Public Law 87-834

October 16, 1962
[H. R. 10650]

AN ACT

To amend the Internal Revenue Code of 1954 to provide a credit for investment in certain depreciable property, to eliminate certain defects and inequities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Revenue Act of 1962.

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Revenue Act of 1962".

(b) TABLE OF CONTENTS.—

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(c) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

26 USC 1 *et seq.*

SEC. 2. CREDIT FOR INVESTMENT IN CERTAIN DEPRECIABLE PROPERTY.

(a) ALLOWANCE OF CREDIT.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by redesignating section 38 as section 39 and by inserting after section 37 the following new section:

26 USC 31-38.

Post, pp. 967, 968.

"SEC. 38. INVESTMENT IN CERTAIN DEPRECIABLE PROPERTY.

"(a) GENERAL RULE.—There shall be allowed, as a credit against the tax imposed by this chapter, the amount determined under subpart B of this part.

Post, p. 963.

"(b) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section and subpart B."

(b) RULES FOR COMPUTING CREDIT.—Part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new subpart: 26 USC 31-38.

"Subpart B—Rules for Computing Credit for Investment in Certain Depreciable Property

"SEC. 46. AMOUNT OF CREDIT.

"(a) DETERMINATION OF AMOUNT.—

"(1) GENERAL RULE.—The amount of the credit allowed by section 38 for the taxable year shall be equal to 7 percent of the qualified investment (as defined in subsection (c)). *Ante*, p. 962.

"(2) LIMITATION BASED ON AMOUNT OF TAX.—Notwithstanding paragraph (1), the credit allowed by section 38 for the taxable year shall not exceed—

"(A) so much of the liability for tax for the taxable year as does not exceed $25,000, plus

"(B) 25 percent of so much of the liability for tax for the taxable year as exceeds $25,000.

"(3) LIABILITY FOR TAX.—For purposes of paragraph (2), the liability for tax for the taxable year shall be the tax imposed by this chapter for such year, reduced by the sum of the credits allowable under—

"(A) section 33 (relating to foreign tax credit), 26 USC 33.

"(B) section 34 (relating to dividends received by individuals),

"(C) section 35 (relating to partially tax-exempt interest), and

"(D) section 37 (relating to retirement income).

For purposes of this paragraph, any tax imposed for the taxable year by section 531 (relating to accumulated earnings tax) or by section 541 (relating to personal holding company tax) shall not be considered tax imposed by this chapter for such year.

"(4) MARRIED INDIVIDUALS.—In the case of a husband or wife who files a separate return, the amount specified under subparagraphs (A) and (B) of paragraph (2) shall be $12,500 in lieu of $25,000. This paragraph shall not apply if the spouse of the taxpayer has no qualified investment for, and no unused credit carryback or carryover to, the taxable year of such spouse which ends within or with the taxpayer's taxable year.

"(5) AFFILIATED GROUPS.—In the case of an affiliated group, the $25,000 amount specified under subparagraphs (A) and (B) of paragraph (2) shall be reduced for each member of the group by apportioning $25,000 among the members of such group in such manner as the Secretary or his delegate shall by regulations prescribe. For purposes of the preceding sentence, the term 'affiliated group' has the meaning assigned to such term by section 1504(a), except that all corporations shall be treated as includible corporations (without any exclusion under section 1504(b)).

"(b) CARRYBACK AND CARRYOVER OF UNUSED CREDITS.—

"(1) ALLOWANCE OF CREDIT.—If the amount of the credit determined under subsection (a)(1) for any taxable year exceeds the limitation provided by subsection (a)(2) for such taxable year

(hereinafter in this subsection referred to as 'unused credit year'), such excess shall be—

"(A) an investment credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(B) an investment credit carryover to each of the 5 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit by section 38 for such years, except that such excess may be a carryback only to a taxable year ending after December 31, 1961. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 8 taxable years to which (by reason of subparagraphs (A) and (B)) such credit may be carried, and then to each of the other 7 taxable years to the extent that, because of the limitation contained in paragraph (2), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

Ante, p. 962.

"(2) LIMITATION.—The amount of the unused credit which may be added under paragraph (1) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided by subsection (a)(2) for such taxable year exceeds the sum of—

"(A) the credit allowable under subsection (a)(1) for such taxable year, and

"(B) the amounts which, by reason of this subsection, are added to the amount allowable for such taxable year and attributable to taxable years preceding the unused credit year.

"(3) EFFECT OF NET OPERATING LOSS CARRYBACK.—To the extent that the excess described in paragraph (1) arises by reason of a net operating loss carryback, subparagraph (A) of paragraph (1) shall not apply.

"(4) TAXABLE YEAR BEGINNING BEFORE JANUARY 1, 1962.—For purposes of determining the amount of an investment credit carryback that may be added under paragraph (1) for a taxable year beginning before January 1, 1962, and ending after December 31, 1961, the amount of the limitation provided by subsection (a)(2) is the amount which bears the same ratio to such limitation as the number of days in such year after December 31, 1961, bears to the total number of days in such year.

"(c) QUALIFIED INVESTMENT.—

"(1) IN GENERAL.—For purposes of this subpart, the term 'qualified investment' means, with respect to any taxable year, the aggregate of—

"(A) the applicable percentage of the basis of each new section 38 property (as defined in section 48(b)) placed in service by the taxpayer during such taxable year, plus

Post, p. 968.

"(B) the applicable percentage of the cost of each used section 38 property (as defined in section 48(c)(1)) placed in service by the taxpayer during such taxable year.

Post, p. 968.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage for any property shall be determined under the following table:

"If the useful life is—	The applicable percentage is—
4 years or more but less than 6 years	33⅓
6 years or more but less than 8 years	66⅔
8 years or more	100

For purposes of this paragraph, the useful life of any property shall be determined as of the time such property is placed in service by the taxpayer.

"(3) PUBLIC UTILITY PROPERTY.—

"(A) In the case of section 38 property which is public utility property, the amount of the qualified investment shall be 3/7 of the amount determined under paragraph (1). *Ante*, p. 962.

"(B) For purposes of subparagraph (A), the term 'public utility property' means property used predominantly in the trade or business of the furnishing or sale of—

"(i) electrical energy, water, or sewage disposal services,

"(ii) gas through a local distribution system,

"(iii) telephone service, or

"(iv) telegraph service by means of domestic telegraph operations (as defined in section 222(a)(5) of the Communications Act of 1934, as amended; 47 U.S.C., sec. 222(a)(5)), 57 Stat. 5.

if the rates for such furnishing or sale, as the case may be, have been established or approved by a State or political subdivision thereof, by an agency or instrumentality of the United States, or by a public service or public utility commission or other similar body of any State or political subdivision thereof.

"(4) CERTAIN REPLACEMENT PROPERTY.—For purposes of paragraph (1), if section 38 property is placed in service by the taxpayer to replace property which was—

"(A) destroyed or damaged by fire, storm, shipwreck, or other casualty, or

"(B) stolen,

the basis of such section 38 property (in the case of new section 38 property), or the cost of such section 38 property (in the case of used section 38 property), which (but for this paragraph) would be taken into account under paragraph (1) shall be reduced by an amount equal to the amount received by the taxpayer as compensation, by insurance or otherwise, for the property so destroyed, damaged, or stolen, or to the adjusted basis of such property, whichever is the lesser. No reduction in basis or cost shall be made under the preceding sentence in any case in which the reduction in qualified investment attributable to the substitution required by section 47(a)(1) with respect to the property so destroyed, damaged, or stolen (determined without regard to section 47(a)(4)) is greater than the reduction described in the preceding sentence. *Post*, p. 966.

"(d) LIMITATIONS WITH RESPECT TO CERTAIN PERSONS.—

"(1) IN GENERAL.—In the case of—

"(A) an organization to which section 593 applies, *Post*, p. 977.

