States.

(d) RECEIVERSHIP.—In any such proceeding, at the instance of the United States, the court may appoint a receiver to enforce the lien, or, upon certification by the Commissioner during the pendency of such proceedings that it is in the public interest, may appoint a receiver with all the powers of a receiver in equity.

SEC. 3679. CIVIL ACTION TO CLEAR TITLE TO REALTY.

(a) OBTAINING LEAVE TO FILE—

(1) REQUEST FOR INSTITUTION OF PROCEEDINGS BY UNITED STATES.—Any person having a lien upon or any interest in the real estate referred to in section 3678, notice of which has been duly filed of record in the jurisdiction in which the real estate is located, prior to the filing of notice of the lien of the United States as provided in section 3672, or any person purchasing the real estate at a sale to satisfy such prior lien or interest, may make written request to the Commissioner to authorize the filing of a civil action as provided in section 3678.

(2) PETITION TO COURT.—If the Commissioner fails to authorize the filing of such civil action within six months after receipt of

such written request, such person or purchaser may, after giving notice to the Commissioner, file a petition in the district court of the United States for the district in which the real estate is located, praying leave to file a civil action for a final determination of all claims to or liens upon the real estate in question.

(3) COURT ORDER.—After a full hearing in open court, the district court may in its discretion enter an order granting leave to file such civil action, in which the United States and all persons having liens upon or claiming any interest in the real estate shall be made parties.

(b) SERVICE ON UNITED STATES.—Service on the United States shall be had in the manner provided by sections 5 and 6 of the Act of March 3, 1887, entitled "An Act to provide for the bringing of suits against the Government of the United States", c. 359, 24 Stat. 506 (U. S. C., Title 28, §§ 762, 763), as amended.

(c) ADJUDICATION.—Upon the filing of such civil action the district court shall proceed to adjudicate the matters involved therein, in the same manner as in the case of civil actions filed under section 3678. For the purpose of such adjudication, the assessment of the tax upon which the lien of the United States is based shall be conclusively presumed to be valid.

(d) COSTS.—All costs of the proceedings on the petition and the civil action shall be borne by the person filing the civil action.

SEC. 3680. CROSS REFERENCES.

For lien in case of—
Estate tax, see section 827.
Tax on distilled spirits, see section 2800 (e).
For provisions permitting the United States to be made party defendant in a proceeding in a State court for the foreclosure of a lien upon real estate where the United States may have a claim upon the premises involved, see Act of March 4, 1931, c. 515, 46 Stat. 1528 (U. S. C., Title 28, §§ 901-906).

SUBCHAPTER C—DISTRAINT

Part I—Distraint on Personal Property

SEC. 3690. AUTHORITY TO DISTRAIN.

If any person liable to pay any taxes neglects or refuses to pay the same within ten days after notice and demand, it shall be lawful for the collector or his deputy to collect the said taxes, with such interest and other additional amounts as are required by law, by distraint and sale, in the manner provided in this subchapter, of the goods, chattels, or effects, including stocks, securities, bank accounts, and evidences of debt, of the person delinquent as aforesaid.

SEC. 3691. PROPERTY EXEMPT FROM DISTRAINT.

(a) ENUMERATION.—There shall be exempt from distraint and sale, if belonging to the head of a family—

(1) SCHOOL BOOKS AND WEARING APPAREL.—The school books and wearing apparel necessary for such family; also

(2) ARMS.—Arms for personal use;

(3) LIVESTOCK.—One cow, 2 hogs, 5 sheep and the wool thereof, provided the aggregate market value of said sheep shall not exceed $50;

(4) FODDER.—The necessary food for such cow, hogs, and sheep, for a period not exceeding thirty days;

(5) FUEL.—Fuel to an amount not greater in value than $25;

(6) PROVISIONS.—Provisions to an amount not greater than $50;

(7) HOUSEHOLD FURNITURE.—Household furniture kept for use to an amount not greater than $300; and

(8) BOOKS AND TOOLS OF TRADE OR PROFESSION.—The books, tools, or implements, of a trade or profession, to an amount not greater than $100.

(b) APPRAISAL.—The officer making the distraint shall summon three disinterested householders of the vicinity, who shall appraise and set apart to the owner the amount of property herein declared to be exempt.

SEC. 3692. LEVY.

In case of neglect or refusal under section 3690, the collector may levy, or by warrant may authorize a deputy collector to levy, upon all property and rights to property, except such as are exempt by the preceding section, belonging to such person, or on which the lien provided in section 3670 exists, for the payment of the sum due, with interest and penalty for nonpayment, and also of such further sum as shall be sufficient for the fees, costs, and expenses of such levy.

SEC. 3693. PROCEEDINGS ON DISTRAINT.

When distraint is made, as provided in section 3690—

(a) ACCOUNT AND NOTICE TO OWNER.—The officer charged with the collection shall make or cause to be made an account of the goods or effects distrained, a copy of which, signed by the officer making such distraint, shall be left with the owner or possessor of such goods or effects, or at his dwelling or usual place of business, with some person of suitable age and discretion, if any such can be found, with a note of the sum demanded and the time and place of sale; and

(b) PUBLIC NOTICE.—Forthwith cause a notification to be published in some newspaper within the county wherein said distraint is made, if a newspaper is published in said county, or to be publicly posted at the post office, if there be one within five miles nearest to the residence of the person whose property shall be distrained, and in not less than two other public places. Such notice shall specify the articles distrained, and the time and place for the sale thereof.

(c) TIME AND PLACE OF SALE.—The time of sale shall not be less than ten nor more than twenty days from the date of such notification to the owner or possessor of the property and the publication or posting of such notice as provided in subsection (b) and the place proposed for the sale shall not be more than five miles distant from the place of making such distraint.

(d) ADJOURNMENT OF SALE.—Said sale may be adjourned from time to time by said officer, if he deems it advisable, but not for a time to exceed in all thirty days.

SEC. 3694. PRIORITY OF SPECIFIC TAX LIABILITY ON DISTRAINED PROPERTY.

When property subject to tax, but upon which the tax has not been paid, is seized upon distraint and sold, the amount of such tax shall, after deducting the expenses of such sale, be first appropriated out of the proceeds thereof to the payment of the tax. And if no assessment of such tax has been made upon such property, the collector shall make a return thereof in the form required by law, and the Commissioner shall assess the tax thereon.

SEC. 3695. PROPERTY FOR ACCOUNT OF THE UNITED STATES.

(a) PURCHASE.—When any personal property is advertised for sale under distraint as aforesaid, the officer making the seizure shall proceed to sell such property at a public auction, offering the same at a minimum price, including the expenses of making the levy and of advertising the sale, and if the amount bid for such property at the sale is not equal to the minimum price so fixed, the officer conducting the sale may declare the same to be purchased by him for the United States.

(b) SALE.—The property so purchased may be sold by the collector within whose district the sale was made under such regulations as may be prescribed by the Commissioner, with the approval of the Secretary.

(c) ACCOUNTING.—The collector shall render to the Commissioner a distinct account of all charges incurred in such sales, and, in case of resale, shall pay into the Treasury the proceeds as provided in section 3971.

SEC. 3696. REDEMPTION OF PROPERTY.

In any case of distraint for the payment of taxes, the goods, chattels, or effects so distrained shall be restored to the owner or possessor, if, prior to the sale, payment of the amount due is made to the proper officer charged with the collection, together with the fees and other charges; but in case of nonpayment, the said officer shall proceed to sell the said goods, chattels, or effects at public auction.

SEC. 3697. CERTIFICATES OF SALE.

In all cases of sale, as aforesaid, the certificate of such sale—

(a) AS EVIDENCE.—Shall be prima facie evidence of the right of the officer to make such sale, and conclusive evidence of the regularity of his proceedings in making the sale; and

(b) AS CONVEYANCES.—Shall transfer to the purchaser all right, title, and interest of such delinquent in and to the property sold; and

(c) AS AUTHORITY FOR TRANSFER OF CORPORATE STOCK.—Where such property consists of stocks, shall be notice, when received, to any corporation, company, or association of said transfer, and shall be authority to such corporation, company, or association to record the transfer on their books and records in the same manner as if the stocks were transferred or assigned by the party holding the same, in lieu of any original or prior certificates, which shall be void, whether canceled or not; and

(d) AS RECEIPTS.—Where the subject of sale is securities or other evidences of debt, shall be a good and valid receipt to the person holding the same, as against any person holding, or claiming to hold, possession of such securities or other evidences of debt.

SEC. 3698. CROSS REFERENCES.

For provisions relating to—
Production of books, see section 3711.
Sale of indivisible property, see section 3712.
Stamps, marks, and brands, see section 3725.

Part II—Distraint on Real Estate

SEC. 3700. AUTHORITY TO DISTRAIN.

When goods, chattels, or effects sufficient to satisfy the taxes imposed upon any person are not found by the collector or deputy collector, he is authorized to collect the same by seizure and sale of real estate.

SEC. 3701. PROCEEDINGS ON DISTRAINT.

(a) NOTICE TO OWNER.—The officer making the seizure mentioned in the preceding section shall give notice to the person whose estate it is proposed to sell by giving him in hand, or leaving at his last or usual place of abode, if he has any such within the collection district where said estate is situated, a notice, in writing, stating what particular estate is to be sold, describing the same with reasonable certainty, and the time when and place where said officer proposes to sell the same.

(b) PUBLIC NOTICE.—The said officer shall also cause a notification to the same effect to be published in some newspaper within the county where such seizure is made, if any such there be, and shall also cause a like notice to be posted at the post office nearest to the estate seized, and in two other public places within the county.

(c) TIME AND PLACE OF SALE.—The time of sale shall not be less than twenty nor more than forty days from the time of giving said notice. The place of said sale shall not be more than five miles distant from the estate seized, except by special order of the Commissioner.

(d) MANNER OF SALE.—At the time and place appointed, the officer making such seizure shall proceed to sell the said estate at public auction, offering the same at a minimum price, including the expense of making such levy, and all charges for advertising. When the real estate so seized consists of several distinct tracts or parcels, the officer making sale thereof shall offer each tract or parcel for sale separately, and shall, if he deem it advisable, apportion the expenses and charges aforesaid to such several tracts or parcels, or to any of them, in estimating the minimum price.

(e) PURCHASERS.—If no person offers for said estate the amount of said minimum price, the officer shall declare the same to be purchased by him for the United States; otherwise the same shall be declared to be sold to the highest bidder.

(f) ADJOURNMENT OF SALE.—The said sale may be adjourned from time to time by said officer for not exceeding thirty days in all, if he shall think it advisable so to do. If the amount bid shall not be then and there paid, the officer shall forthwith proceed to again sell said estate in the same manner.

SEC. 3702. REDEMPTION OF REAL ESTATE.

(a) BEFORE SALE.—Any person whose estate may be proceeded against as aforesaid shall have the right to pay the amount due, together with the costs and charges thereon, to the collector or deputy collector at any time prior to the sale thereof, and all further proceedings shall cease from the time of such payment.

(b) AFTER SALE.—

(1) PERIOD.—The owners of any real estate sold as aforesaid, their heirs, executors, or administrators, or any person having any interest therein, or a lien thereon, or any person in their behalf, shall be permitted to redeem the land sold, or any particular tract thereof, at any time within one year after the sale thereof.

(2) PRICE.—The land or tract aforesaid shall be permitted to be redeemed upon payment to the purchaser, or in case he can not be found in the county in which the land to be redeemed is situated, then to the collector of the district in which the land is situated, for the use of the purchaser, his heirs, or assigns, the amount paid by the said purchaser and interest thereon at the rate of 20 per centum per annum.

(c) RECORD.—When any lands sold are redeemed as provided in this section, the collector shall make entry of the fact upon the record mentioned in section 3706, and the said entry shall be evidence of such redemption.

SEC. 3703. CERTIFICATES OF PURCHASE.

(a) REAL ESTATE PURCHASED BY THE UNITED STATES.—In case the real estate sold under section 3701 shall be declared to be purchased for the United States, the officer shall immediately transmit a certificate of the purchase to the Commissioner.

(b) REAL ESTATE PURCHASED BY OTHERS.—Upon any sale of real estate, as provided in section 3701, and the payment of the purchase money, the officer making the seizure and sale shall give to the purchaser a certificate of purchase, which shall set forth the real estate purchased, for whose taxes the same was sold, the name of the purchaser, and the price paid therefor.

SEC. 3704. DEEDS OF SALE.

(a) REAL ESTATE PURCHASED BY THE UNITED STATES.—In case real estate shall be declared under section 3701 (e) to be purchased for the United States, the officer shall—

(1) EXECUTION.—At the proper time, as provided in subsection (b), execute a deed therefor after its preparation and the endorsement of approval as to its form by the United States district attorney for the district in which the property is situate, and

(2) RECORD AND TRANSMISSION.—Without delay cause the same to be duly recorded in the proper registry of deeds, and immediately thereafter transmit such deed to the Commissioner.

(b) REAL ESTATE PURCHASED BY OTHERS.—If the said real estate be not redeemed in the manner and within the time provided in section 3702, the said collector or deputy collector shall execute to the said purchaser, upon his surrender of said certificate, a deed of the real estate purchased by him as aforesaid, reciting the facts set forth in said certificate, and in accordance with the laws of the State in which such real estate is situate upon the subject of sales of real estate under execution.

(c) LEGAL EFFECT.—

(1) AS EVIDENCE.—The deed of sale given in pursuance of this section shall be prima facie evidence of the facts therein stated; and

(2) AS CONVEYANCE OF TITLE.—If the proceedings of the officer as set forth have been substantially in accordance with the provisions of law, such deed shall be considered and operate as a conveyance of all the right, title, and interest the party delinquent had in and to the real estate thus sold at the time the lien of the United States attached thereto.

SEC. 3705. TRANSMISSION OF CERTIFICATES AND DEEDS TO COMMISSIONER.

All certificates of purchase, and deeds of property purchased by the United States under the internal revenue laws, on sales for taxes, or under executions issued from United States courts, which may be found in the office of any collector, shall be immediately transmitted by such officer to the Commissioner.

SEC. 3706. RECORDS OF SALE.

(a) REQUIREMENT.—It shall be the duty of every collector to keep a record of all sales of land made in his collection district, whether by himself or his deputies, or by another collector. And it shall be the duty of every deputy making sale, as aforesaid, to return a statement of all his proceedings to the collector, and to certify the record thereof.

(b) CONTENTS.—The record shall set forth the tax for which any such sale was made, the dates of seizure and sale, the name of the party assessed and all proceedings in making said sale, the amount of fees and expenses, the name of the purchaser, and the date of the deed.

(c) CERTIFICATION.—The said record shall be certified by the officer making the sale.

(d) COPY TO COMMISSIONER.—On or before the 5th day of each succeeding month, the collector shall transmit a copy of such record of the preceding month to the Commissioner.

(e) DELIVERY BY COLLECTOR TO SUCCESSOR.—In case of the death or removal of the collector, or the expiration of his term of office from any other cause, said record shall be delivered to his successor in office.

(f) COPY AS EVIDENCE.—A copy of every such record, certified by the collector, shall be evidence in any court of the truth of the facts therein stated.

SEC. 3707. CROSS REFERENCES.

For provisions relating to—

Levy, see section 3692.

Production of books, see section 3711.

Sale of indivisible property, see section 3712.

Administration of real estate acquired by the United States, see section 3795.

Part III—General Provisions

SEC. 3710. SURRENDER OF PROPERTY SUBJECT TO DISTRAINT.

(a) REQUIREMENT.—Any person in possession of property, or rights to property, subject to distraint, upon which a levy has been made, shall, upon demand by the collector or deputy collector making such levy, surrender such property or rights to such collector or deputy, unless such property or right is, at the time of such demand, subject to an attachment or execution under any judicial process.

(b) PENALTY FOR VIOLATION.—Any person who fails or refuses to so surrender any of such property or rights shall be liable in his own person and estate to the United States in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of the taxes (including penalties and interest) for the collection of which such levy has been made, together with costs and interest from the date of such levy.

(c) PERSON DEFINED.—The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

SEC. 3711. PRODUCTION OF BOOKS.

All persons, and officers of companies or corporations, are required, on demand of a collector or deputy collector about to distrain or having distrained on any property, or rights of property, to exhibit all books containing evidence or statements relating to the subject of distraint, or the property or rights of property liable to distraint for the tax due.

SEC. 3712. SALE OF INDIVISIBLE PROPERTY.

When any property liable to distraint for taxes is not divisible, so as to enable the collector by sale of a part thereof to raise the whole amount of the tax, with all costs and charges, the whole of such property shall be sold, and the surplus of the proceeds of the sale, after making allowance for the amount of the tax, interest, penalties, and additions thereto, and for the costs and charges of the distraint and sale, shall be deposited with the Treasurer of the United States as provided in section 3971.

SEC. 3713. DISTRAINT BY COLLECTOR OUTSIDE HIS DISTRICT.

Any collector or deputy collector may, for the collection of taxes imposed upon any person, and committed to him for collection, seize and sell any of the property, real or personal (except property exempt from distraint and sale under section 3691), or any right or interest therein, of such person situated in any other collection district within the State in which such officer resides, notwithstanding the provisions of subsection (b) of section 3651; and his proceedings in relation thereto shall have the same effect as if the same were had in his proper collection district.

SEC. 3714. PERIOD OF LIMITATION UPON DISTRAINT.

(a) LENGTH OF PERIOD.—

For period within which distraint may be begun in case of—
Income tax, see sections 276 (c) and 277.
Estate tax, see sections 874 (b) (2) and 875.
Miscellaneous taxes, see section 3312 (d).

(b) DATE OF BEGINNING DISTRAINT.—In determining the running of any period of limitation in respect of distraint, the distraint shall be held to have been begun—

(1) PERSONAL PROPERTY.—In the case of personal property, on the date on which the levy upon such property is made; or

(2) REAL PROPERTY.—In the case of real property, on the date on which notice of the time and place of sale is given to the person whose estate it is proposed to sell.

SEC. 3715. SUCCESSIVE SEIZURES.

Whenever any property, personal or real, which is seized and sold by virtue of the foregoing provisions, is not sufficient to satisfy the claim of the United States for which distraint or seizure is made, the collector may, thereafter, and as often as the same may be necessary, proceed to seize and sell in like manner, any other property liable to seizure of the person against whom such claim exists, until the amount due from him, together with all expenses, is fully paid.

SEC. 3716. FEES AND CHARGES IN DISTRAINT AND SEIZURE CASES.

The Commissioner shall by regulation determine the fees and charges to be allowed in all cases of distraint and other seizures; and shall have power to determine whether any expense incurred in making any distraint or seizure was necessary.

SEC. 3717. CROSS REFERENCE.

For distraint proceedings against delinquent collectors, see sections 3975 to 3978.

SUBCHAPTER D—FORFEITURES

SEC. 3720. SEIZURE OF FORFEITABLE PROPERTY.

(a) PROPERTY SUBJECT TO SEIZURE AND FORFEITURE.—

(1) MANUFACTURED ARTICLES.—All goods, wares, merchandise, articles, or objects, on which taxes are imposed, which shall be found in the possession, or custody, or within the control of any person, for the purpose of being sold or removed by him in fraud of the internal revenue laws, or with design to avoid payment of said taxes, may be seized, and shall be forfeited to the United States.

(2) RAW MATERIALS.—All raw materials found in the possession of any person intending to manufacture the same into articles of a kind subject to tax for the purpose of fraudulently selling such manufactured articles, or with design to evade the payment of said tax, may also be seized, and shall be forfeited as aforesaid.

(3) EQUIPMENT.—All tools, implements, instruments, and personal property whatsoever, in the place or building, or within any yard or inclosure where such articles or raw materials are found, may also be seized, and shall be forfeited as aforesaid.

(b) AUTHORITY TO MAKE SEIZURES.—

(1) COLLECTORS AND DEPUTY COLLECTORS.—Such property may be seized by the collector or deputy collector of the proper district, or by such other collector or deputy collector as may be specially authorized by the Commissioner for that purpose.

(2) OTHER INTERNAL REVENUE OFFICERS.—Any officer of internal revenue may be specially authorized by the Commissioner to seize any property which may by law be subject to seizure, and for that purpose such officer shall have all the power conferred by law upon collectors; and such special authority shall be limited in respect of time, place, and kind and class of property, as the Commissioner may specify.

(c) RESPONSIBILITY.—

For the issuance of certificates of probable cause relieving officers making seizures of responsibility for damages, see R. S. 970 (U. S. C., Title 28, § 818).

SEC. 3721. CUSTODY OF SEIZED GOODS PRIOR TO JUDICIAL PROCEEDINGS.

Any goods, wares, merchandise, articles, or objects which may be seized, under the provisions of section 3720, by any collector or deputy collector, may, at the option of the collector, be delivered to the marshal of the district, and remain in the care and custody and under the control of said marshal, until he shall obtain possession by process of law.

SEC. 3722. SPECIAL DISPOSITION OF PERISHABLE GOODS.

When any property which is seized under the provisions of section 3720 is liable to perish or become greatly reduced in price or value by keeping, or when it can not be kept without great expense—

(a) APPLICATION FOR EXAMINATION.—The owner thereof, or the marshal of the district, may apply to the collector of the district to examine it; and

(b) APPRAISAL.—If, in the opinion of said collector, it shall be necessary that the said property should be sold to prevent such waste or expense, he shall appraise the same; and thereupon

(c) RETURN TO OWNER UNDER BOND.—The owner shall have said property returned to him upon giving bond in such form as may be prescribed by the Commissioner, and in an amount equal to the appraised value, with such sureties as the collector shall deem good and sufficient, to abide the final order, decree, or judgment of the court having cognizance of the case, and to pay the amount of said appraised value to the collector, marshal, or otherwise, as he may be ordered and directed by the court, which bond shall be filed by said collector with the United States district attorney for the district in which the proceedings in rem authorized in section 3723 may be commenced.

(d) SALE IN ABSENCE OF BOND.—

(1) ORDER TO SELL.—If said owner shall neglect or refuse to give said bond, the collector shall issue to a deputy collector or to the marshal aforesaid an order to sell the same.

(2) MANNER OF SALE.—The deputy collector or marshal shall thereupon advertise and sell the said property at public auction in the same manner as goods may be sold on final execution in said district.

(3) DISPOSITION OF PROCEEDS.—The proceeds of the sale, after deducting the reasonable costs of the seizure and sale, shall be paid to the court aforesaid, to abide its final order, decree, or judgment.

SEC. 3723. JUDICIAL PROCEEDINGS TO ENFORCE FORFEITURE.

(a) NATURE AND VENUE.—The proceedings to enforce such forfeitures shall be in the nature of a proceeding in rem in the district court of the United States for the district where such seizure is made.

(b) SERVICE OF PROCESS WHEN PROPERTY HAS BEEN RETURNED UNDER BOND.—In case bond as provided in section 3722 (c) shall have been executed and the property returned before seizure thereof by virtue of process in the proceedings in rem authorized in subsection (a) of this section, the marshal shall give notice of pendency of proceedings in court to the parties executing said bond, by personal service or publication, and in such manner and form as the court may direct, and the court shall thereupon have jurisdiction of said matter and parties in the same manner as if such property had been seized by virtue of the process aforesaid.

(c) COST OF SEIZURE TAXABLE.—The cost of seizure made before process issues shall be taxable by the court.

(d) CONSOLIDATION.—

For consolidation of seizures in one suit, see R. S. 920 (U. S. C., Title 28, § 733).

SEC. 3724. GOODS VALUED AT $500 OR LESS.

In all cases of seizure of any goods, wares, or merchandise as being subject to forfeiture under any provision of the internal revenue laws which, in the opinion of the collector or deputy collector making the seizure, are of the appraised value of $500 or less, the said collector or deputy collector shall, except in cases otherwise provided, proceed as follows:

(a) LIST AND APPRAISEMENT.—He shall cause a list containing a particular description of the goods, wares, or merchandise seized to

be prepared in duplicate, and an appraisement thereof to be made by three sworn appraisers, to be selected by him, who shall be respectable and disinterested citizens of the United States residing within the collection district wherein the seizure was made. Said list and appraisement shall be properly attested by the said collector or deputy collector and the said appraisers, for which service each of the said appraisers shall be allowed the sum of $1.50 a day, to be paid in the manner provided by law for other necessary charges of collectors.

(b) NOTICE OF SEIZURE.—If the said goods are found by the said appraisers to be of the value of $500 or less, the said collector or deputy collector shall publish a notice, for three weeks, in some newspaper of the district where the seizure was made, describing the articles, and stating the time, place, and cause of their seizure, and requiring any person claiming them to appear and make such claim within thirty days from the date of the first publication of such notice.

(c) EXECUTION OF BOND BY CLAIMANT.—Any person claiming the goods, wares, or merchandise so seized, within the time specified in the notice, may file with the said collector or deputy collector a claim, stating his interest in the articles seized, and may execute a bond to the United States in the penal sum of $250, with sureties to be approved by the said collector or deputy collector, conditioned that, in case of condemnation of the articles so seized, the obligors shall pay all the costs and expenses of the proceedings to obtain such condemnation; and upon the delivery of such bond to the collector or deputy collector, he shall transmit the same, with the duplicate list or description of the goods seized, to the United States district attorney for the district, and said attorney shall proceed thereon in the ordinary manner prescribed by law.

(d) SALE IN ABSENCE OF BOND.—If no claim is interposed and no bond is given within the time above specified, the collector or deputy collector, as the case may be, shall give ten days' notice of the sale of the goods, wares, or merchandise by publication, and, at the time and place specified in the notice, shall sell the articles so seized at public auction.

(e) DEPOSIT OF PROCEEDS OF SALE.—After deducting the expenses of appraisement and sale, the collector or deputy collector, as the case may be, shall deposit the proceeds to the credit of the Secretary.

(f) REMISSION OF FORFEITURE—

(1) CLAIM.—Within one year after the sale of any goods, wares, or merchandise, as provided in the preceding subsections, any person claiming to be interested in the property sold, may apply to the Secretary for a remission of the forfeiture thereof, or of any part thereof, and a restoration of the proceeds of the sale.

(2) ALLOWANCE.—The Secretary may grant the same upon satisfactory proof, to be furnished in such manner as he shall prescribe: *Provided*, That it shall be satisfactorily shown—

(A) That the applicant, at the time of the seizure and sale of the said property, and during the intervening time, was absent, out of the United States, or in such circumstances as prevented him from knowing of the seizure, and that he did not know of the same; and also

(B) That the said forfeiture was incurred without willful negligence or any intention of fraud on the part of the owner of said property.

(g) DISTRIBUTION OF PROCEEDS OF SALE.—If no application for restoration of the proceeds is made within one year, as prescribed in the foregoing subsection, the Secretary shall, at the expiration of the said time, cause the proceeds of the sale of the said property to be distributed according to law, as in the case of goods, wares, or merchandise condemned and sold pursuant to the decree of a competent court.

SEC. 3725. STAMPING, MARKING, AND BRANDING SEIZED GOODS.

Where any whisky or tobacco, or other article of manufacture or produce, requiring brands, stamps, or marks of whatever kind to be placed thereon shall be sold upon distraint, forfeiture (except as provided in section 2805 with respect to distilled spirits), or other process provided by law, the same not having been branded, stamped, or marked, as required by law, the officer selling the same shall, upon sale thereof, fix or cause to be affixed the brands, stamps, or marks, so required.

SEC. 3726. CUSTOMS LAWS APPLICABLE.

The provisions of law applicable to the remission or mitigation by the Secretary of forfeitures under the customs laws shall apply to forfeitures incurred or alleged to have been incurred under the internal revenue laws.