"(B) a regulated investment company or a real estate investment trust subject to taxation under subchapter M (sec. 851 and following), and

"(C) a cooperative organization described in section 1381(a),

the qualified investment and the $25,000 amount specified under subparagraphs (A) and (B) of subsection (a)(2) shall equal such person's ratable share of such items.

"(2) RATABLE SHARE.—For purposes of paragraph (1), the ratable share of any person for any taxable year of the items described therein shall be—

"(A) in the case of an organization referred to in paragraph (1)(A), 50 percent thereof,

"(B) in the case of a regulated investment company or a real estate investment trust, the ratio (i) the numerator of which is its taxable income and (ii) the denominator of which is its taxable income computed without regard to the deduction for dividends paid provided by section 852(b)(2)(D) or 857(b)(2)(C), as the case may be, and

26 USC 852, 857.

"(C) in the case of a cooperative organization, the ratio (i) the numerator of which is its taxable income and (ii) the denominator of which is its taxable income increased by amounts to which section 1382(b) or (c) applies and similar amounts the tax treatment of which is determined without regard to subchapter T (sec. 1381 and following).

Post, p. 1046.

Post, p. 1045.

For purposes of subparagraph (B) of the preceding sentence, the term 'taxable income' means in the case of a regulated investment company its investment company taxable income (within the meaning of section 852(b)(2)), and in the case of a real estate investment trust its real estate investment trust taxable income (within the meaning of section 857(b)(2)).

Ante, p. 962.

"SEC. 47. CERTAIN DISPOSITIONS, ETC., OF SECTION 38 PROPERTY.

"(a) GENERAL RULE.—Under regulations prescribed by the Secretary or his delegate—

"(1) EARLY DISPOSITION, ETC.—If during any taxable year any property is disposed of, or otherwise ceases to be section 38 property with respect to the taxpayer, before the close of the useful life which was taken into account in computing the credit under section 38, then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from substituting, in determining qualified investment, for such useful life the period beginning with the time such property was placed in service by the taxpayer and ending with the time such property ceased to be section 38 property.

"(2) PROPERTY BECOMES PUBLIC UTILITY PROPERTY.—If during any taxable year any property taken into account in determining qualified investment becomes public utility property (within the meaning of section 46(c)(3)(B)), then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from treating the property, for purposes of determining qualified investment, as public utility property (after giving due regard to the period before such change in use). If the application of this paragraph to any property is followed by the application of paragraph (1) to such property, proper adjustment shall be made in applying paragraph (1).

Ante, p. 965.

"(3) CARRYBACKS AND CARRYOVERS ADJUSTED.—In the case of any cessation described in paragraph (1) or any change in use described in paragraph (2), the carrybacks and carryovers under section 46(b) shall be adjusted by reason of such cessation (or change in use).

"(4) PROPERTY DESTROYED BY CASUALTY, ETC.—No increase shall be made under paragraph (1) and no adjustment shall be made under paragraph (3) in any case in which—

"(A) any property is disposed of, or otherwise ceases to be section 38 property with respect to the taxpayer, on account of its destruction or damage by fire, storm, shipwreck, or other casualty, or by reason of its theft,

"(B) section 38 property is placed in service by the taxpayer to replace the property described in subparagraph (A), and Ante, p. 962.

"(C) the reduction in basis or cost of such section 38 property described in the first sentence of section 46(c)(4) is equal to or; greater than the reduction in qualified investment which (but for this paragraph) would be made by reason of the substitution required by paragraph (1) with respect to the property described in subparagraph (A). Ante, p. 965.

"(b) SECTION NOT TO APPLY IN CERTAIN CASES.—Subsection (a) shall not apply to—

"(1) a transfer by reason of death, or

"(2) a transaction to which section 381(a) applies. 26 USC 381.

For purposes of subsection (a), property shall not be treated as ceasing to be section 38 property with respect to the taxpayer by reason of a mere change in the form of conducting the trade or business so long as the property is retained in such trade or business as section 38 property and the taxpayer retains a substantial interest in such trade or business.

"(c) SPECIAL RULE.—Any increase in tax under subsection (a) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under subpart A.

"SEC. 48. DEFINITIONS; SPECIAL RULES.

"(a) SECTION 38 PROPERTY.—

"(1) IN GENERAL.—Except as provided in this subsection, the term 'section 38 property' means—

"(A) tangible personal property, or

"(B) other tangible property (not including a building and its structural components) but only if such property—

"(i) is used as an integral part of manufacturing, production, or extraction or of furnishing transportation, communications, electrical energy, gas, water, or sewage disposal services, or

"(ii) constitutes a research or storage facility used in connection with any of the activities referred to in clause (i).

Such term includes only property with respect to which depreciation (or amortization in lieu of depreciation) is allowable and having a useful life (determined as of the time such property is placed in service) of 4 years or more.

"(2) PROPERTY USED OUTSIDE THE UNITED STATES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'section 38 property' does not include property which is used predominantly outside the United States.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to—

"(i) any aircraft which is registered by the Administrator of the Federal Aviation Agency and which is operated to and from the United States;

"(ii) rolling stock of a domestic railroad corporation subject to part I of the Interstate Commerce Act, which is used within and without the United States; 24 Stat. 379. 49 USC 1 *et seq.*

"(iii) any vessel documented under the laws of the United States which is operated in the foreign or domestic commerce of the United States;

"(iv) any motor vehicle of a United States person (as defined in section 7701(a)(30)) which is operated to and from the United States; Post, p. 988.

"(v) any container of a United States person which is used in the transportation of property to and from the United States; and

"(vi) any property (other than a vessel or an aircraft) of a United States person which is used for the purpose of exploring for, developing, removing, or transporting resources from the outer Continental Shelf (within the meaning of section 2 of the Outer Continental Shelf Lands Act, as amended and supplemented; 43 U.S.C., sec. 1331).

67 Stat. 462.

"(3) PROPERTY USED FOR LODGING.—Property which is used predominantly to furnish lodging or in connection with the furnishing of lodging shall not be treated as section 38 property. The preceding sentence shall not apply to—

Ante, p. 962.

"(A) nonlodging commercial facilities which are available to persons not using the lodging facilities on the same basis as they are available to persons using the lodging facilities, and

"(B) property used by a hotel or motel in connection with the trade or business of furnishing lodging where the predominant portion of the accommodations is used by transients.

"(4) PROPERTY USED BY CERTAIN TAX-EXEMPT ORGANIZATIONS.—Property used by an organization (other than a cooperative described in section 521) which is exempt from the tax imposed by this chapter shall be treated as section 38 property only if such property is used predominantly in an unrelated trade or business the income of which is subject to tax under section 511.

26 USC 521.

"(5) PROPERTY USED BY GOVERNMENTAL UNITS.—Property used by the United States, any State or political subdivision thereof, any international organization, or any agency or instrumentality of any of the foregoing shall not be treated as section 38 property.

"(6) LIVESTOCK.—Livestock shall not be treated as section 38 property.

"(b) NEW SECTION 38 PROPERTY.—For purposes of this subpart, the term 'new section 38 property' means section 38 property—

"(1) the construction, reconstruction, or erection of which is completed by the taxpayer after December 31, 1961, or

"(2) acquired after December 31, 1961, if the original use of such property commences with the taxpayer and commences after such date.

Ante, p. 964.

In applying section 46(c)(1)(A) in the case of property described in paragraph (1), there shall be taken into account only that portion of the basis which is properly attributable to construction, reconstruction, or erection after December 31, 1961.

"(c) USED SECTION 38 PROPERTY.—

"(1) IN GENERAL.—For purposes of this subpart, the term 'used section 38 property' means section 38 property acquired by purchase after December 31, 1961, which is not new section 38 property. Property shall not be treated as 'used section 38 property' if, after its acquisition by the taxpayer, it is used by a person who used such property before such acquisition (or by a person who bears a relationship described in section 179(d)(2)(A) or (B) to a person who used such property before such acquisition).