SEC. 3727. CROSS REFERENCES.

For provisions relating to—

Destruction of stills and distilling apparatus after judgment of forfeiture, see section 2853.

Release of seized distillery or distilling apparatus before judgment, see section 2852.

Disposal of forfeited distilled spirits and equipment and material for distilling, see section 2807.

SUBCHAPTER E—SUITS BY UNITED STATES

SEC. 3740. AUTHORIZATION TO COMMENCE SUIT.

No suit for the recovery of taxes, or of any fine, penalty, or forfeiture, shall be commenced unless the Commissioner authorizes or sanctions the proceedings and the Attorney General directs that the suit be commenced.

SEC. 3741. CONTINUANCE.

It shall be lawful for any court in which any suit or criminal proceeding arising under the internal revenue laws may be pending to continue the same at any stage thereof for good cause shown on motion by the district attorney.

SEC. 3742. DISCONTINUANCE OR NOLLE PROSEQUI.

For discontinuance or nolle prosequi of prosecutions against distillers for defrauding or attempting to defraud the United States of tax on distilled spirits, see section 2806 (f).

SEC. 3743. REGULATIONS.

It shall be the duty of the Commissioner, with the approval of the Secretary, to establish such regulations, not inconsistent with law, for the observance of revenue officers, respecting suits arising under the internal revenue laws in which the United States is a party, as may be deemed necessary for the just responsibility of those officers and the prompt collection of all revenues and debts due and accruing to the United States under such laws.

SEC. 3744. SUITS FOR TAXES.

Taxes may be sued for and recovered in the name of the United States in any proper form of action, before any district court of the United States, for the district within which the liability to such tax is incurred, or where the party from whom such tax is due resides at the time of the commencement of the said action.

SEC. 3745. SUITS FOR FINES, PENALTIES, AND FORFEITURES.

(a) Collector's Report to District Attorney.—It shall be the duty of every collector of internal revenue having knowledge of any willful violation of any law of the United States relating to the revenue, within thirty days after coming into possession of such knowledge, to file with the district attorney of the district in which any fine, penalty, or forfeiture may be incurred, a statement of all the facts and circumstances of the case within his knowledge, together with the

names of the witnesses, setting forth the provisions of law believed to be so violated on which reliance may be had for condemnation or conviction.

(b) PROSECUTIONS BY DISTRICT ATTORNEY.—

For the duty of every district attorney to whom the collector reports the cases in which such fines, penalties, or forfeitures have been incurred in the district of such attorney to cause proper proceedings to be commenced and prosecuted, when authorized or sanctioned by the Commissioner and directed by the Attorney General, see R. S. 838 as amended by Feb. 27, 1877, c. 69, s. 1, 19 Stat. 241 (U. S. C., Title 28, § 486).

(c) PLAINTIFF, PROCEEDINGS, AND VENUE.—All suits for fines, penalties, and forfeitures, where not otherwise provided for, shall be brought in the name of the United States, in any proper form of action, or by any appropriate form of proceeding, qui tam or otherwise, before any district court of the United States for the district within which said fine, penalty, or forfeiture may have been incurred, or before any other court of competent jurisdiction.

(d) COSTS.—In case of any suit for penalties or forfeitures brought upon information received from any person, other than a collector, deputy collector, revenue agent, or inspector, the United States shall not be subject to any costs of suit.

SEC. 3746. SUITS FOR RECOVERY OF ERRONEOUS REFUNDS.

(a) REFUNDS AFTER LIMITATION PERIOD.—Any portion of an internal revenue tax (or any interest, penalty, additional amount, or addition to such tax) refund of which is erroneously made, within the meaning of section 3774, may be recovered by suit brought in the name of the United States, but only if such suit is begun within two years after the making of such refund.

(b) REFUNDS OTHERWISE ERRONEOUS.—Any portion of an internal revenue tax (or any interest, penalty, additional amount, or addition to such tax) which has been erroneously refunded (if such refund would not be considered as erroneous under section 3774) may be recovered by suit brought in the name of the United States, but only if such suit is begun before the expiration of two years after the making of such refund.

(c) REFUNDS BASED ON FRAUD OR MISREPRESENTATION.—Despite the provisions of subsections (a) and (b) such suit may be brought at any time within five years from the making of the refund if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact.

(d) INTEREST.—Erroneous refunds recoverable by suit under this section shall bear interest at the rate of 6 per centum per annum from the date of the payment of the refund.

SEC. 3747. DISPOSITION OF JUDGMENTS AND MONEYS RECOVERED.

All judgments and moneys recovered or received for taxes, costs, forfeitures, and penalties, shall be paid to collectors as internal revenue taxes are required to be paid.

SEC. 3748. PERIODS OF LIMITATION.

(a) CRIMINAL PROSECUTIONS.—No person shall be prosecuted, tried, or punished, for any of the various offenses arising under the internal revenue laws of the United States unless the indictment is found or the information instituted within three years next after the commission of the offense, except that the period of limitation shall be six years—

(1) for offenses involving the defrauding or attempting to defraud the United States or any agency thereof, whether by conspiracy or not, and in any manner,

(2) for the offense of willfully attempting in any manner to evade or defeat any tax or the payment thereof, and

(3) for the offense of willfully aiding or assisting in, or procuring, counseling, or advising, the preparation or presentation under,

or in connection with any matter arising under, the internal revenue laws, of a false or fraudulent return, affidavit, claim, or document (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document).

For offenses arising under section 37 of the Criminal Code, March 4, 1909, 35 Stat. 1096 (U. S. C., Title 18, § 88), where the object of the conspiracy is to attempt in any manner to evade or defeat any tax or the payment thereof, the period of limitation shall also be six years. The time during which the person committing any of the offenses above mentioned is absent from the district wherein the same is committed shall not be taken as any part of the time limited by law for the commencement of such proceedings. Where a complaint is instituted before a commissioner of the United States within the period above limited, the time shall be extended until the discharge of the grand jury at its next session within the district.

(b) SCOPE OF LIMITATIONS.—Subsection (a) of this section shall apply to offenses whenever committed; except that it shall not apply to offenses the prosecution of which was barred before June 6, 1932.

(c) CIVIL SUITS.—

For period of limitation in respect of—

Suits for fines, penalties, and forfeitures, see section 1047 of the Revised Statutes (U. S. C., Title 28, § 791).

Suits for erroneous refunds, see section 3746.

SUBCHAPTER F—CLOSING AGREEMENTS AND COMPROMISES

SEC. 3760. CLOSING AGREEMENTS.

(a) AUTHORIZATION.—The Commissioner (or any officer or employee of the Bureau of Internal Revenue, including the field service, authorized in writing by the Commissioner) is authorized to enter into an agreement in writing with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal revenue tax for any taxable period.

(b) FINALITY.—If such agreement is approved by the Secretary, the Under Secretary, or an Assistant Secretary, within such time as may be stated in such agreement, or later agreed to, such agreement shall be final and conclusive, and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact—

(1) The case shall not be reopened as to the matters agreed upon or the agreement modified, by any officer, employee, or agent of the United States, and

(2) In any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

SEC. 3761. COMPROMISES.

(a) AUTHORIZATION.—The Commissioner, with the approval of the Secretary, or of the Under Secretary of the Treasury, or of an Assistant Secretary of the Treasury, may compromise any civil or criminal case arising under the internal revenue laws prior to reference to the Department of Justice for prosecution or defense; and the Attorney General may compromise any such case after reference to the Department of Justice for prosecution or defense.

(b) RECORD.—Whenever a compromise is made by the Commissioner in any case there shall be placed on file in the office of the Commissioner the opinion of the General Counsel for the Department of the Treasury, or of the officer acting as such, with his reasons therefor, with a statement of—

(1) The amount of tax assessed,

(2) The amount of additional tax or penalty imposed by law in consequence of the neglect or delinquency of the person against whom the tax is assessed, and

(3) The amount actually paid in accordance with the terms of the compromise.

(c) CROSS REFERENCE.—

For compromises after judgment, see R. S. 3469 (U. S. C., Title 31, § 194).

SEC. 3762. PENALTIES.

Any person who, in connection with any compromise under section 3761, or offer of such compromise, or in connection with any closing agreement under section 3760, or offer to enter into any such agreement, willfully—

(a) CONCEALMENT OF PROPERTY.—Conceals from any officer or employee of the United States any property belonging to the estate of a taxpayer or other person liable in respect of the tax, or

(b) WITHHOLDING, FALSIFYING, AND DESTROYING RECORDS.—Receives, destroys, mutilates, or falsifies any book, document, or record, or makes under oath any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax—

Shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than one year, or both.

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CHAPTER 37—ABATEMENTS, CREDITS, AND REFUNDS

SEC. 3770. AUTHORITY TO MAKE ABATEMENTS, CREDITS, AND REFUNDS.

(a) To TAXPAYERS.—

(1) ASSESSMENTS AND COLLECTIONS GENERALLY.—Except as otherwise provided by law in the case of income, estate, and gift taxes, the Commissioner, subject to regulations prescribed by the Secretary, is authorized to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected.

(2) ASSESSMENTS AND COLLECTIONS AFTER LIMITATION PERIOD.—Any tax (or any interest, penalty, additional amount, or addition to such tax) assessed or paid after the expiration of the period of limitation properly applicable thereto shall be considered an overpayment and shall be credited or refunded to the taxpayer if claim therefor is filed within the period of limitation for filing such claim.

(3) DATE OF ALLOWANCE.—Where the Commissioner has signed a schedule of overassessments in respect of any internal revenue tax imposed by this title, the Revenue Act of 1932, or any prior revenue Act, the date on which he first signed such schedule (if after May 28, 1928) shall be considered as the date of allowance of refund or credit in respect of such tax.

(4) CROSS REFERENCES.—

For limitations on refunds and credits in case of—
Income tax, see section 322.
Estate tax, see sections 910, 911, and 912.
Gift tax, see section 1027.
Miscellaneous taxes, see section 3313.

(b) To COLLECTORS AND OFFICERS.—The Commissioner, subject to regulations prescribed by the Secretary, is authorized to repay—

(1) COLLECTIONS RECOVERED.—To any collector or deputy collector the full amount of such sums of money as may be recovered against him in any court, for any internal revenue taxes collected by him, with the cost and expense of suit; also

(2) DAMAGES AND COSTS.—All damages and costs recovered against any collector, deputy collector, agent, or inspector, in any suit brought against him by reason of anything done in the due performance of his official duty.

SEC. 3771. INTEREST ON OVERPAYMENTS.

(a) RATE.—Interest shall be allowed and paid upon any overpayment in respect of any internal revenue tax at the rate of 6 per centum per annum.

(b) PERIOD.—Such interest shall be allowed and paid as follows:

(1) CREDITS.—In the case of a credit, from the date of the overpayment to the due date of the amount against which the credit is taken, but if the amount against which the credit is taken is an additional assessment of a tax imposed by the Revenue Act of 1921, 42 Stat. 227, or any subsequent Revenue Act, then to the date of the assessment of that amount.

(2) REFUNDS.—In the case of a refund, from the date of the overpayment to a date preceding the date of the refund check by not more than thirty days, such date to be determined by the Commissioner, whether or not such refund check is accepted by the taxpayer after tender of such check to the taxpayer. The acceptance of such check shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon.

(c) ADDITIONAL ASSESSMENT DEFINED.—As used in this section the term "additional assessment" means a further assessment for a tax of the same character previously paid in part, and includes the assessment of a deficiency of any income or estate tax imposed by the Revenue Act of 1924, 43 Stat. 253, or by any subsequent Revenue Act.

SEC. 3772. SUITS FOR REFUND.

(a) LIMITATIONS.—

(1) CLAIM.—No suit or proceeding shall be maintained in any court for the recovery of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected until a claim for refund or credit has been duly filed with the Commissioner, according to the provisions of law in that regard, and the regulations of the Secretary established in pursuance thereof.

(2) TIME.—No such suit or proceeding shall be begun before the expiration of six months from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of two years from the date of mailing by registered mail by the Commissioner to the taxpayer of a notice of the disallowance of the part of the claim to which such suit or proceeding relates.

(3) RECONSIDERATION AFTER MAILING OF NOTICE.—Any consideration, reconsideration, or action by the Commissioner with respect to such claim following the mailing of a notice by registered mail of disallowance shall not operate to extend the period within which suit may be begun. This paragraph shall not operate (A) to bar a suit or proceeding in respect of a claim reopened prior to June 22, 1936, if such suit or proceeding was not barred under the law in effect prior to that date, or (B) to prevent the suspension of the statute of limitations for filing suit under section 3774 (b) (2).

(b) PROTEST OR DURESS.—Such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

(c) CROSS REFERENCES.—

For provisions relating to claims for refund or credit filed with the Commissioner in respect of—

Income tax, see section 322.

Estate tax, see sections 910, 911, and 912.

Gift tax, see section 1027.

Miscellaneous taxes, see section 3313.

SEC. 3773. INTEREST ON JUDGMENTS.

For interest on judgments, see section 177 of the Judicial Code as amended by act of May 29, 1928, c. 852, § 615, 45 Stat. 877 (U. S. C., Title 28, § 284).

SEC. 3774. REFUNDS AFTER PERIODS OF LIMITATION.

A refund of any portion of an internal revenue tax (or any interest, penalty, additional amount, or addition to such tax) shall be considered erroneous—

(a) EXPIRATION OF PERIOD FOR FILING CLAIM.—If made after the expiration of the period of limitation for filing claim therefor, unless within such period claim was filed; or

(b) DISALLOWANCE OF CLAIM AND EXPIRATION OF PERIOD FOR FILING SUIT.—In the case of a claim filed within the proper time and disallowed by the Commissioner if the refund was made after the expiration of the period of limitation for filing suit, unless—

(1) within such period suit was begun by the taxpayer, or

(2) within such period, the taxpayer and the Commissioner agreed in writing to suspend the running of the statute of limitations for filing suit from the date of the agreement to the date of final decision in one or more named cases then pending before the Board of Tax Appeals or the courts. If such agreement has been entered into, the running of such statute of limitations shall be suspended in accordance with the terms of the agreement.