26 USC 179.

"(2) DOLLAR LIMITATION.—

"(A) IN GENERAL.—The cost of used section 38 property taken into account under section 46(c)(1)(B) for any taxable year shall not exceed $50,000. If such cost exceeds $50,000, the taxpayer shall select (at such time and in such manner as the Secretary or his delegate shall by regulations prescribe) the

items to be taken into account, but only to the extent of an aggregate cost of $50,000. Such a selection, once made, may be changed only in the manner, and to the extent, provided by such regulations.

"(B) MARRIED INDIVIDUALS.—In the case of a husband or wife who files a separate return, the limitation under subparagraph (A) shall be $25,000 in lieu of $50,000. This subparagraph shall not apply if the spouse of the taxpayer has no used section 38 property which may be taken into account as qualified investment for the taxable year of such spouse which ends within or with the taxpayer's taxable year. *Ante*, p. 968.

"(C) AFFILIATED GROUPS.—In the case of an affiliated group, the $50,000 amount specified under subparagraph (A) shall be reduced for each member of the group by apportioning $50,000 among the members of such group in accordance with their respective amounts of used section 38 property which may be taken into account. *Ante*, pp. 962, 968.

"(D) PARTNERSHIPS.—In the case of a partnership, the limitation contained in subparagraph (A) shall apply with respect to the partnership and with respect to each partner.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) PURCHASE.—The term 'purchase' has the meaning assigned to such term by section 179(d)(2). 26 USC 179.

"(B) COST.—The cost of used section 38 property does not include so much of the basis of such property as is determined by reference to the adjusted basis of other property held at any time by the person acquiring such property. If property is disposed of (other than by reason of its destruction or damage by fire, storm, shipwreck, or other casualty, or its theft) and used section 38 property similar or related in service or use is acquired as a replacement therefor in a transaction to which the preceding sentence does not apply, the cost of the used section 38 property acquired shall be its basis reduced by the adjusted basis of the property replaced. The cost of used section 38 property shall not be reduced with respect to the adjusted basis of any property disposed of if, by reason of section 47, such disposition involved an increase of tax or a reduction of the unused credit carrybacks or carryovers described in section 46(b). *Ante*, p. 966. *Ante*, p. 963.

"(C) AFFILIATED GROUP.—The term 'affiliated group' has the meaning assigned to such term by section 1504(a), except that— 26 USC 1504.

"(i) the phrase 'more than 50 percent' shall be substituted for the phrase 'at least 80 percent' each place it appears in section 1504(a), and

"(ii) all corporations shall be treated as includible corporations (without any exclusion under section 1504(b)).

"(d) CERTAIN LEASED PROPERTY.—A person (other than a person referred to in section 46(d)) who is a lessor of property may (at such time, in such manner, and subject to such conditions as are provided by regulations prescribed by the Secretary or his delegate) elect with respect to any new section 38 property to treat the lessee as having acquired such property for an amount equal to— *Ante*, p. 965.

"(1) if such property was constructed by the lessor (or by a corporation which controls or is controlled by the lessor within the meaning of section 368(c)), the fair market value of such property, or 26 USC 368.

"(2) if paragraph (1) does not apply, the basis of such property to the lessor.

The election provided by the preceding sentence may be made only with respect to property which would be new section 38 property if acquired by the lessee. For purposes of the preceding sentence and section 46(c), the useful life of property in the hands of the lessee is the useful life of such property in the hands of the lessor. If a lessor makes the election provided by this subsection with respect to any property, the lessee shall be treated for all purposes of this subpart as having acquired such property. If a lessor makes the election provided by this subsection with respect to any property, then, under regulations prescribed by the Secretary or his delegate, subsection (g) shall not apply with respect to such property and the deductions otherwise allowable under section 162 to the lessee for amounts paid to the lessor under the lease shall be adjusted in a manner consistent with the provisions of subsection (g).

Ante, p. 968.

Ante, p. 964.

26 USC 162; *Post*, p. 973.

"(e) SUBCHAPTER S CORPORATIONS.—In the case of an electing small business corporation (as defined in section 1371)—

"(1) the qualified investment for each taxable year shall be apportioned pro rata among the persons who are shareholders of such corporation on the last day of such taxable year; and

"(2) any person to whom any investment has been apportioned under paragraph (1) shall be treated (for purposes of this subpart) as the taxpayer with respect to such investment, and such investment shall not (by reason of such apportionment) lose its character as an investment in new section 38 property or used section 38 property, as the case may be.

Ante, p. 968.

"(f) ESTATES AND TRUSTS.—In the case of an estate or trust—

"(1) the qualified investment for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each,

"(2) any beneficiary to whom any investment has been apportioned under paragraph (1) shall be treated (for purposes of this subpart) as the taxpayer with respect to such investment, and such investment shall not (by reason of such apportionment) lose its character as an investment in new section 38 property or used section 38 property, as the case may be, and

"(3) the $25,000 amount specified under subparagraphs (A) and (B) of section 46(a)(2) applicable to such estate or trust shall be reduced to an amount which bears the same ratio to $25,000 as the amount of the qualified investment allocated to the estate or trust under paragraph (1) bears to the entire amount of the qualified investment.

Ante, p. 963.

"(g) ADJUSTMENTS TO BASIS OF PROPERTY.—

"(1) IN GENERAL.—The basis of any section 38 property shall be reduced, for purposes of this subtitle other than this subpart, by an amount equal to 7 percent of the qualified investment as determined under section 46(c) with respect to such property.

"(2) CERTAIN DISPOSITIONS, ETC.—If the tax under this chapter is increased for any taxable year under paragraph (1) or (2) of section 47(a) or an adjustment in carrybacks or carryovers is made under paragraph (3) of such section, the basis of the property described in such paragraph (1) or (2), as the case may be (immediately before the event on account of which such paragraph (1), (2), or (3) applies), shall be increased by an amount equal to the portion of such increase and the portion of such adjustment attributable to such property.

Ante, p. 966.

"(h) CROSS REFERENCE.—

"For application of this subpart to certain acquiring corporations, see section 381(c)(23)."

Post, p. 971.

(c) DEDUCTION FOR UNUSED CREDIT.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corpo-

26 USC 161-180.

rations) is amended by adding at the end thereof the following new section:

"SEC. 181. DEDUCTION FOR CERTAIN UNUSED INVESTMENT CREDIT.

"If the amount of the credit determined under section 46(a)(1) for any taxable year exceeds the limitation provided by section 46(a)(2) for such taxable year and if the amount of such excess has not, after the application of section 46(b), been allowed to the taxpayer as a credit under section 38 for any taxable year, then an amount equal to the amount of such excess not so allowed as a credit shall be allowed to the taxpayer as a deduction for the first taxable year following the last taxable year in which such excess could under section 46(b) have been allowed as a credit. If a taxpayer dies or ceases to exist prior to the first taxable year following the last taxable year in which the excess described in the preceding sentence could under section 46(b) have been allowed as a credit, the amount described in the preceding sentence, or the proper portion thereof, shall, under regulations prescribed by the Secretary or his delegate, be allowed to the taxpayer as a deduction for the taxable year in which such death or cessation occurs."

Ante, p. 963.

Ante, p. 962.

(d) CERTAIN CORPORATE ACQUISITIONS.—Section 381(c) (relating to items taken into account in certain corporate acquisitions) is amended by adding at the end thereof the following new paragraph:

26 USC 381.

"(23) CREDIT UNDER SECTION 38 FOR INVESTMENT IN CERTAIN DEPRECIABLE PROPERTY.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 38, and under such regulations as may be prescribed by the Secretary or his delegate) the items required to be taken into account for purposes of section 38 in respect of the distributor or transferor corporation."