(c) CROSS REFERENCE.—

For procedure by the United States to recover erroneous refunds, see section 3746.

SEC. 3775. CREDITS AFTER PERIODS OF LIMITATION.

(a) PERIOD AGAINST UNITED STATES.—Any credit against a liability in respect of any taxable year shall be void if any payment in respect of such liability would be considered an overpayment under section 3770 (a) (2).

(b) PERIOD AGAINST TAXPAYER.—A credit of an overpayment in respect of any tax shall be void if a refund of such overpayment would be considered erroneous under section 3774.

SEC. 3776. REPORTS TO CONGRESS OF REFUNDS IN EXCESS OF $500.

The Commissioner shall make report to Congress, at the beginning of each regular session by internal revenue districts and alphabetically arranged, of all disbursements in excess of $500 under section 3770 (a) (1) and (b).

SEC. 3777. REPORTS OF REFUNDS AND CREDITS IN EXCESS OF $75,000.

(a) BY COMMISSIONER 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 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 is submitted to the Joint Committee on Internal Revenue Taxation.

(b) BY JOINT COMMITTEE TO CONGRESS.—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.

SEC. 3778. CROSS REFERENCE.

For remission of tax against insolvent banks, see section 3798.

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CHAPTER 38—MISCELLANEOUS PROVISIONS

SEC. 3790. PROHIBITION OF ADMINISTRATIVE REVIEW OF COMMISSIONER'S DECISIONS.

In the absence of fraud or mistake in mathematical calculation, the findings of facts in and the decision of the Commissioner upon (or in case the Secretary is authorized to approve the same, then after such approval) the merits of any claim presented under or authorized by the internal revenue laws shall not, except as provided in chapter 5, be subject to review by any other administrative or accounting officer, employee, or agent of the United States.

SEC. 3791. RULES AND REGULATIONS.

(a) AUTHORIZATION.—

(1) IN GENERAL.—Except as provided in section 1928 (a), Cotton Futures, section 2599, Marihuana, section 2559, Narcotics, section 3176, Liquor, and section 1805, Silver, the Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title.

(2) IN CASE OF CHANGE IN LAW.—The Commissioner may make all such regulations, not otherwise provided for, as may have become necessary by reason of any alteration of law in relation to internal revenue.

(b) RETROACTIVITY OF REGULATIONS OR RULINGS.—The Secretary, or the Commissioner with the approval of the Secretary, may prescribe the extent, if any, to which any ruling, regulation, or Treasury Decision, relating to the internal revenue laws, shall be applied without retroactive effect.

SEC. 3792. EXPENSES OF DETECTION AND PUNISHMENT OF FRAUDS.

The Commissioner, with the approval of the Secretary, is authorized to pay such sums, not exceeding in the aggregate the sum appropriated therefor, as he may deem necessary for detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws, or conniving at the same, in cases where such expenses are not otherwise provided for by law.

SEC. 3793. PENALTIES AND FORFEITURES.

(a) FRAUDULENT BONDS, PERMITS, AND ENTRIES.—

(1) PENALTY.—Every person who—

(A) SIMULATION OR EXECUTION.—Simulates or falsely or fraudulently executes or signs any bond, permit, entry, or other document required by the provisions of the internal revenue laws, or by any regulation made in pursuance thereof, or

(B) PROCURING EXECUTION.—Procures the same to be falsely or fraudulently executed, or

(C) AIDING IN EXECUTION.—Advises, aids in, or connives at such execution thereof——

shall be imprisoned for a term not less than one year nor more than five years, and

(2) FORFEITURE.—The property to which such false or fraudulent instrument relates shall be forfeited.

(b) FRAUDULENT RETURNS, AFFIDAVITS, AND CLAIMS.—

(1) ASSISTANCE IN PREPARATION OR PRESENTATION.—Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a false or fraudulent return, affidavit, claim, or document, shall (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document) be guilty of a felony, and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(2) PERSON DEFINED.—The term "person" as used in this subsection includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(c) CROSS REFERENCES.—

(1) PENALTIES.—

For other penalties under this subtitle, see the following sections:
Refusal to permit entry or examination, 3601 (b);
Forcibly obstructing officers, 3601 (c);
Forcibly rescuing property, 3601 (c);
Failure to file return, 3612 (d) (1);
False or fraudulent return, 3612 (d) (2);
Nonpayment of tax, 3655 (b);
Failure to surrender property subject to distraint, 3710 (b);
Fraud in connection with closing agreements and compromises, 3763.

(2) FORFEITURES.—

For other forfeitures under this subtitle, see the following:
Sales or removals in fraud of internal revenue laws, section 3720 (a);
Sales or removals with design to avoid payment of taxes, section 3720 (a).

SEC. 3794. INTEREST ON DELINQUENT TAXES.

Notwithstanding any provision of law to the contrary, interest accruing during any period of time after August 30, 1935, upon any internal-revenue tax (including amounts assessed or collected as a part thereof) not paid when due, shall be at the rate of 6 per centum per annum.

SEC. 3795. ADMINISTRATION OF REAL ESTATE ACQUIRED BY THE UNITED STATES.

(a) PERSON CHARGED WITH.—The Commissioner shall have charge of all real estate which is or shall become the property of the United States by judgment of forfeiture under the internal revenue laws, or which has been or shall be assigned, set off, or conveyed by purchase or otherwise to the United States in payment of debts or penalties arising under the laws relating to internal revenue, or which has been or shall be vested in the United States by mortgage or other

security for the payment of such debts, and of all trusts created for the use of the United States in payment of such debts due them.

(b) SALE.—The Commissioner, with the approval of the Secretary, may, at public vendue, and upon not less than twenty days' notice, sell and dispose of all real estate owned or held by the United States as aforesaid.

(c) LEASE.—Until such sale the Commissioner, with the approval of the Secretary, may lease such real estate owned as aforesaid on such terms and for such period as they shall deem expedient.

(d) RELEASE TO DEBTOR.—In cases where real estate has or may become the property of the United States by conveyance or otherwise, in payment of or as security for a debt arising under the laws relating to internal revenue, and such debt shall have been paid, together with the interest thereon, at the rate of 1 per centum per month, to the United States, within two years from the date of the acquisition of such real estate, it shall be lawful for the Commissioner, with the approval of the Secretary, to release by deed, or otherwise convey such real estate to the debtor from whom it was taken, or to his heirs or other legal representatives.

SEC. 3796. PURCHASE OF STATIONERY.

The purchase of stationery for the internal revenue service shall be made under the direction of the Secretary as in the case of other branches of the public service under the Treasury Department.

SEC. 3797. DEFINITIONS.

(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—

(1) PERSON.—The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, company, or corporation.

(2) PARTNERSHIP AND PARTNER.—The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(3) CORPORATION.—The term "corporation" includes associations, joint-stock companies, and insurance companies.

(4) DOMESTIC.—The term "domestic" when applied to a corporation or a partnership means created or organized in the United States or under the law of the United States or of any State or Territory.

(5) FOREIGN.—The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.

(6) FIDUCIARY.—The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

(7) STOCK.—The term "stock" includes the share in an association, joint-stock company, or insurance company.

(8) SHAREHOLDER.—The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

(9) UNITED STATES.—The term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(10) STATE.—The word "State" shall be construed to include the Territories and the District of Columbia, where such construction is necessary to carry out provisions of this title.

(11) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(12) COMMSSIONER.—The term "Commissioner" means the Commissioner of Internal Revenue.

(13) COLLECTOR.—The term "collector" means collector of internal revenue.

(14) TAXPAYER.—The term "taxpayer" means any person subject to a tax imposed by this title.

(15) MILITARY OR NAVAL FORCES OF THE UNITED STATES.—The term "military or naval forces of the United States" includes the Marine Corps, the Coast Guard, the Army Nurse Corps, Female, and the Navy Nurse Corps, Female.

(16) WITHHOLDING AGENT.—The term "withholding agent" means any person required to deduct and withhold any tax under the provisions of section 143 or 144.

(b) INCLUDES AND INCLUDING.—The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(c) CROSS REFERENCES.—

For other definitions, see the following:
Singular as including plural, R. S. 1 (U. S. C., Title 1, § 1).
Plural as including singular, R. S. 1 (U. S. C., Title 1, § 1).
Masculine as including feminine, R. S. 1 (U. S. C., Title 1, § 1).
Officer, R. S. 1 (U. S. C., Title 1, § 1).
Oath as including affirmation, R. S. 1 (U. S. C., Title 1, § 1).
Company or association as including successors and assigns, R. S. 5 (U. S. C., Title 1, § 5).
County as including parish, R. S. 2 (U. S. C., Title 1, § 2).
Vessel as including all means of water transportation, R. S. 3 (U. S. C., Title 1, § 3).
Vehicle as including all means of land transportation, R. S. 4 (U. S. C., Title 1, § 4).

SEC. 3798. EXEMPTION OF INSOLVENT BANKS FROM TAX.

(a) Whenever and after any bank or trust company, a substantial portion of the business of which consists of receiving deposits and making loans and discounts, has ceased to do business by reason of insolvency or bankruptcy, no tax shall be assessed or collected, or paid into the Treasury of the United States on account of such bank, or trust company, which shall diminish the assets thereof necessary for the full payment of all its depositors; and such tax shall be abated from such national banks as are found by the Comptroller of the Currency to be insolvent; and the Commissioner of Internal Revenue, when the facts shall appear to him, is authorized to remit so much of the said tax against any such insolvent banks and trust companies organized under State law as shall be found to affect the claims of their depositors.

(b) Whenever any bank or trust company, a substantial portion of the business of which consists of receiving deposits and making loans and discounts, has been released or discharged from its liability to its depositors for any part of their claims against it, and such depositors have accepted, in lieu thereof, a lien upon subsequent earnings of such bank or trust company, or claims against assets segregated by such bank or trust company or against assets transferred from it to an individual or corporate trustee or agent, no tax shall be assessed or collected, or paid into the Treasury of the United States on account of such bank, or trust company, such individual or corporate trustee or such agent, which shall diminish the assets thereof which are available for the payment of such depositor claims and which are necessary for the full payment thereof.

(c) Any such tax so collected shall be deemed to be erroneously collected, and shall be refunded subject to all provisions and limitations of law, so far as applicable, relating to the refunding of taxes, but tax so abated or refunded after May 28, 1938 shall be reassessed whenever it shall appear that payment of the tax will not diminish the assets as aforesaid. The running of the statute of limitations on the making of assessment and collection shall be suspended during, and for ninety days beyond, the period for which, pursuant to this

section, assessment or collection may not be made, and a tax which has been abated may be reassessed and collected during the time within which, had there been no abatement, collection might have been made.

(d) This section shall not apply to any tax imposed by subchapter A or subchapter C of chapter 9.

SEC. 3799. INCOME FROM OBLIGATIONS AND MORTGAGES ISSUED BY BY JOINT-STOCK LAND BANKS.

Notwithstanding the provisions of section 26 of the Federal Farm Loan Act, 39 Stat. 380 (U. S. C., Title 12, § 931–3), as amended, in the case of mortgages made or obligations issued by any joint-stock land bank after May 28, 1938, all income, except interest, derived therefrom shall be included in gross income and shall not be exempt from Federal income taxation.

SEC. 3800. JURISDICTION OF DISTRICT COURTS TO ISSUE ORDERS, PROCESSES, AND JUDGMENTS.

The district courts of the United States at the instance of the United States shall have such jurisdiction to make and issue, both in actions at law and suits in equity, writs and orders of injunction, and of ne exeat republica, orders appointing receivers, and such other orders and process, and to render such judgments and decrees, granting in proper cases both legal and equitable relief together, as may be necessary or appropriate for the enforcement of the internal revenue laws. The remedies hereby provided are in addition to and not exclusive of any and all other remedies of the United States in such courts or otherwise to enforce such laws.

SEC. 3801. MITIGATION OF EFFECT OF LIMITATION AND OTHER PROVISIONS IN INCOME TAX CASES.

(a) DEFINITIONS.—For the purpose of this section—

(1) DETERMINATION.—The term "determination under the income tax laws" means—

(A) A closing agreement made under section 3760;

(B) A decision by the Board of Tax Appeals or a judgment, decree, or other order by any court of competent jurisdiction, which has become final; or

(C) A final disposition by the Commissioner of a claim for refund. For the purposes of this section a claim for refund shall be deemed finally disposed of by the Commissioner—

(i) as to items with respect to which the claim was allowed, upon the date of allowance of refund or credit or upon the date of mailing notice of disallowance (by reason of offsetting items) of the claim for refund, and

(ii) as to items with respect to which the claim was disallowed, in whole or in part, or as to items applied by the Commissioner in reduction of the refund or credit, upon expiration of the time for instituting suit with respect thereto (unless suit is instituted prior to the expiration of such time).

Such term shall not include any such agreement made, or decision, judgment, decree, or order which became final, or claim for refund finally disposed of, prior to August 27, 1938.

(2) TAXPAYER.—Notwithstanding the provisions of section 3797 the term "taxpayer" means any person subject to a tax under the applicable Revenue Act.

(3) RELATED TAXPAYER.—The term "related taxpayer" means a taxpayer who, with the taxpayer with respect to whom a determination specified in subsection (b) (1), (2), (3), or (4) is made, stood, in the taxable year with respect to which the erroneous inclusion, exclusion, omission, allowance, or disallowance therein referred to was made, in one of the following relationships: (A) husband and wife; (B) grantor and fiduciary; (C) grantor and

beneficiary; (D) fiduciary and beneficiary, legatee, or heir; (E) decedent and decedent's estate; or (F) partner.