(e) STATUTES OF LIMITATIONS AND INTEREST RELATING TO INVESTMENT CREDIT CARRYBACKS.—

(1) ASSESSMENT AND COLLECTION.—Section 6501 (relating to limitations on assessment and collection) is amended by redesignating subsection (j) as subsection (k), and inserting after subsection (i) the following new subsection:

26 USC 6501.

"(j) INVESTMENT CREDIT CARRYBACKS.—In the case of a deficiency attributable to the application to the taxpayer of an investment credit carryback, such deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the unused investment credit which results in such carryback may be assessed."

(2) CREDIT OR REFUND.—Subsection (d) of section 6511 (relating to limitations on credit or refund) is amended by adding after paragraph (3) thereof the following new paragraph:

26 USC 6511.

"(4) SPECIAL PERIOD OF LIMITATION WITH RESPECT TO INVESTMENT CREDIT CARRYBACKS.—

"(A) PERIOD OF LIMITATION.—If the claim for credit or refund relates to an overpayment attributable to an investment credit carryback, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends with the expiration of the 15th day of the 40th month (or 39th month, in the case of a corporation) following the end of the taxable year of the unused investment credit which results in such carryback, or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later. In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to such carryback.

"(B) APPLICABLE RULES.—If the allowance of a credit or refund of an overpayment of tax attributable to an investment credit carryback is otherwise prevented by the operation of any law or rule of law other than section 7122, relating to compromises, such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph. In the case of any such claim for credit or refund, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall not be conclusive with respect to the investment credit, and the effect of such credit, to the extent that such credit is affected by a carryback which was not in issue in such proceeding."

26 USC 7122.

(3) INTEREST ON UNDERPAYMENTS.—Section 6601(e) (relating to interest on underpayment, nonpayment, or extensions of time for payment, of tax) is amended to read as follows:

"(e) INCOME TAX REDUCED BY CARRYBACK.—

"(1) NET OPERATING LOSS CARRYBACK.—If the amount of any tax imposed by subtitle A is reduced by reason of a carryback of a net operating loss, such reduction in tax shall not affect the computation of interest under this section for the period ending with the last day of the taxable year in which the net operating loss arises.

"(2) INVESTMENT CREDIT CARRYBACK.—If the credit allowed by section 38 for any taxable year is increased by reason of an investment credit carryback, such increase shall not affect the computation of interest under this section for the period ending with the last day of the taxable year in which the investment credit carryback arises."

(4) INTEREST ON OVERPAYMENTS.—Section 6611(f) (relating to interest on overpayments) is amended to read as follows:

"(f) REFUND OF INCOME TAX CAUSED BY CARRYBACK.—

"(1) NET OPERATING LOSS CARRYBACK.—For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a carryback of a net operating loss, such overpayment shall be deemed not to have been made prior to the close of the taxable year in which such net operating loss arises.

"(2) INVESTMENT CREDIT CARRYBACK.—For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from an investment credit carryback, such overpayment shall be deemed not to have been made prior to the close of the taxable year in which such investment credit carryback arises."

(f) TECHNICAL AMENDMENT.—Section 1016(a) (relating to adjustments to basis) is amended—

(1) by striking out the period at the end of paragraph (18) and inserting in lieu thereof a semicolon; and

(2) by adding after paragraph (18) the following new paragraph:

Ante, p. 970.

"(19) to the extent provided in section 48(g) in the case of property which is or has been section 38 property (as defined in section 48(a));".

(g) CLERICAL AMENDMENTS.—

26 USC 31-38.

(1) Part IV of subchapter A of chapter 1 is amended by inserting after the heading and before the table of sections the following:

"Subpart A. Credits allowable.
"Subpart B. Rules for computing credit for investment in certain depreciable property.

"Subpart A—Credits Allowable"

(2) The table of sections for part IV of subchapter A of chapter 1 is amended by striking out

Ante, p. 962.

"Sec. 38. Overpayments of tax."

and inserting in lieu thereof

"Sec. 38. Investment in certain depreciable property.
"Sec. 39. Overpayments of tax."

(3) The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following:

Ante, p. 971.

"Sec. 181. Deduction for certain unused investment credit."

(h) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years ending after December 31, 1961.

SEC. 3. APPEARANCES, ETC., WITH RESPECT TO LEGISLATION.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

26 USC 162.

"(e) APPEARANCES, ETC., WITH RESPECT TO LEGISLATION.—

"(1) IN GENERAL.—The deduction allowed by subsection (a) shall include all the ordinary and necessary expenses (including, but not limited to, traveling expenses described in subsection (a)(2) and the cost of preparing testimony) paid or incurred during the taxable year in carrying on any trade or business—

"(A) in direct connection with appearances before, submission of statements to, or sending communications to, the committees, or individual members, of Congress or of any legislative body of a State, a possession of the United States, or a political subdivision of any of the foregoing with respect to legislation or proposed legislation of direct interest to the taxpayer, or

"(B) in direct connection with communication of information between the taxpayer and an organization of which he is a member with respect to legislation or proposed legislation of direct interest to the taxpayer and to such organization,

and that portion of the dues so paid or incurred with respect to any organization of which the taxpayer is a member which is attributable to the expenses of the activities described in subparagraphs (A) and (B) carried on by such organization.

"(2) LIMITATION.—The provisions of paragraph (1) shall not be construed as allowing the deduction of any amount paid or incurred (whether by way of contribution, gift, or otherwise)—

"(A) for participation in, or intervention in, any political campaign on behalf of any candidate for public office, or

"(B) in connection with any attempt to influence the general public, or segments thereof, with respect to legislative matters, elections, or referendums."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1962.

SEC. 4. DISALLOWANCE OF CERTAIN ENTERTAINMENT, ETC., EXPENSES.

(a) DENIAL OF DEDUCTION.—

26 USC 261-273. (1) Part IX of subchapter B of chapter 1 (relating to items not deductible in computing taxable income) is amended by adding at the end thereof the following new section:

"SEC. 274. DISALLOWANCE OF CERTAIN ENTERTAINMENT, ETC., EXPENSES.

"(a) ENTERTAINMENT, AMUSEMENT, OR RECREATION.—

"(1) IN GENERAL.—No deduction otherwise allowable under this chapter shall be allowed for any item—

"(A) ACTIVITY.—With respect to an activity which is of a type generally considered to constitute entertainment, amusement, or recreation, unless the taxpayer establishes that the item was directly related to, or, in the case of an item directly preceding or following a substantial and bona fide business discussion (including business meetings at a convention or otherwise), that such item was associated with, the active conduct of the taxpayer's trade or business, or

"(B) FACILITY.—With respect to a facility used in connection with an activity referred to in subparagraph (A), unless the taxpayer establishes that the facility was used primarily for the furtherance of the taxpayer's trade or business and that the item was directly related to the active conduct of such trade or business,

and such deduction shall in no event exceed the portion of such item directly related to, or, in the case of an item described in subparagraph (A) directly preceding or following a substantial and bona fide business discussion (including business meetings at a convention or otherwise), the portion of such item associated with, the active conduct of the taxpayer's trade or business.

"(2) SPECIAL RULES.—For purposes of applying paragraph (1)—

"(A) Dues or fees to any social, athletic, or sporting club or organization shall be treated as items with respect to facilities.

26 USC 212. "(B) An activity described in section 212 shall be treated as a trade or business.

"(b) GIFTS.—

"(1) LIMITATION.—No deduction shall be allowed under section 26 USC 162; *Ante*, p. 973. 162 or section 212 for any expense for gifts made directly or indirectly to any individual to the extent that such expense, when added to prior expenses of the taxpayer for gifts made to such individual during the same taxable year, exceeds $25. For purposes of this section, the term 'gift' means any item excludable from gross income of the recipient under section 102 which is not excludable from his gross income under any other provision of this chapter, but such term does not include—

"(A) an item having a cost to the taxpayer not in excess of $4.00 on which the name of the taxpayer is clearly and permanently imprinted and which is one of a number of identical items distributed generally by the taxpayer,

"(B) a sign, display rack, or other promotional material to be used on the business premises of the recipient, or

"(C) an item of tangible personal property having a cost to the taxpayer not in excess of $100 which is awarded to an employee by reason of length of service or for safety achievement.

"(2) SPECIAL RULES.—

"(A) In the case of a gift by a partnership, the limitation contained in paragraph (1) shall apply to the partnership as well as to each member thereof.

"(B) For purposes of paragraph (1), a husband and wife shall be treated as one taxpayer.

"(c) TRAVELING.—In the case of any individual who is traveling away from home in pursuit of a trade or business or in pursuit of an activity described in section 212, no deduction shall be allowed under section 162 or section 212 for that portion of the expenses of such travel otherwise allowable under such section which, under regulations prescribed by the Secretary or his delegate, is not allocable to such trade or business or to such activity. This subsection shall not apply to the expenses of any travel away from home which does not exceed one week or where the portion of the time away from home which is not attributable to the pursuit of the taxpayer's trade or business or an activity described in section 212 is less than 25 percent of the total time away from home on such travel.

26 USC 212.
26 USC 162; *Ante*, p. 973.

"(d) SUBSTANTIATION REQUIRED.—No deduction shall be allowed—

"(1) under section 162 or 212 for any traveling expense (including meals and lodging while away from home),

"(2) for any item with respect to an activity which is of a type generally considered to constitute entertainment, amusement, or recreation, or with respect to a facility used in connection with such an activity, or

"(3) for any expense for gifts,

unless the taxpayer substantiates by adequate records or by sufficient evidence corroborating his own statement (A) the amount of such expense or other item, (B) the time and place of the travel, entertainment, amusement, recreation, or use of the facility, or the date and description of the gift, (C) the business purpose of the expense or other item, and (D) the business relationship to the taxpayer of persons entertained, using the facility, or receiving the gift. The Secretary or his delegate may by regulations provide that some or all of the requirements of the preceding sentence shall not apply in the case of an expense which does not exceed an amount prescribed pursuant to such regulations.

"(e) SPECIFIC EXCEPTIONS TO APPLICATION OF SUBSECTION (a).—Subsection (a) shall not apply to—

"(1) BUSINESS MEALS.—Expenses for food and beverages furnished to any individual under circumstances which (taking into account the surroundings in which furnished, the taxpayer's trade, business, or income-producing activity and the relationship to such trade, business, or activity of the persons to whom the food and beverages are furnished) are of a type generally considered to be conducive to a business discussion.

"(2) FOOD AND BEVERAGES FOR EMPLOYEES.—Expenses for food and beverages (and facilities used in connection therewith) furnished on the business premises of the taxpayer primarily for his employees.

"(3) EXPENSES TREATED AS COMPENSATION.—Expenses for goods, services, and facilities, to the extent that the expenses are treated by the taxpayer, with respect to the recipient of the entertainment, amusement, or recreation, as compensation to an employee on the taxpayer's return of tax under this chapter and as wages to such employee for purposes of chapter 24 (relating to withholding of income tax at source on wages).

"(4) REIMBURSED EXPENSES.—Expenses paid or incurred by the taxpayer, in connection with the performance by him of serv-

ices for another person (whether or not such other person is his employer), under a reimbursement or other expense allowance arrangement with such other person, but this paragraph shall apply—

"(A) where the services are performed for an employer, only if the employer has not treated such expenses in the manner provided in paragraph (3), or

"(B) where the services are performed for a person other than an employer, only if the taxpayer accounts (to the extent provided by subsection (d)) to such person.

"(5) RECREATIONAL, ETC., EXPENSES FOR EMPLOYEES.—Expenses for recreational, social, or similar activities (including facilities therefor) primarily for the benefit of employees (other than employees who are officers, shareholders or other owners, or highly compensated employees). For purposes of this paragraph, an individual owning less than a 10-percent interest in the taxpayer's trade or business shall not be considered a shareholder or other owner, and for such purposes an individual shall be treated as owning any interest owned by a member of his family (within the meaning of section 267(c)(4)).

26 USC 267.

"(6) EMPLOYEE, STOCKHOLDER, ETC., BUSINESS MEETINGS.—Expenses incurred by a taxpayer which are directly related to business meetings of his employees, stockholders, agents, or directors.

"(7) MEETINGS OF BUSINESS LEAGUES, ETC.—Expenses directly related and necessary to attendance at a business meeting or convention of any organization described in section 501(c)(6) (relating to business leagues, chambers of commerce, real estate boards, and boards of trade) and exempt from taxation under section 501(a).

26 USC 501.

"(8) ITEMS AVAILABLE TO PUBLIC.—Expenses for goods, services, and facilities made available by the taxpayer to the general public.

"(9) ENTERTAINMENT SOLD TO CUSTOMERS.—Expenses for goods or services (including the use of facilities) which are sold by the taxpayer in a bona fide transaction for an adequate and full consideration in money or money's worth.

For purposes of this subsection, any item referred to in subsection (a) shall be treated as an expense.

"(f) INTEREST, TAXES, CASUALTY LOSSES, ETC.—This section shall not apply to any deduction allowable to the taxpayer without regard to its connection with his trade or business (or with his income-producing activity). In the case of a taxpayer which is not an individual, the preceding sentence shall be applied as if it were an individual.

"(g) TREATMENT OF ENTERTAINMENT, ETC., TYPE FACILITY.—For purposes of this chapter, if deductions are disallowed under subsection (a) with respect to any portion of a facility, such portion shall be treated as an asset which is used for personal, living, and family purposes (and not as an asset used in the trade or business).

"(h) REGULATORY AUTHORITY.—The Secretary or his delegate shall prescribe such regulations as he may deem necessary to carry out the purposes of this section, including regulations prescribing whether subsection (a) or subsection (b) applies in cases where both such subsections would otherwise apply."

(2) The table of sections for such part IX is amended by adding at the end thereof the following:

Ante, p. 974.

"Sec. 274. Disallowance of certain entertainment, etc., expenses."

(b) TRAVELING EXPENSES.—Section 162(a)(2) (relating to traveling expenses) is amended by striking out "(including the entire

26 USC 162.

amount expended for meals and lodging)" and inserting in lieu thereof "(including amounts expended for meals and lodging other than amounts which are lavish or extravagant under the circumstances)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years ending after December 31, 1962, but only in respect of periods after such date.

SEC. 5. AMOUNT OF DISTRIBUTION WHERE CERTAIN FOREIGN CORPORATIONS DISTRIBUTE PROPERTY IN KIND.

(a) AMOUNT DISTRIBUTED.—Section 301(b)(1) (relating to amount distributed to corporate distributees) is amended by adding at the end thereof the following new subparagraph: 26 USC 301; Post, p. 1035.

"(C) CERTAIN CORPORATE DISTRIBUTEES OF FOREIGN CORPORATION.—Notwithstanding subparagraph (B), if the shareholder is a corporation and the distributing corporation is a foreign corporation, the amount taken into account with respect to property (other than money) shall be the fair market value of such property; except that if any deduction is allowable under section 245 with respect to such distribution, then the amount taken into account shall be the sum (determined under regulations prescribed by the Secretary or his delegate) of— 26 USC 245.

"(i) the proportion of the adjusted basis of such property (or, if lower, its fair market value) properly attributable to gross income from sources within the United States, and

"(ii) the proportion of the fair market value of such property properly attributable to gross income from sources without the United States."

(b) BASIS.—Section 301(d) (relating to basis of property) is amended by adding at the end thereof the following new paragraph: 26 USC 301; Post, p. 1035.

"(3) CERTAIN CORPORATE DISTRIBUTEES OF FOREIGN CORPORATION.—In the case of property described in subparagraph (C) of subsection (b)(1), the basis shall be determined by substituting the amount determined under such subparagraph (C) for the amount described in paragraph (2) of this subsection."