(b) CIRCUMSTANCES OF ADJUSTMENT.—When a determination under the income tax laws—

(1) Requires the inclusion in gross income of an item which was erroneously included in the gross income of the taxpayer for another taxable year or in the gross income of a related taxpayer; or

(2) Allows a deduction or credit which was erroneously allowed to the taxpayer for another taxable year or to a related taxpayer; or

(3) Requires the exclusion from gross income of an item with respect to which tax was paid and which was erroneously excluded or omitted from the gross income of the taxpayer for another taxable year or from the gross income of a related taxpayer; or

(4) Allows or disallows any of the additional deductions allowable in computing the net income of estates or trusts, or requires or denies any of the inclusions in the computation of net income of beneficiaries, heirs, or legatees, specified in section 162 (b) and (c) of chapter 1, and corresponding sections of prior revenue Acts, and the correlative inclusion or deduction, as the case may be, has been erroneously excluded, omitted, or included, or disallowed, omitted, or allowed, as the case may be, in respect of the related taxpayer; or

(5) Determines the basis of property for depletion, exhaustion, wear and tear, or obsolescence, or for gain or loss on a sale or exchange, and in respect of any transaction upon which such basis depends there was an erroneous inclusion in or omission from the gross income of, or an erroneous recognition or nonrecognition of gain or loss to, the taxpayer or any person who acquired title to such property in such transaction and from whom mediately or immediately the taxpayer derived title subsequent to such transaction—

and, on the date the determination becomes final, correction of the effect of the error is prevented by the operation (whether before, on, or after May 28, 1938) of any provision of the internal-revenue laws other than this section and other than section 3761 (relating to compromises), then the effect of the error shall be corrected by an adjustment made under this section. Such adjustment shall be made only if there is adopted in the determination a position maintained by the Commissioner (in case the amount of the adjustment would be refunded or credited in the same manner as an overpayment under subsection (c)) or by the taxpayer with respect to whom the determination is made (in case the amount of the adjustment would be assessed and collected in the same manner as a deficiency under subsection (c)), which position is inconsistent with the erroneous inclusion, exclusion, omission, allowance, disallowance, recognition, or nonrecognition, as the case may be. In case the amount of the adjustment would be assessed and collected in the same manner as a deficiency, the adjustment shall not be made with respect to a related taxpayer unless he stands in such relationship to the taxpayer at the time the latter first maintains the inconsistent position in a return, claim for refund, or petition (or amended petition) to the Board of Tax Appeals for the taxable year with respect to which the determination is made, or if such position is not so maintained, then at the time of the determination.

(c) METHOD OF ADJUSTMENT.—The adjustment authorized in subsection (b) shall be made by assessing and collecting, or refunding or crediting, the amount thereof, to be ascertained as provided in subsection (d), in the same manner as if it were a deficiency determined by the Commissioner with respect to the taxpayer as to whom the

error was made or an overpayment claimed by such taxpayer, as the case may be, for the taxable year with respect to which the error was made, and as if on the date of the determination specified in subsection (b) one year remained before the expiration of the periods of limitation upon assessment or filing claim for refund for such taxable year.

(d) ASCERTAINMENT OF AMOUNT OF ADJUSTMENT.—In computing the amount of an adjustment under this section there shall first be ascertained the tax previously determined for the taxable year with respect to which the error was made. The amount of the tax previously determined shall be (1) the tax shown by the taxpayer, with respect to whom the error was made, upon his return for such taxable year, increased by the amounts previously assessed (or collected without assessment) as deficiencies, and decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax; or (2) if no amount was shown as the tax by such taxpayer upon his return, or if no return was made by such taxpayer, then the amounts previously assessed (or collected without assessment) as deficiencies, but such amounts previously assessed, or collected without assessment, shall be decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax. There shall then be ascertained the increase or decrease in the tax previously determined which results solely from the correct exclusion, inclusion, allowance, disallowance, recognition, or nonrecognition, of the item, inclusion, deduction, credit, gain, or loss, which was the subject of the error. The amount so ascertained (together with any amounts wrongfully collected, as additions to the tax or interest, as a result of such error) shall be the amount of the adjustment under this section.

(e) ADJUSTMENT UNAFFECTED BY OTHER ITEMS, ETC.—The amount to be assessed and collected in the same manner as a deficiency, or to be refunded or credited in the same manner as an overpayment, under this section, shall not be diminished by any credit or set-off based upon any item, inclusion, deduction, credit, exemption, gain, or loss other than the one which was the subject of the error. Such amount, if paid, shall not be recovered by a claim or suit for refund or suit for erroneous refund based upon any item, inclusion, deduction, credit, exemption, gain, or loss other than the one which was the subject of the error.

(f) NO ADJUSTMENT FOR YEARS PRIOR TO 1932.—No adjustment shall be made under this section in respect of any taxable year beginning prior to January 1, 1932.

SEC. 3802. SEPARABILITY CLAUSE.

If any provision of this title, or the application thereof to any person or circumstances, is held invalid, the remainder of the title, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

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CHAPTER 39—THE OFFICE OF THE COMMISSIONER OF INTERNAL REVENUE

SUBCHAPTER A—THE COMMISSIONER

SEC. 3900. APPOINTMENT AND SALARY.

There shall be in the Department of the Treasury a Commissioner of Internal Revenue, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be entitled to a salary of $10,000 a year.

SEC. 3901. POWERS AND DUTIES.

(a) ASSESSMENT AND COLLECTION.—The Commissioner, under the direction of the Secretary—

(1) GENERAL SUPERINTENDENCE.—Shall have general superintendence of the assessment and collection of all taxes imposed by any law providing internal revenue; and

(2) REGULATIONS, FORMS, STAMPS, AND DIES.—Shall prepare and distribute all the instructions, regulations, directions, forms, blanks, stamps, and other matters pertaining to the assessment and collection of internal revenue; and shall provide hydrometers, and proper and sufficient adhesive stamps and stamps or dies for expressing and denoting the several stamp taxes, or, in the case of percentage taxes, the amount thereof; and alter and renew or replace such stamps from time to time, as occasion may require.

(3) ESTIMATE OF EXPENSE.—The Commissioner shall estimate in detail by collection districts the expense of assessing and the expense of the collection of internal revenue.

(b) DETAIL OF PERSONNEL FROM FIELD SERVICE.—

(1) IN GENERAL.—The Commissioner may order any officer or employee of the internal revenue service engaged in field work to duty with the Bureau of Internal Revenue in the District of Columbia, for such periods as the Secretary may prescribe, and to any designated post of duty outside the District of Columbia, upon the completion of such duty.

(2) REVENUE AGENTS.—Nothing in section 6 of the Act of June 22, 1906, c. 3514, 34 Stat. 449 (U. S. C., Title 5, § 39) shall be construed to prevent the Commissioner from detailing one revenue agent for duty in his office.

SUBCHAPTER B—THE ASSISTANT TO THE COMMISSIONER

SEC. 3905. APPOINTMENT.

There shall be in the Bureau of Internal Revenue one Assistant to the Commissioner, who shall be appointed by the President, by and with the advice and consent of the Senate.

SEC. 3906. DUTIES.

The Assistant to the Commissioner shall perform such duties as may be prescribed by the Commissioner or required by law.

SUBCHAPTER C—SPECIAL DEPUTY COMMISSIONER

SEC. 3910. APPOINTMENT.

There shall be in the Bureau of Internal Revenue one Special Deputy Commissioner, who shall be appointed by the President, by and with the advice and consent of the Senate.

SEC. 3911. DUTIES.

The Special Deputy Commissioner shall perform such duties as may be prescribed by the Commissioner or required by law.

SUBCHAPTER D—DEPUTY COMMISSIONERS

SEC. 3915. EMPLOYMENT.

There may be employed in the Bureau of Internal Revenue five deputy commissioners.

SEC. 3916. DUTIES.

(a) IN GENERAL.—The Commissioner is authorized to assign to deputy commissioners such duties as he may prescribe.

(b) TO ACT AS COMMISSIONER.—The Secretary may designate any deputy commissioner to act as Commissioner during the Commissioner's absence.

SUBCHAPTER E—CHEMISTS AND MICROSCOPISTS

SEC. 3920. APPOINTMENT OF ANALYTICAL CHEMIST AND MICROSCOPIST.

There shall be in the office of the Commissioner an analytical chemist and a microscopist, who shall each be appointed by the Secretary.

SEC. 3921. EMPLOYMENT OF ADDITIONAL CHEMISTS AND MICROSCOPISTS.

The Commissioner may, whenever in his judgment the necessities of the service so require, employ chemists and microscopists.

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CHAPTER 40—THE OFFICES OF GENERAL COUNSEL FOR THE DEPARTMENT OF THE TREASURY AND ASSISTANT GENERAL COUNSEL FOR THE BUREAU OF INTERNAL REVENUE

SEC. 3930. GENERAL COUNSEL—APPOINTMENT, SALARY, AND DUTIES.

(a) There shall be in the Department of the Treasury the office of General Counsel for the Department of the Treasury (hereinafter in this chapter referred to as the "General Counsel"). The General Counsel shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate of $10,000 per annum. The General Counsel shall be the chief law officer of the Department, and shall perform such duties in respect of the legal activities thereof as may be prescribed by the Secretary or required by law.

(b) The General Counsel shall have such powers, duties, and functions as were formerly vested in and exercised by the offices of General Counsel for the Bureau of Internal Revenue, Assistant General Counsel for the Bureau of Internal Revenue, Solicitor of the Treasury, and Assistant Solicitor of the Treasury.

SEC. 3931. ASSISTANT GENERAL COUNSEL—APPOINTMENT, SALARIES, AND DUTIES.

(a) The President is authorized to appoint, by and with the advice and consent of the Senate, an Assistant General Counsel for the Bureau of Internal Revenue and to fix his compensation at a rate not in excess of $10,000 per annum. The Secretary may appoint and fix the duties of such other Assistant General Counsel (not to exceed five) and such other officers and employees as he may deem necessary to assist the General Counsel in the performance of his duties.

(b) The Secretary may designate one of the Assistant General Counsel to act as the General Counsel during the absence of the General Counsel. The General Counsel, with the approval of the Secretary, is authorized to delegate to any Assistant General Counsel any authority, duty, or function which the General Counsel is authorized or required to exercise or perform.

(c) The Assistant General Counsel appointed by the Secretary may be appointed and compensated without regard to the provisions of the Classification Act of 1923, as amended, and the Civil Service laws and shall receive compensation at such rate (not in excess of $10,000 per annum) as may be fixed by the Secretary.

SEC. 3932. FUNCTIONS OF DEPARTMENT OF JUSTICE UNAFFECTED.

Nothing in this chapter shall be construed to affect the duties, powers, or functions imposed upon, or vested in the Department of Justice, or any officer thereof, by law existing on May 10, 1934.

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CHAPTER 41—COLLECTORS OF INTERNAL REVENUE

SUBCHAPTER A—APPOINTMENT, COMPENSATION, AND BOND

SEC. 3940. NUMBER.

The whole number of collectors of internal revenue shall not exceed sixty-five.

SEC. 3941. APPOINTMENT.

(a) IN GENERAL.—The President, by and with the advice and consent of the Senate, shall appoint for each collection district a collector, who shall be a resident of the same.

(b) CONSOLIDATION OF COLLECTION DISTRICTS.—When two or more collection districts are united by the President, he may designate from among the existing officers of such districts one collector for the

new district, or, at his discretion, he may make a new appointment of such officer for said district.

(c) RECESS OF SENATE.—

For commissions to fill vacancies occurring during recess of Senate, see section 3944 (c) (1).

(d) CROSS REFERENCE.—

For establishment, alteration, and number of collection districts, see section 3650.

SEC. 3942. SUSPENSION.

(a) AUTHORITY.—Collectors may be suspended by the Commissioner for fraud, or gross neglect of duty, or abuse of power.

(b) PROCEDURE.—In case of the suspension of a collector, under the power conferred in subsection (a), the Commissioner shall, as soon thereafter as practicable, report the case to the President through the Secretary for such action as he may deem proper.

SEC. 3943. BONDS.

(a) ORIGINAL EXECUTION.—Every collector, before entering upon the duties of his office, shall execute a bond for such amount as may be prescribed by the Commissioner, under the direction of the Secretary, with not less than five sureties, to be approved by the General Counsel for the Department of the Treasury, conditioned that said collector shall faithfully perform the duties of his office according to law, and shall justly and faithfully account for and pay over to the United States, in compliance with the order or regulations of the Secretary, all public moneys which may come into his hands or possession.

(b) RENEWAL.—Every collector shall, from time to time, renew, strengthen, and increase his official bond, as the Secretary may direct, with such further conditions as the said Commissioner shall prescribe.

(c) SUBSTITUTION.—Every collector shall execute a new bond whenever required so to do by the Secretary, with such conditions as may be required by law or prescribed by the Commissioner, with not less than five sureties; which new bond shall be in lieu of any former bond or bonds of such collector in respect to all liabilities accruing after the date of its approval by the General Counsel for the Department of the Treasury.

(d) FILING.—Said bonds shall be transmitted to the Secretary and filed as he may direct.

SEC. 3944. SALARIES AND OFFICE EXPENSES ALLOWED.

(a) ALLOWANCE.—Allowances shall be made by the Secretary, upon the recommendation of the Commissioner, for salary and office expenses of collectors: *Provided*, That the Secretary, on the recommendation of the Commissioner, be authorized to make such further allowances, from time to time, as may be reasonable, in cases in which, from the territorial extent of the district, or from the amount of internal revenue taxes collected, it may seem just to make such allowances; but no such allowance shall be made if more than one year has elapsed since the close of the fiscal year in which the services were rendered.

(b) ADJUSTMENT AND LIMIT OF SALARIES.—The salaries of collectors may be readjusted and increased under such regulations as may be prescribed by the Commissioner, subject to the approval of the Secretary, but no collector shall receive a salary in excess of $7,500 per year.