(c) DIVIDENDS RECEIVED FROM CERTAIN FOREIGN CORPORATIONS.—(1) Section 245 (relating to dividends received from certain foreign corporations) is amended by adding at the end thereof the following new subsection:

"(b) PROPERTY DISTRIBUTIONS.—For purposes of subsection (a), the amount of any distribution of property other than money shall be the amount determined by applying section 301(b)(1)(B)."

(2) Section 245 is amended by striking out "In the case of" and inserting in lieu thereof "(a) GENERAL RULE.—In the case of".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after December 31, 1962.

SEC. 6. MUTUAL SAVINGS BANKS, ETC.

(a) RESERVES FOR LOSSES ON LOANS.—Section 593 is amended to read as follows:

"SEC. 593. RESERVES FOR LOSSES ON LOANS.

"(a) ORGANIZATIONS TO WHICH SECTION APPLIES.—This section shall apply to any mutual savings bank not having capital stock represented by shares, domestic building and loan association, or cooperative bank without capital stock organized and operated for mutual purposes and without profit.

"(b) ADDITION TO RESERVES FOR BAD DEBTS.—

26 USC 166.

"(1) IN GENERAL.—For purposes of section 166(c), the reasonable addition for the taxable year to the reserve for bad debts of any taxpayer described in subsection (a) shall be an amount equal to the sum of—

"(A) the amount determined under section 166(c) to be a reasonable addition to the reserve for losses on nonqualifying loans, plus

"(B) the amount determined by the taxpayer to be a reasonable addition to the reserve for losses on qualifying real property loans, but such amount shall not exceed the amount determined under paragraph (2), (3), or (4), whichever amount is the largest, but the amount determined under this subparagraph shall in no case be greater than the larger of—

"(i) the amount determined under paragraph (4), or

"(ii) the amount which, when added to the amount determined under subparagraph (A), equals the amount by which 12 percent of the total deposits or withdrawable accounts of depositors of the taxpayer at the close of such year exceeds the sum of its surplus, undivided profits, and reserves at the beginning of such year (taking into account any portion thereof attributable to the period before the first taxable year beginning after December 31, 1951).

"(2) PERCENTAGE OF TAXABLE INCOME METHOD.—The amount determined under this paragraph for the taxable year shall be the excess of—

"(A) an amount equal to 60 percent of the taxable income for such year, over

"(B) the amount referred to in paragraph (1)(A) for such year,

but the amount determined under this paragraph shall not exceed the amount necessary to increase the balance (as of the close of the taxable year) of the reserve for losses on qualifying real property loans to 6 percent of such loans outstanding at such time. For purposes of this paragraph, taxable income shall be computed (i) by excluding from gross income any amount included therein by reason of subsection (f), and (ii) without regard to any deduction allowable for any addition to the reserve for bad debts.

"(3) PERCENTAGE OF REAL PROPERTY LOANS METHOD.—The amount determined under this paragraph for the taxable year shall be an amount equal to the amount necessary to increase the balance (as of the close of the taxable year) of the reserve for losses on qualifying real property loans to an amount equal to—

"(A) 3 percent of such loans outstanding at such time, plus

"(B) in the case of a taxpayer which is a new company and which does not have capital stock with respect to which distributions of property (as defined in section 317(a)) are not allowable as a deduction under section 591, an amount equal to—

26 USC 317.
26 USC 591; *Post*, p. 984.

"(i) 2 percent of so much of the amount of such loans outstanding at such time as does not exceed $4,000,000, reduced (but not below zero) by

"(ii) the amount, if any, of the balance (as of the close of such taxable year) of the taxpayer's supplemental reserve for losses on loans.

For purposes of subparagraph (B), a taxpayer is a new company for any taxable year only if such taxable year begins not more than 10 years after the first day on which it (or any predecessor) was authorized to do business as an organization described in subsection (a).

"(4) EXPERIENCE METHOD.—The amount determined under this paragraph for the taxable year shall be an amount equal to the amount determined under section 166(c) (without regard to this subsection) to be a reasonable addition to the reserve for losses on qualifying real property loans. 26 USC 166.

"(5) LIMITATION IN CASE OF CERTAIN DOMESTIC BUILDING AND LOAN ASSOCIATIONS.—If the percentage of the assets of a domestic building and loan association which are not assets described in section 7701(a)(19)(D)(ii) exceeds 36 percent for the taxable year (as determined for purposes of section 7701(a)(19) for such year), the amount determined under paragraph (2), and the amount determined under paragraph (3), shall in each case be the amount (determined without regard to this paragraph but with regard to the limits contained in paragraphs (2), (3), and (1)(B)) reduced by the amount determined under the following table: Post, p. 983. Post, p. 982.

If the percentage exceeds—	but does not exceed—	the reduction shall be the following proportion of the amount so determined without regard to this paragraph—
36 percent	37 percent	1/12
37 percent	38 percent	1/6
38 percent	39 percent	1/4
39 percent	40 percent	1/3
40 percent	41 percent	5/12

"(c) TREATMENT OF RESERVES FOR BAD DEBTS.—

"(1) ESTABLISHMENT OF RESERVES.—Each taxpayer described in subsection (a) which uses the reserve method of accounting for bad debts shall establish and maintain a reserve for losses on qualifying real property loans, a reserve for losses on nonqualifying loans, and a supplemental reserve for losses on loans. For purposes of this title, such reserves shall be treated as reserves for bad debts, but no deduction shall be allowed for any addition to the supplemental reserve for losses on loans.

"(2) ALLOCATION OF PRE-1963 RESERVES.—For purposes of this section, the pre-1963 reserves shall, as of the close of December 31, 1962, be allocated to, and constitute the opening balance of—

"(A) the reserve for losses on nonqualifying loans,

"(B) the reserve for losses on qualifying real property loans, and

"(C) the supplemental reserve for losses on loans.

"(3) METHOD OF ALLOCATION.—The allocation provided by paragraph (2) shall be made—

"(A) first, to the reserve described in paragraph (2)(A), to the extent such reserve is not increased above the amount which would be a reasonable addition under section 166(c) for a period in which the nonqualifying loans increased from zero to the amount thereof outstanding at the close of December 31, 1962;

"(B) second, to the reserve described in paragraph (2)(B), to the extent such reserve is not increased above the amount which would be determined under paragraph (3)(A) or (4) of subsection (b) (whichever such amount is the larger) for a period in which the qualifying real property loans increased

from zero to the amount thereof outstanding at the close of December 31, 1962; and

"(C) then to the supplemental reserve for losses on loans.

"(4) PRE-1963 RESERVES DEFINED.—For purposes of this subsection, the term 'pre-1963 reserves' means the net amount, determined as of the close of December 31, 1962 (after applying subsection (d)(1)), accumulated in the reserve for bad debts pursuant to section 166(c) (or the corresponding provisions of prior revenue laws) for taxable years beginning after December 31, 1951.

26 USC 166.

"(5) CERTAIN PRE-1952 SURPLUS.—If after the application of paragraph (3), the opening balance of the reserve described in paragraph (2)(B) is less than the amount described in paragraph (3)(B), then, for purposes of this subsection, the term 'pre-1963 reserves' includes so much of the surplus, undivided profits, and bad debt reserves (determined as of December 31, 1962) attributable to the period before the first taxable year beginning after December 31, 1951, as does not exceed the amount by which such opening balance is less than the amount described in paragraph (3)(B). For purposes of the preceding sentence, the surplus, undivided profits, and bad debt reserves attributable to the period before the first taxable year beginning after December 31, 1951, shall be reduced by the amount thereof which is attributable to interest which would have been excludable from gross income under section 22(b)(4) of the Internal Revenue Code of 1939 (relating to interest on governmental obligations) or the corresponding provisions of prior laws. Notwithstanding the second sentence of paragraph (1), any amount which, by reason of the application of the first sentence of this paragraph, is allocated to the reserve described in paragraph (2)(B) shall not be treated as a reserve for bad debts for any purpose other than determining the amount referred to in subsection (b)(1)(B), and for such purpose such amount shall be treated as remaining in such reserve.

53 Stat. 10.

"(6) CHARGING OF BAD DEBTS TO RESERVES.—Any debt becoming worthless or partially worthless in respect of a qualifying real property loan shall be charged to the reserve for losses on such loans, and any debt becoming worthless or partially worthless in respect of a nonqualifying loan shall be charged to the reserve for losses on nonqualifying loans; except that any such debt may, at the election of the taxpayer, be charged in whole or in part to the supplemental reserve for losses on loans.

"(d) TAXABLE YEARS BEGINNING IN 1962 AND ENDING IN 1963.—In the case of a taxable year beginning before January 1, 1963, and ending after December 31, 1962, of a taxpayer described in subsection (a) which uses the reserve method of accounting for bad debts, the taxable income shall be the sum of—

"(1) that portion of the taxable income allocable to the part of the taxable year occurring before January 1, 1963, reduced by the amount of the deduction for an addition to a reserve for bad debts which would be allowable under section 166(c) (without regard to the amendments made by section 6 of the Revenue Act of 1962) if such part year constituted a taxable year, plus

"(2) that portion of the taxable income allocable to the part of the taxable year occurring after December 31, 1962, reduced by the amount of the deduction for an addition to a reserve for bad debts which would be allowed under section 166(c) (taking into account the amendments made by section 6 of the Revenue Act of 1962) if such part year constituted a taxable year.

For purposes of the preceding sentence, the taxable income shall be determined without regard to any deduction under section 166(c), and the portion thereof allocable to each part year shall be determined on the basis of the ratio which the number of days in such part year bears to the number of days in the entire taxable year. 26 USC 166.

"(e) LOANS DEFINED.—For purposes of this section—

"(1) QUALIFYING REAL PROPERTY LOANS.—The term 'qualifying real property loan' means any loan secured by an interest in improved real property or secured by an interest in real property which is to be improved out of the proceeds of the loan, but such term does not include—

"(A) any loan evidenced by a security (as defined in section 165(g)(2)(C)); 26 USC 165.

"(B) any loan, whether or not evidenced by a security (as defined in section 165(g)(2)(C)), the primary obligor on which is—

"(i) a government or political subdivision or instrumentality thereof;

"(ii) a bank (as defined in section 581); or

"(iii) another member of the same affiliated group;

"(C) any loan, to the extent secured by a deposit in or share of the taxpayer; or

"(D) any loan which, within a 60-day period beginning in one taxable year of the creditor and ending in its next taxable year, is made or acquired and then repaid or disposed of, unless the transactions by which such loan was made or acquired and then repaid or disposed of are established to be for bona fide business purposes.

For purposes of subparagraph (B)(iii), the term 'affiliated group' has the meaning assigned to such term by section 1504(a); except that (i) the phrase 'more than 50 percent' shall be substituted for the phrase 'at least 80 percent' each place it appears in section 1504(a), and (ii) all corporations shall be treated as includible corporations (without any exclusion under section 1504(b)). 26 USC 1504.

"(2) NONQUALIFYING LOANS.—The term 'nonqualifying loan' means any loan which is not a qualifying real property loan.

"(3) LOAN.—The term 'loan' means debt, as the term 'debt' is used in section 166.

"(f) DISTRIBUTIONS TO SHAREHOLDERS.—

"(1) IN GENERAL.—For purposes of this chapter, any distribution of property (as defined in section 317(a)) by a domestic building and loan association to a shareholder with respect to its stock, if such distribution is not allowable as a deduction under section 591, shall be treated as made— 26 USC 317.

"(A) first out of its earnings and profits accumulated in taxable years beginning after December 31, 1951, to the extent thereof,

"(B) then out of the reserve for losses on qualifying real property loans, to the extent additions to such reserve exceed the additions which would have been allowed under subsection (b)(4),

"(C) then out of the supplemental reserve for losses on loans, to the extent thereof,

"(D) then out of such other accounts as may be proper.

This paragraph shall apply in the case of any distribution in redemption of stock or in partial or complete liquidation of the association, except that any such distribution shall be treated as made first out of the amount referred to in subparagraph (B), second out of the amount referred to in subparagraph (C), third

out of the amount referred to in subparagraph (A), and then out of such other accounts as may be proper.

"(2) AMOUNTS CHARGED TO RESERVE ACCOUNTS AND INCLUDED IN GROSS INCOME.—If any distribution is treated under paragraph (1) as having been made out of the reserves described in subparagraphs (B) and (C) of such paragraph, the amount charged against such reserve shall be the amount which, when reduced by the amount of tax imposed under this chapter and attributable to the inclusion of such amount in gross income, is equal to the amount of such distribution; and the amount so charged against such reserve shall be included in gross income of the taxpayer.

"(3) SPECIAL RULES.—

"(A) For purposes of paragraph (1)(B), additions to the reserve for losses on qualifying real property loans for the taxable year in which the distribution occurs shall be taken into account.

"(B) For purposes of computing under this section the amount of a reasonable addition to the reserve for losses on qualifying real property loans for any taxable year, any amount charged during any year to such reserve pursuant to the provisions of paragraph (2) shall not be taken into account."

(b) FORECLOSURE ON PROPERTY SECURING LOANS.—Part II of subchapter H of chapter 1 (relating to mutual savings banks, etc.) is amended by adding at the end thereof the following new section:

26 USC 591-594.

"SEC. 595. FORECLOSURE ON PROPERTY SECURING LOANS.

"(a) NONRECOGNITION OF GAIN OR LOSS AS A RESULT OF FORECLOSURE.—In the case of a creditor which is an organization described in section 593(a), no gain or loss shall be recognized, and no debt shall be considered as becoming worthless or partially worthless, as the result of such organization having bid in at foreclosure, or having otherwise reduced to ownership or possession by agreement or process of law, any property which was security for the payment of any indebtedness.

Ante, p. 977.

"(b) CHARACTER OF PROPERTY.—For purposes of sections 166 and 1221, any property acquired in a transaction with respect to which gain or loss to an organization was not recognized by reason of subsection (a) shall be considered as property having the same characteristics as the indebtedness for which such property was security. Any amount realized by such organization with respect to such property shall be treated for purposes of this chapter as a payment on account of such indebtedness, and any loss with respect thereto shall be treated as a bad debt to which the provisions of section 166 (relating to allowance of a deduction for bad debts) apply.

26 USC 166, 221.

"(c) BASIS.—The basis of any property to which subsection (a) applies shall be the basis of the indebtedness for which such property was security (determined as of the date of the acquisition of such property), properly increased for costs of acquisition.

"(d) REGULATORY AUTHORITY.—The Secretary or his delegate shall prescribe such regulations as he may deem necessary to carry out the purposes of this section."

(c) DEFINITION OF DOMESTIC BUILDING AND LOAN ASSOCIATION.—Paragraph (19) of section 7701(a) (definition of domestic building and loan association) is amended to read as follows:

"(19) DOMESTIC BUILDING AND LOAN ASSOCIATION.—The term 'domestic building and loan association' means a domestic building and loan association, a domestic savings and loan association, and a Federal savings and loan association—

"(A) which either (i) is an insured institution within the meaning of section 401(a) of the National Housing Act (12 U.S.C., sec. 1724(a)), or (ii) is subject by law to supervision and examination by State or Federal authority having supervision over such associations; 48 Stat. 1255.