(c) PREREQUISITES TO PAYMENT—

(1) CONFIRMATION BY SENATE.—No collector shall be entitled to any portion of the salary pertaining to the office unless he shall have been confirmed by the Senate, except in cases of commissions to fill vacancies occurring during the recess of the Senate.

(2) CERTIFICATE OF COMMISSIONER.—No payment shall be made to collectors on account of salaries or office expenses, without the certificate of the Commissioner that all reports required by law or regulation have been received, or that a satisfactory explanation has been rendered to him of the cause of delay.

(d) OBSERVANCE OF FISCAL YEAR.—In adjusting the accounts of collectors, and in the payment of their compensation for services, the fiscal year of the Treasury shall be observed.

SEC. 3945. PAYMENT OF ADVERTISING, STATIONERY, AND POSTAGE EXPENSES.

There shall be paid, after the account thereof has been rendered to and approved by the General Accounting Office, to each collector, his necessary and reasonable charges for advertising, stationery, and blank books used in the performance of his official duties, and for postage actually paid on letters and documents received or sent and exclusively relating to official business, but no such account shall be approved or allowed unless it states the date and the particular items of every such expenditure, and shall be verified by the oath of the collector.

SUBCHAPTER B—ACCOUNTS, RECORDS, AND REPORTS

SEC. 3950. CHARGES AND CREDITS.

(a) CHARGES.—Every collector shall be charged with—

(1) TAXES.—The whole amount of taxes, whether contained in lists transmitted to him by the Commissioner, or by other collectors, or delivered to him by his predecessor in office, and the additions thereto;

(2) STAMPS.—The par value of all stamps deposited with him; and

(3) MONEYS.—All moneys collected for penalties, forfeitures, fees, or costs.

(b) CREDITS.—Every collector shall be credited with—

(1) PAYMENTS INTO TREASURY.—All payments into the Treasury made as provided by law;

(2) RETURNED STAMPS.—All stamps returned by him uncancelled to the Treasury;

(3) TAXES TRANSMITTED TO OTHER COLLECTORS.—The amount of taxes contained in the lists transmitted in the manner provided in section 3651 (b) to other collectors, and by them receipted as therein provided;

(4) TAXES OF INSOLVENT OR ABSCONDED PERSONS.—The amount of the taxes of such persons as may have absconded or become insolvent, prior to the day when the tax ought, according to the provisions of law, to have been collected;

(5) UNCOLLECTED TAXES TRANSFERRED TO SUCCESSOR.—All uncollected taxes transferred by him or by his deputy acting as collector to his successor in office: *Provided*, That it shall be proved to the satisfaction of the Commissioner, who shall certify the facts to the General Accounting Office, that due diligence was used by the collector; and

(6) PROPERTY PURCHASED FOR UNITED STATES.—The amount of all property purchased by him for the use of the United States, provided he faithfully account for and pay over the proceeds thereof upon a resale of the same as required by law.

SEC. 3951. QUARTERLY REVENUE ACCOUNT.

Collectors shall render their revenue accounts quarterly.

SEC. 3952. MONTHLY COLLECTION STATEMENT.

Every collector shall, at the expiration of each month after he commences his collections, transmit to the Commissioner a statement of the collections made by him within the month.

SEC. 3953. MONTHLY ACCOUNT OF GOODS IN BOND.

(a) GOODS STORED IN BOND.—Every collector who has charge of any warehouse in which distilled spirits or articles are stored in bond shall render a monthly account of all such articles to the Commissioner, by whom such account shall be examined and adjusted monthly, so as to exhibit a true statement of the responsibility of such collector thereon. In adjusting such account, the collector shall be charged with all the articles which may have been deposited or received under the provisions of law, in any warehouse in his district and under his control, and shall be credited with all such articles shown to have been removed therefrom according to law, including transfers to other collectors and to his successor in office, and also whatever allowances may have been made in accordance with law to any owner of such goods or articles for leakage or other losses.

(b) DISTILLED SPIRITS, TOBACCO, SNUFF, AND CIGARS SHIPPED IN BOND.—Every collector from whose district any distilled spirits, tobacco, snuff, or cigars are shipped in bond, under the provisions of this title, shall render a monthly account of the same to the Commissioner, showing the amount of each article produced and shipped in bond, the amounts of which the exportation is completed according to law, and the amount remaining unaccounted for at the end of each month; also any excesses or deficiencies on the amount originally reported as shipped.

(c) TRANSFER OF POWERS AND DUTIES.—

For transfer of powers and duties of Commissioner and his agents in respect to distilled spirits, see section 3170.

SEC. 3954. OTHER ACCOUNTS.

For provisions relating to—

Accounts in general—Monthly rendition, see R. S. 3622 as amended by Act of July 31, 1894, c. 174, § 12, 28 Stat. 209 and June 10, 1921, c. 18, § 304, 42 Stat. 24 (U. S. C., Title 31, § 496); period for transmission to Washington, see Act of July 31, 1894, c. 174, § 12, 28 Stat. 209 as amended by Act of March 2, 1895, c. 177, § 4, 28 Stat. 807 and June 10, 1921, c. 18, § 304, 42 Stat. 24 (U. S. C., Title 31, § 78); entry of each receipt and payment, see R. S. 3643 (U. S. C., Title 31, § 525); allocation to appropriation, see R. S. 3623 (U. S. C., Title 31, § 498); delinquency in rendition, see section 3975.

Account of taxes and penalties assessed, see section 3641.

SEC. 3955. REPORTS CONCERNING MISCONDUCT OF OFFICERS AND AGENTS.

It shall be the duty of every collector to report to the Commissioner in writing any neglect of duty, incompetency, delinquency, or malfeasance in office of any internal revenue officer or agent of which he may obtain knowledge, with a statement of all the facts in each case, and any evidence sustaining the same.

SUBCHAPTER C—POWERS AND DUTIES

SEC. 3960. SUPERINTENDENCE OF EXPORTS AND DRAWBACKS.

In any port of the United States where there is more than one collector of internal revenue, the Secretary may designate one of them to have charge of all matters relating to the exportation of articles subject to tax under internal revenue laws; and at any port where he may deem it necessary, there shall be appointed by him an officer to superintend all matters of exportation and drawback, under the direction of the collector. The compensation of the officer last named shall be prescribed by the Secretary. At any port where there is no superintendent of exports, all the duties and services required of such officers shall be performed by the collector of internal revenue designated to have charge of exportation. All the books, papers, and documents in the bureau of drawbacks in the respective ports, relating to the drawback of taxes paid under the internal revenue law, shall be delivered to the collector in charge of exportation.

SEC. 3961. COLLECTION.

For provisions relating to—

Authority to collect—Taxes generally, see section 3651 (a) (1); taxes certified by Commissioner, see section 3641; taxes certified by another collector, see section 3651 (b).

Enforcement of law and regulations, see section 3654 (a).

Distraint, see subchapter C of chapter 36.

Seizure and forfeiture, see subchapter D of chapter 36.

Responsibility for acts or omissions of deputy collectors, see section 3654 (b).

SEC. 3962. COMPLETION OF COLLECTIONS.

(a) ACCOUNTS GENERALLY.—Every collector shall complete the collection of all sums assigned to him for collection and shall pay over the same into the Treasury.

(b) PREDECESSOR COLLECTOR'S ACCOUNTS.—In case of the death, resignation, or removal of any collector, all lists and accounts of taxes uncollected shall be transferred to his successor in office as soon as such successor is appointed and qualified, and it shall be the duty of such successor to collect the same.

SEC. 3963. STAMP SUPPLY.

For provisions relating to—

Tobacco and snuff, see section 2103.

Cigars and cigarettes, see section 2112 (c).

Playing cards, see section 1832.

SEC. 3964. INFORMATION AND RETURNS.

For provisions relating to—

Convass of districts for taxable persons and objects, see section 3600.

Entry of premises for examination of taxable objects, see section 3601 (a).

Preparation and execution of lists or returns for taxpayer, see sections 3611 (a) (2), 3612, and 3613.

Notice requiring list or return, see section 3611 (c).

Extension of time for filing miscellaneous tax returns, see section 3634.

SEC. 3965. ADMINISTRATION OF OATHS AND TAKING OF TESTIMONY.

(a) IN GENERAL.

See section 3632.

(b) OATHS TO EXPENSE ACCOUNTS.—Collectors are required, empowered, and authorized, when requested, to administer oaths, required by law or otherwise, to accounts for travel or other expenses against the United States, with like force and effect as officers having a seal; for such services when so rendered no charge shall be made; and no fee or money paid for the services herein described shall be paid or reimbursed by the United States.

SEC. 3966. TOBACCO, SNUFF, CIGARS, AND CIGARETTES.

For provisions relating to—

Approval of bonds—Tobacco and snuff manufacturers, see section 2013; cigar and cigarette manufacturers, see section 2033; leaf tobacco dealers, see section 2053; peddlers, see section 2073.

Issuance of certificates—Tobacco and snuff manufacturers, see section 2014; leaf tobacco dealers, see section 2054; peddlers, see section 2074.

Assignment of factory or trade number—Tobacco and snuff manufacturers, see section 2016; cigar and cigarette manufacturers, see section 2035; leaf tobacco dealers, see section 2054.

Examination of inventory—Tobacco and snuff manufacturers, see section 2017; cigar and cigarette manufacturers, see section 2036.

Examination of sales statements of dealers, see section 2058.

SEC. 3967. PROHIBITION UPON DISCHARGE OF ANOTHER COLLECTOR'S DUTIES.

No collector shall be detailed or authorized to discharge any duty imposed by law upon any other collector.

SUBCHAPTER D—COVERING OF COLLECTIONS INTO THE TREASURY

SEC. 3970. DEPOSITORIES FOR COLLECTIONS

The Secretary is authorized to designate one or more depositories in each State, for the deposit and safe-keeping of the money collected by virtue of the internal revenue laws; and the receipt of the proper officer of such depository to a collector for the money deposited by him shall be a sufficient voucher for such collector in the settlement of his accounts at the Treasury Department.

SEC. 3971. DEPOSIT OF COLLECTIONS.

(a) GENERAL RULE.—Except as provided in subsection (b), the gross amount of all taxes and revenues received under the provisions of this title, and collections of whatever nature received or collected by authority of any internal revenue law, shall be paid daily into the Treasury of the United States under instructions of the Secretary as internal revenue collections, by the officer receiving or collecting the same, without any abatement or deduction on account of salary, compensation, fees, costs, charges, expenses, or claims of any description. A certificate of such payment, stating the name of the depositor and the specific account on which the deposit was made, signed by the Treasurer, designated depositary, or proper officer of a deposit bank, shall be transmitted to the Commissioner.

(b) EXCEPTIONS.—

(1) SUMS OFFERED IN COMPROMISE.—Sums offered in compromise under the provisions of section 3761;

(2) SUMS OFFERED FOR PURCHASE OF REAL ESTATE.—Sums offered for the purchase of real estate under the provisions of section 3795; and

(3) SURPLUS PROCEEDS IN DISTRAINT SALES.—Surplus proceeds in any distraint sale, after making allowance for the amount of the tax, interest, penalties, and additions thereto, and for costs and charges of the distraint and sale—shall be deposited with the Treasurer of the United States in a special deposit account in the name of the collector making the deposit. Upon acceptance of such offer in compromise or offer for the purchase of such real estate, the amount so accepted shall be withdrawn by the collector from his special deposit account with the Treasurer of the United States and deposited in the Treasury of the United States as internal revenue collections. Upon the rejection of any such offer, the Commissioner shall authorize the collector, through whom the amount of such offer was submitted, to refund to the maker of such offer the amount thereof. In the case of surplus proceeds from distraint sales the Commissioner shall, upon application and satisfactory proof in support thereof, authorize the collector through whom the amount was received to refund the same to the person or persons legally entitled thereto.

SUBCHAPTER E—DISTRAINT AGAINST DELINQUENT COLLECTOR

SEC. 3975. WARRANT OF DISTRESS.

When any collector fails either to collect or to render his account, or to pay over in the manner or within the times provided by law, the General Accounting Office shall, immediately after evidence of such delinquency, report the same to the General Counsel for the Treasury Department, who shall issue a warrant of distress against such delinquent collector, directed to the marshal of the district, expressing

therein the amount with which the said collector is chargeable, and the sums, if any, which have been paid over by him, so far as the same are ascertainable.

SEC. 3976. SALE OF PERSONAL PROPERTY.

(a) AUTHORIZATION AND PROCEDURE.—The said marshal shall, himself, or by his deputy, immediately proceed to levy and collect the sum which may remain due, with 5 per centum thereon, and all the expenses and charges of collection, by distress and sale of the goods and chattels, or any personal effects of the delinquent collector, giving at least five days' notice of the time and place of sale, in the manner provided by law for advertising sales of personal property on execution in the State wherein such collector resides.

(b) BILL OF SALE.—The bill of sale of the officer of any goods, chattels, or other personal property, distrained and sold as aforesaid, shall be conclusive evidence of title to the purchaser, and prima facie evidence of the right of the officer to make such sale, and of the correctness of his proceedings in selling the same.

SEC. 3977. SALE OF REAL PROPERTY.

(a) AUTHORIZATION AND PROCEDURE.—For want of goods and chattels, or other personal effects of such collector, sufficient to satisfy any warrant of distress, issued as aforesaid, the real estate of such collector, or so much thereof as may be necessary for satisfying the said warrant, after being advertised for at least three weeks next before the time of sale, in not less than three public places in the collection district, and in one newspaper printed in the county or district, if any there be, shall be sold at public auction by the marshal or his deputy.

(b) DEED OF CONVEYANCE.—Upon such sale, the marshal shall make and deliver to the purchaser of the premises sold a deed of conveyance thereof, to be executed and acknowledged in the manner and form prescribed by the laws of the State in which said lands are situated, and said deed so made shall invest the purchaser with all the title and interest of the defendant named in said warrant, existing at the time of the seizure thereof.

SEC. 3978. DISPOSITION OF PROCEEDS OF SALE.

All moneys that may remain of the proceeds of such sale of personal or real property, after satisfying the said warrant of distress, and paying the reasonable costs and charges of sale, shall be returned to the proprietor of the property sold as aforesaid.

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CHAPTER 42—DEPUTY COLLECTORS OF INTERNAL REVENUE

SEC. 3990. NUMBER, APPOINTMENT, AND COMPENSATION.

Each collector shall be authorized to appoint, by an instrument in writing under his hand, as many deputies as he may think proper, to be compensated for their services by such allowances as shall be made by the Secretary, upon the recommendation of the Commissioner: *Provided*, That the Secretary, on the recommendation of the Commissioner, be authorized to make such further allowances, from time to time, as may be reasonable, in cases in which, from the territorial extent of the district, or from the amount of internal revenue taxes collected, it may seem just to make such allowances; but no such allowance shall be made if more than one year elapsed since the close of the fiscal year in which the services were rendered.

SEC. 3991. REVOCATION OF APPOINTMENT.

Each collector shall have power to revoke the appointment of any deputy, giving such notice thereof as the Commissioner may prescribe.

SEC. 3992. BONDS.

Each collector shall have power to require and accept bonds or other securities from any deputy; and actions upon such bonds may be brought in any appropriate district court of the United States; which courts shall have jurisdiction of such actions concurrently with the courts of the several States.

SEC. 3993. COLLECTION AUTHORITY.

For authority of deputy collector to collect the taxes levied or assessed within the portion of the district assigned to him, see section 3654 (b).

SEC. 3994. DETAIL TO OTHER COLLECTION DISTRICTS.

(a) AUTHORIZATION.—The Commissioner is authorized to detail deputy collectors in one district for special duty in other districts.

(b) PAYMENT OF COMPENSATION.—The deputy collectors so detailed shall be paid with respect to the district for which they are appointed and for which the allowance for their salary and expenses is made, the same as if all their services had been performed and expenses incurred in that district.

SEC. 3995. DEPUTY AS ACTING COLLECTOR.

(a) SICKNESS, ABSENCE, OR TEMPORARY DISABILITY OF COLLECTOR.—In case of the sickness or absence of a collector, or in case of his temporary disability to discharge his duties, they shall devolve upon his

senior deputy, unless he shall have devolved them upon another of his deputies; and for the official acts or defaults of such deputies the collector and his sureties shall be held responsible to the United States.

(b) VACANCY IN THE OFFICE OF COLLECTOR.—In case of a vacancy occurring in the office of collector, and until a successor is appointed, the deputy of such collector senior in service shall discharge all the duties of collector; and of two or more deputies appointed on the same day, the one residing nearest the residence of the collector when the vacancy occurred shall discharge the said duties until another collector is appointed. When it appears to the Secretary that the interest of the Government so requires, he may, by his order, direct the said duties to be performed by such other one of the said deputies as he may designate.

(c) LIABILITY ON BONDS.—

(1) COLLECTOR'S BONDS.—For the official acts and defaults of the deputy upon whom said duties are devolved, remedy shall be had on the official bond of the collector, as in other cases.

(2) DEPUTY COLLECTOR'S BOND.—Any bond or security taken from a deputy by a collector, pursuant to section 3992 of this chapter, shall be available to his legal representatives and sureties to indemnify them for loss or damage accruing from any act or omission of duty by the deputy so continuing or succeeding to the duties of such collector.

(d) SALARY IN CASE OF VACANCY IN COLLECTOR'S OFFICE.—Any deputy collector who has performed or may perform, under authority of law, the duties of any collector in consequence of a vacancy in the office of said collector, shall be entitled to receive the salary and office expenses allowed by the Secretary to such collector. And such deputy shall not be debarred from receiving such salary and office expenses by reason of the holding of another Federal office by said collector during the time for which such deputy acts as collector. But all payments to such deputy collector shall be upon duly audited vouchers.

SEC. 3996. RETENTION OF DEPUTIES PENDING APPOINTMENT OF SUCCESSOR COLLECTOR.

In the case of a vacancy occurring in the office of collector, the deputies of such collector shall continue to act until his successor is appointed.

SEC. 3997. ADMINISTRATION OF OATHS.

For authority of deputy collectors to administer oaths, see section 3632.

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CHAPTER 43—INTERNAL REVENUE AGENTS

SEC. 4000. APPOINTMENT.

The Commissioner may, whenever in his judgment the necessities of the service so require, employ competent agents, who shall be known and designated as internal revenue agents, and, except as provided for in this title, no general or special agent or inspector of the Treasury Department in connection with internal revenue, by whatever designation he may be known, shall be appointed, commissioned, or employed.

SEC. 4001. ASSIGNMENT TO DUTY.

The Commissioner may, at his discretion, assign any agent whose employment is authorized by the preceding section to duty under the direction of any officer of internal revenue, or to such other special duty as he may deem necessary.

SEC. 4002. POST OF DUTY.

(a) IN GENERAL.—

For authority of Commissioner to determine and designate the posts of duty of employees of the internal revenue service engaged in field work or traveling, see section 4040.

(b) DUTY IN WASHINGTON.—

For authority of Commissioner to assign internal-revenue agents to duty in Washington, see section 3901 (b).

SEC 4003. POWERS AND DUTIES.

(a) ENTRY OF PREMISES FOR EXAMINATION OF TAXABLE OBJECTS.—The agents whose employment is authorized by this chapter shall have all the powers of entry and examination conferred upon any officer of internal revenue by section 3601 and sections 2828, 2839, and 2857, and all the provisions of said sections, including those imposing fines, forfeitures, penalties, or other punishments for the enforcement thereof, shall be applicable to the action of internal-revenue agents, in the same manner as if such agents were specially named in each of said sections.

(b) REPORT OF DELINQUENCY OR MALFEASANCE OF OFFICERS OR AGENTS.—It shall be the duty of every internal revenue agent to report to the Commissioner in writing any neglect of duty, incompetency, delinquency, or malfeasance in office of any internal revenue officer or agent of which he may obtain knowledge, with a statement of all the facts in each case, and any evidence sustaining the same.

(c) ENFORCEMENT OF LAW AND REGULATIONS.—

For provisions requiring internal-revenue agents to see that all laws and regulations relating to the collection of internal-revenue taxes are complied with, see section 3654 (c).

(d) ADMINISTRATION OF OATHS.—

For authority of internal-revenue agents to administer oaths, see section 3632 (a) (1).

(e) INSPECTION OF CERTIFICATE OF PEDDLER OF TOBACCO.—

For authority of internal-revenue agents to demand production of and inspect the collector's certificate for peddlers of tobacco, see section 2192.

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CHAPTER 44—STOREKEEPER-GAUGERS

SEC. 4010. APPOINTMENT AND BOND.

(a) REQUIREMENT.—There shall be appointed by the Secretary such number of storekeeper-gaugers as may be necessary, who shall each take an oath faithfully to perform his duties, and shall give bond, with one or more sureties, satisfactory to the Commissioner, for the faithful discharge of the duties assigned to him by law or regulations; and the penal sum of said bond shall not be less than $5,000, and said bond shall be renewed or strengthened as the Commissioner may require.

(b) TRANSFER OF POWERS AND DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 4011. COMPENSATION.

(a) SALARY.—All storekeeper-gaugers shall be full-time employees, paid upon a per annum basis. No person who was employed as a storekeeper-gauger on April 1, 1929, shall be paid at a rate less than the rate upon which his per diem compensation was based at such time; and no person entering upon such employment after such time shall be paid at a rate less than the minimum rate upon which per diem compensation of storekeeper-gaugers was based on April 1, 1929.

(b) TRAVELING EXPENSES.—Storekeeper-gaugers, when traveling to or from assignments, or when transferred from one assignment to another, either in the same district or in different districts, shall receive actual and necessary traveling expenses.

(c) SUBSISTENCE.—

For subsistence allowed, see section 4012.

SEC. 4012. POST OF DUTY.

(a) PRINCIPAL STATION.—The Commissioner shall designate for each storekeeper-gauger a principal station, which shall be held to be the designated post of duty of such employee for the purposes of the Subsistence Expense Act of 1926, c. 457, 44 Stat. 688 (U. S. C., Title 5, c. 16) as amended, and which shall, wherever practicable, be at or near the place of bona fide residence of such employee. Such principal station may be changed from time to time by the Commissioner as circumstances may require. A storekeeper-gauger, when on detail

in emergency cases or assignments in the administrative district wherein he is regularly commissioned, shall be allowed subsistence, as well as when detailed for special duty in any other or outside district.

(b) TRANSFER OF POWERS AND DUTIES.—

For transfer of powers and duties of Commissioner and his agents, see section 3170.

SEC. 4013. ASSIGNMENT.

(a) TO BONDED WAREHOUSES.—One or more storekeeper-gaugers shall be assigned by the Commissioner to every internal revenue bonded warehouse established by law.

(b) TO FRUIT DISTILLERIES AND WINERIES.—

For authority to assign a storekeeper-gauger to a fruit distillery or winery, see section 3042.

(c) TO SPECIAL DUTY.—Storekeeper-gaugers, when not employed upon their regular duties, may be assigned to such duties as the Commissioner shall designate.

(d) TRANSFER OF POWERS AND DUTIES.—

For transfer of powers and duties of Commissioner and his agents, in respect to liquor, see section 3170.

SEC. 4014. TRANSFER.

(a) AUTHORIZATION.—The Commissioner may transfer any storekeeper-gauger from one distillery, warehouse, or other place of duty, or from one collection district to another.

(b) TRANSFER OF POWERS AND DUTIES.—

For transfer of powers and duties of Commissioner and his agents, in respect to liquor, see section 3170.

SEC. 4015. DETAIL TO OTHER DISTRICTS.

(a) AUTHORIZATION.—The Commissioner is authorized to detail storekeeper-gaugers appointed in one district for special or regular duty in other districts.

(b) ACCOUNTS.—The accounts of storekeeper-gaugers so detailed shall be adjusted and paid in the district where they are appointed the same as if assigned to regular duty, without regard to the number of districts in which they may have been employed in any one month, the same as if all their services had been performed and expenses incurred in the district in which appointed, and the order of the Commissioner transferring storekeeper-gaugers to special work shall be accepted by the General Accounting Office as full authority for proper expenses incurred by said storekeeper-gaugers while so assigned.

(c) TRANSFER OF POWERS AND DUTIES.—

For transfer of powers and duties of Commissioner and his agents, in respect to liquor, see section 3170.

SEC. 4016. SUSPENSION.

(a) AUTHORIZATION.—The Commissioner may, by notice in writing, suspend from duty any storekeeper-gauger.

(b) TRANSFER OF POWERS AND DUTIES.—

For transfer of powers and duties of Commissioner and his agents, in respect to liquor, see section 3170.

SEC. 4017. DAILY GAUGING RETURN.

(a) REQUIREMENT.—Every storekeeper-gauger shall, under such regulations as may be prescribed by the Commissioner, make a daily return to the collector of his district giving a true account in detail of all articles gauged and proved or inspected by him, and for whom, and the number and kind of stamps used by him.

(b) TRANSFER OF POWERS AND DUTIES.—

For transfer of powers and duties of Commissioner and his agents, in respect to liquor, see section 3170.

SEC. 4018. ENGAGEMENT IN OTHER BUSINESS.

No storekeeper-gauger shall be engaged in any other business while in the service of the United States, without the written permission of the Commissioner.

SEC. 4019. LEAVE OF ABSENCE.

The general provisions of law relating to annual leave of absence and sick leave of employees in the executive departments shall apply to storekeeper-gaugers.

SEC. 4020. TEMPORARY CHARGE OF WAREHOUSES.

(a) AUTHORIZATION.—In case of the absence by reason of sickness or other cause of any storekeeper-gauger assigned to an internal revenue bonded warehouse under subsection (a) of section 4013, the collector having control of the warehouse may designate a person to have temporary charge thereof, who shall, during such absence, perform the duties and receive the pay of the storekeeper-gauger for the time he may be so employed, and shall for any violation of the law be subject to the same punishment as storekeeper-gaugers.

(b) TRANSFER OF POWERS AND DUTIES.—

For transfer of powers and duties of Commissioner and his agents in respect to liquor, see section 3170.

SEC. 4021. PENALTIES.

(a) DELEGATION OF DUTIES.—Whenever any storekeeper-gauger employs any owner, agent, or superintendent of any distillery or internal revenue bonded warehouse, or any person in the service of such owner, agent, or superintendent, or any rectifier or wholesale liquor dealer, or any person in the service of such rectifier or wholesale liquor dealer, to use his brands or to discharge any of the duties imposed upon him by law, he shall, for each offense so committed, be subject to a fine of not more than $1,000. This subsection shall not apply in any case in which the use of the storekeeper-gauger's brand or the discharge of his duties by another has been directed by the Commissioner with the approval of the Secretary under authority of law.

(b) FRAUDULENT INSPECTION, GAUGING, OR PROOF.—Every storekeeper-gauger who makes any false or fraudulent inspection, gauging, or proof, shall pay a penalty of $1,000, and be fined not less than $500 nor more than $5,000, and imprisoned not less than three months nor more than three years.

(c) UNLAWFUL REMOVAL OF DISTILLED SPIRITS FROM BONDED WAREHOUSE.—

For penalty imposed for unlawfully removing or permitting to be removed distilled spirits from a bonded warehouse, see section 2913.

SEC. 4022. RULES AND REGULATIONS.

The Commissioner, with the approval of the Secretary, may prescribe such rules and regulations as may be necessary or proper to carry out the provisions of sections 4011, 4012, 4013 (c), and 4019.

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CHAPTER 45—INTERNAL REVENUE INSPECTORS

SEC. 4030. LIMITATION ON APPOINTMENT.

For limitation on appointment of inspectors, see section 4000.

SEC. 4031. TRANSFER.

(a) AUTHORIZATION.—The Commissioner may transfer any inspector from one distillery or other place of duty, or from one collection district, to another.

(b) TRANSFER OF POWERS AND DUTIES.—

For transfer of powers and duties of Commissioner and his agents, in respect to liquor, see section 3170.

SEC. 4032. SUSPENSION.

The Commissioner may, by notice in writing, suspend from duty any inspector.

SEC. 4033. ENTRY OF PREMISES FOR EXAMINATION OF TAXABLE OBJECTS.

For authority of inspectors to enter premises for the examination of taxable objects, see section 3601.

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CHAPTER 46—MISCELLANEOUS PROVISIONS

SEC. 4040. POSTS OF DUTY OF EMPLOYEES IN FIELD SERVICE OR TRAVELING.

The Commissioner shall determine and designate the posts of duty of all employees of the internal revenue service engaged in field work or traveling on official business outside of the District of Columbia.

SEC. 4041. ISSUE OF INSTRUCTIONS, REGULATIONS, AND FORMS.

(a) IN GENERAL.—The Secretary shall prescribe forms of entries, oaths, bonds, and other papers, and rules and regulations, not inconsistent with law, to be used under and in the execution and enforcement of the various provisions of the internal revenue laws; and he shall give such directions to collectors and prescribe such rules and forms to be observed by them as may be necessary for the proper execution of the law.

(b) RECEIPT OF UNITED STATES SECURITIES.—

For authority of the Secretary to issue instructions and regulations governing the receipt by collectors and others of United States securities, see R. S. 251 (U. S. C., Title 31, § 427).

SEC. 4042. SUITS FOR DAMAGES BY INTERNAL REVENUE OFFICERS OR AGENTS.

If any officer appointed under and by virtue of any act to provide internal revenue, or any person acting under or by authority of any such officer, shall receive any injury to his person or property, in the discharge of his duty, under any law of the United States for the collection of taxes, he shall be entitled to maintain suit for damage therefor, in the district court of the United States, in the district wherein the party doing the injury may reside or shall be found. The provisions of this section shall apply to internal revenue agents as fully as to internal revenue officers.

SEC. 4043. ACTIONS AGAINST REVENUE OFFICERS.

For authority of revenue officers to have civil suits or criminal prosecutions commenced against them in a State court transferred to a district court, see section 33 of the Judicial Code as amended by the Act of Aug. 23, 1916, c. 399, 39 Stat. 532 (U. S. C., Title 28, § 76).

SEC. 4044. ADMINISTRATION OF OATHS AND TAKING OF TESTIMONY.

For authority of collectors, deputy collectors, internal revenue officers, and internal revenue agents to administer oaths and take testimony, see section 3632.

SEC. 4045. SPECIAL AUTHORIZATIONS TO MAKE SEIZURES.

For special authorization by the Commissioner to internal revenue officers to make seizures, see section 3720 (b).

SEC. 4046. STATEMENT OF FEES, CHARGES, AND ALLOWANCES.

Every internal revenue officer, whose payment, charges, salary, or compensation are composed, wholly or in part, of fees, commissions, allowances, or rewards, from whatever source derived, shall be required to render to the Commissioner, under regulations to be approved by the Secretary, a statement under oath setting forth the entire amount of such fees, commissions, emoluments, or rewards of whatever nature, or from whatever source received, during the time for which said statement is rendered; and any false statement knowingly and willfully rendered under the requirements of this section, or regulations established in accordance therewith, shall be deemed willful perjury and punished in the manner provided by law for the crime of perjury. And any neglect or omission to render such statement when required shall be punished by a fine of not less than $200, nor more than $500, in the discretion of the court.

SEC. 4047. PENALTIES.

(a) Disclosure of Information by Officers and Employees of the United States.—

(1) Operations of manufacturer or producer.—It shall be unlawful for any collector, deputy collector, agent, clerk, or other officer or employee of the United States to divulge or to make known in any manner whatever not provided by law to any person the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of his official duties; and any offense against the foregoing provision shall be a misdemeanor and be punished by a fine not exceeding $1,000 or by imprisonment not exceeding one year, or both, at the discretion of the court; and the offender shall be dismissed from office or discharged from employment. The provisions of this paragraph shall apply to internal revenue agents as fully as to internal revenue officers.

(2) Income tax data.—

For penalty for disclosing income tax data, see section 55 (f) (1).

(b) Interest of Internal Revenue Officer or Agent in Tobacco or Liquor Production.—Any internal revenue officer or internal revenue agent interested, directly or indirectly, in the manufacture of tobacco, snuff, or cigars, or in the production, rectification, or redistillation of distilled spirits, shall be dismissed from office; and every officer or agent so interested in any such manufacture or production, rectification, or redistillation, or in the production of fermented liquors, shall be fined not less than $500 nor more than $5,000.

(c) Issue of Stamps by Collector Before Payment.—Any collector, or any deputy collector or other employee of, or person acting for such collector, who shall issue any stamp or stamps indicating the payment of any internal-revenue tax before payment in full therefor has been made to the officer or person issuing the same, shall be deemed guilty of a misdemeanor and shall be fined for each stamp thus issued an amount equal to the face value thereof, in addition to the liability of the collector on his official bond on account of such stamp; and such collector, deputy collector, or employee shall be dismissed from office.

(d) Demand or Acceptance of Bribes by District Attorneys or Marshals.—Every district attorney or marshal who demands, or accepts, or attempts to collect, directly or indirectly, as payment or gift or otherwise, any sum of money or other property of value for the compromise, adjustment, or settlement of any charge or complaint for any violation or alleged violation of any provision of the internal revenue laws, except as expressly authorized by law to do so, shall be held to be guilty of a misdemeanor, and shall be fined in double the sum or value of the money or property received

or demanded, and be imprisoned for not less than one nor more than ten years.

(e) OTHER UNLAWFUL ACTS OF REVENUE OFFICERS OR AGENTS.—Every officer or agent appointed and acting under the authority of any revenue law of the United States—

(1) Who is guilty of any extortion or willful oppression under color of law; or

(2) Who knowingly demands other or greater sums than are authorized by law, or receives any fee, compensation, or reward, except as by law prescribed, for the performance of any duty; or

(3) Who willfully neglects to perform any of the duties enjoined on him by law; or

(4) Who conspires or colludes with any other person to defraud the United States; or

(5) Who makes opportunity for any person to defraud the United States; or

(6) Who does or omits to do any act with intent to enable any other person to defraud the United States; or

(7) Who negligently or designedly permits any violation of the law by any other person; or

(8) Who makes or signs any false entry in any book, or makes or signs any false certificate or return, in any case where he is by law or regulation required to make any entry, certificate, or return; or

(9) Who, having knowledge or information of the violation of any revenue law by any person, or of fraud committed by any person against the United States under any revenue law, fails to report, in writing, such knowledge or information to his next superior officer and to the Commissioner; or

(10) Who demands, or accepts, or attempts to collect, directly or indirectly, as payment or gift, or otherwise, any sum of money or other thing of value for the compromise, adjustment, or settlement of any charge or complaint for any violation or alleged violation of law, except as expressly authorized by law so to do—

shall be dismissed from office, shall be fined not less than $1,000 nor more than $5,000, and be imprisoned not less than six months nor more than three years. The court shall also render judgment against the said officer or agent for the amount of damages sustained in favor of the party injured, to be collected by execution. One half of the fine so imposed shall be for the use of the United States, and the other half for the use of the informer, who shall be ascertained by the judgment of the court. The provisions of this subsection shall apply to internal revenue agents as fully as to internal revenue officers.

(f) CROSS REFERENCES.—

For penalties relating to statements of fees, charges, and allowances, see section 4046.

For penalty imposed for collecting special tax from persons rectifying on prohibited premises, see section 3250 (f) (2).

SEC. 4048. EXTENDED APPLICATION OF PENALTIES RELATING TO INTERNAL REVENUE OFFICERS.

All provisions of law imposing fines, penalties, or other punishment for offenses committed by an internal revenue officer or other officer of the Department of the Treasury, or under any bureau thereof, shall apply to all persons whomsoever, employed, appointed, or acting under the authority of any internal revenue law, or any revenue provision of any law of the United States, when such persons are designated or acting as officers or deputies, or persons having the custody or disposition of any public money.

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Subtitle F—The Joint Committee on Internal Revenue Taxation

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CHAPTER 47—ORGANIZATION AND MEMBERSHIP OF THE JOINT COMMITTEE

SEC. 5000. AUTHORIZATION.

There shall be a joint congressional committee known as the Joint Committee on Internal Revenue Taxation (hereinafter in this subtitle referred to as the "Joint Committee").

SEC. 5001. MEMBERSHIP.

(a) NUMBER AND SELECTION.—The Joint Committee shall be composed of ten members as follows:

(1) FROM COMMITTEE ON FINANCE.—Five members who are members of the Committee on Finance of the Senate, three from the majority and two from the minority party, to be chosen by such Committee; and

(2) FROM COMMITTEE ON WAYS AND MEANS.—Five members who are members of the Committee on Ways and Means of the House of Representatives, three from the majority and two from the minority party, to be chosen by such Committee.

(b) TENURE OF OFFICE.—

(1) GENERAL LIMITATION.—No person shall continue to serve as a member of the Joint Committee after he has ceased to be a member of the Committee by which he was chosen, except that—

(2) EXCEPTION.—The members chosen by the Committee on Ways and Means who have been reelected to the House of Representatives may continue to serve as members of the Joint Committee notwithstanding the expiration of the Congress.

(c) VACANCIES.—A vacancy in the Joint Committee—

(1) EFFECT.—Shall not affect the power of the remaining members to execute the functions of the Joint Committee; and

(2) MANNER OF FILLING.—Shall be filled in the same manner as the original selection, except that—

(A) ADJOURNMENT OR RECESS OF CONGRESS.—In case of a vacancy during an adjournment or recess of Congress for a period of more than two weeks, the members of the Joint Committee who are members of the Committee entitled to fill such vacancy may designate a member of such Committee to serve until his successor is chosen by such Committee; and

(B) EXPIRATION OF CONGRESS.—In the case of a vacancy after the expiration of a Congress which would be filled by the Committee on Ways and Means, the members of such Committee who are continuing to serve as members of the Joint Committee may designate a person who, immediately prior to such expiration, was a member of such Committee and who is re-elected to the House of Representatives, to serve until his successor is chosen by such Committee.

(d) ALLOWANCES.—The members shall serve without compensation in addition to that received for their services as members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Joint Committee, other than expenses in connection with meetings of the Joint Committee held in the District of Columbia during such times as the Congress is in session.

SEC 5002. ELECTION OF CHAIRMAN AND VICE-CHAIRMAN.

The Joint Committee shall elect a chairman and vice-chairman from among its members.

SEC. 5003. APPOINTMENT AND COMPENSATION OF STAFF.

The Joint Committee shall have power to appoint and fix the compensation of a clerk and such experts and clerical, stenographic, and other assistants as it deems advisable.

SEC. 5004. PAYMENT OF EXPENSES.

The expenses of the Joint Committee shall be paid one-half from the contingent fund of the Senate and one-half from the contingent fund of the House of Representatives, upon vouchers signed by the chairman or the vice-chairman.

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CHAPTER 48—POWERS AND DUTIES OF THE JOINT COMMITTEE

SEC. 5010. POWERS.

(a) TO OBTAIN DATA AND INSPECT INCOME RETURNS.—

For powers of the Joint Committee to obtain and inspect income returns, see section 55 (d).

(b) RELATING TO HEARINGS AND SESSIONS.—The Joint Committee, or any subcommittee thereof, is authorized—

(1) TO HOLD.—To hold hearings and to sit and act at such places and times;

(2) TO REQUIRE ATTENDANCE OF WITNESSES AND PRODUCTION OF BOOKS.—To require by subpœna (to be issued under the signature of the chairman or vice-chairman) or otherwise, the attendance of such witnesses and the production of such books, papers, and documents;

(3) TO ADMINISTER OATHS.—To administer such oaths; and

(4) TO TAKE TESTIMONY.—To take such testimony; as it deems advisable.

(c) TO PROCURE PRINTING AND BINDING.—The Joint Committee, or any subcommittee thereof, is authorized to have such printing and binding done as it deems advisable.

(d) TO MAKE EXPENDITURES.—

(1) GENERAL AUTHORITY.—The Joint Committee, or any subcommittee thereof, is authorized to make such expenditures as it deems advisable.

(2) LIMITATION.—The cost of stenographic services in reporting such hearings as the Joint Committee may hold shall not be in excess of 25 cents per hundred words.

SEC. 5011. DUTIES.

It shall be the duty of the Joint Committee—

(a) INVESTIGATION.—

(1) OPERATION AND EFFECTS OF LAW.—To investigate the operation and effects of the Federal system of internal revenue taxes;

(2) ADMINISTRATION.—To investigate the administration of such taxes by the Bureau of Internal Revenue or any executive department, establishment, or agency, charged with their administration; and

(3) OTHER INVESTIGATIONS.—To make such other investigations in respect of such system of taxes as the Joint Committee may deem necessary.

(b) SIMPLIFICATION OF LAW.—

(1) INVESTIGATION OF METHODS.—To investigate measures and methods for the simplification of such taxes, particularly the income tax; and

(2) PUBLICATION OF PROPOSALS.—To publish, from time to time, for public examination and analysis, proposed measures and methods for the simplification of such taxes.

(c) REPORTS.—To report, from time to time, to the Committee on Finance and the Committee on Ways and Means, and, in its discretion, to the Senate or the House of Representatives, or both, the results of its investigations, together with such recommendations as it may deem advisable.

(d) CROSS REFERENCE.—

For duties of the Joint Committee relating to refunds of income and estate taxes, see section 3777.

Approved, February 10, 1939.