"(B) substantially all of the business of which consists of acquiring the savings of the public and investing in loans described in subparagraph (C);

"(C) at least 90 percent of the amount of the total assets of which (as of the close of the taxable year) consists of (i) cash, (ii) obligations of the United States or of a State or political subdivision thereof, stock or obligations of a corporation which is an instrumentality of the United States or of a State or political subdivision thereof, and certificates of deposit in, or obligations of, a corporation organized under a State law which specifically authorizes such corporation to insure the deposits or share accounts of member associations, (iii) loans secured by an interest in real property and loans made for the improvement of real property, (iv) loans secured by a deposit or share of a member, (v) property acquired through the liquidation of defaulted loans described in clause (iii), and (vi) property used by the association in the conduct of the business described in subparagraph (B);

"(D) of the assets of which taken into account under subparagraph (C) as assets constituting the 90 percent of total assets—

"(i) at least 80 percent of the amount of such assets consists of assets described in clauses (i), (ii), (iv), and (vi) of such subparagraph and of loans secured by an interest in real property which is (or, from the proceeds of the loan, will become) residential real property or real property used primarily for church purposes, loans made for the improvement of residential real property or real property used primarily for church purposes, or property acquired through the liquidation of defaulted loans described in this clause; and

"(ii) at least 60 percent of the amount of such assets consists of assets described in clauses (i), (ii), (iv), and (vi) of such subparagraph and of loans secured by an interest in real property which is (or, from the proceeds of the loan, will become) residential real property containing 4 or fewer family units or real property used primarily for church purposes, loans made for the improvement of residential real property containing 4 or fewer family units or real property used primarily for church purposes, or property acquired through the liquidation of defaulted loans described in this clause;

"(E) not more than 18 percent of the amount of the total assets of which (as of the close of the taxable year) consists of assets other than those described in clause (i) of subparagraph (D), and not more than 36 percent of the amount of the total assets of which (as of the close of the taxable year) consists of assets other than those described in clause (ii) of subparagraph (D); and

"(F) except for property described in subparagraph (C), not more than 3 percent of the assets of which consists of stock of any corporation.

The term 'domestic building and loan association' also includes any association which, for the taxable year, would satisfy the requirements of the first sentence of this paragraph if '41 percent' were substituted for '36 percent' in subparagraph (E). Except in the case of the taxpayer's first taxable year beginning after the date of the enactment of the Revenue Act of 1962, the second sentence of this paragraph shall not apply to an association for the taxable year unless such association (i) was a domestic building and loan association within the meaning of the first sentence of this paragraph for the first taxable year preceding the taxable year, or (ii) was a domestic building and loan association solely by reason of the second sentence of this paragraph for the first taxable year preceding the taxable year (but not for the second preceding taxable year). At the election of the taxpayer, the percentages specified in this paragraph shall be applied on the basis of the average assets outstanding during the taxable year, in lieu of the close of the taxable year, computed under regulations prescribed by the Secretary or his delegate."

(d) CLERICAL AMENDMENTS.—The table of sections for part II of subchapter H of chapter 1 is amended— 26 USC 591-594.

(1) by striking out the third item and inserting in lieu thereof the following:

"Sec. 593. Reserves for losses on loans."

and

(2) by adding at the end thereof the following:

"Sec. 595. Foreclosure on property securing loans."

(e) REPEAL OF EXEMPTION FROM CERTAIN TAXES.—

(1) AMENDMENT TO HOME OWNERS' LOAN ACT OF 1933.—Section 5(h) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. sec. 1464(h)), is amended to read as follows: 48 Stat. 133; 65 Stat. 490.

"(h) No State, county, municipal, or local taxing authority shall impose any tax on such associations or their franchise, capital, reserves, surplus, loans, or income greater than that imposed by such authority on other similar local mutual or cooperative thrift and home financing institutions."

(2) CERTAIN DOCUMENTARY STAMP TAXES.—Section 4382(a)(2) (relating to exemptions from documentary stamp taxes) is amended to read as follows: 26 USC 4382.

"(2) DOMESTIC BUILDING AND LOAN ASSOCIATIONS AND MUTUAL DITCH OR IRRIGATION COMPANIES.—Shares or certificates of stock issued by domestic building and loan associations and cooperative banks, to the extent such shares or certificates represent deposits or withdrawable accounts; or shares or certificates of stock and certificates of indebtedness issued by mutual ditch or irrigation companies."

(f) DEDUCTION FOR DIVIDENDS OR INTEREST PAID ON DEPOSITS.—Section 591 (relating to deduction for dividends paid on deposits) is amended—

(1) by striking out "and domestic building and loan associations" and inserting in lieu thereof the following: "domestic building and loan associations, and other savings institutions chartered and supervised as savings and loan or similar associations under Federal or State law"; and

(2) by inserting after "dividends" the following: "or interest".

(g) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to taxable years ending after December 31, 1962, except that section 593(f) of the Internal Revenue Code of 1954 shall apply to dis- *Ante*, p. 981.

tributions after December 31, 1962, in taxable years ending after such date.

(2) The amendment made by subsection (b) shall apply to transactions described in section 595(a) of the Internal Revenue Code of 1954 occurring after December 31, 1962, in taxable years ending after such date. *Ante*, p. 982.

(3) The amendment made by subsection (c) shall apply to taxable years beginning after the date of the enactment of this Act.

(4) Subsection (e) of this section shall become effective on January 1, 1963, except that—.

(A) in the case of the tax imposed by section 4251 of the Internal Revenue Code of 1954, such subsection shall apply only with respect to amounts paid pursuant to bills rendered after December 31, 1962; and 26 USC 4251.

(B) in the case of the tax imposed by section 4261 of such Code, such subsection shall apply only with respect to transportation beginning after December 31, 1962.

SEC. 7. DISTRIBUTIONS BY FOREIGN TRUSTS.

(a) DEFINITIONS.—

(1) INCOME OF FOREIGN TRUST.—Section 643(a)(6) (relating to modifications taken into account in computing distributable net income) is amended to read as follows:

"(6) INCOME OF FOREIGN TRUST.—In the case of a foreign trust—

"(A) There shall be included the amounts of gross income from sources without the United States, reduced by any amounts which would be deductible in respect of disbursements allocable to such income but for the provisions of section 265(1) (relating to disallowance of certain deductions).

"(B) Gross income from sources within the United States shall be determined without regard to section 894 (relating to income exempt under treaty).

"(C) Paragraph (3) shall not apply to a foreign trust created by a United States person. In the case of such a trust, (i) there shall be included gains from the sale or exchange of capital assets, reduced by losses from such sales or exchanges to the extent such losses do not exceed gains from such sales or exchanges, and (ii) the deduction under section 1202 (relating to deduction for excess of capital gains over capital losses) shall not be taken into account."

(2) FOREIGN TRUSTS.—Section 643 (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(d) FOREIGN TRUSTS CREATED BY UNITED STATES PERSONS.—For purposes of this part, the term 'foreign trust created by a United States person' means that portion of a foreign trust (as defined in section 7701(a)(31)) attributable to money or property transferred directly or indirectly by a United States person (as defined in section 7701(a)(30)), or under the will of a decedent who at the date of his death was a United States citizen or resident." *Post*, p. 988. *Post*, p. 988.

(b) ACCUMULATION DISTRIBUTIONS OF FOREIGN TRUSTS.—

(1) Section 665(b) (relating to definitions applicable to subpart D) is amended by striking out "(b) ACCUMULATION DISTRIBUTION.—For purposes of this subpart," and inserting in lieu thereof the following:

"(b) ACCUMULATION DISTRIBUTIONS OF TRUSTS OTHER THAN CERTAIN FOREIGN TRUSTS.—For purposes of this subpart, in the case of

a trust (other than a foreign trust created by a United States person),".

26 USC 665.

(2) Section 665 is amended by redesignating subsections (c) and (d) as (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) ACCUMULATION DISTRIBUTION OF CERTAIN FOREIGN TRUSTS.—For purposes of this subpart, in the case of a foreign trust created by a United States person, the term 'accumulation distribution' for any taxable year of the trust means the amount by which the amounts specified in paragraph (2) of section 661(a) for such taxable year exceed distributable net income, reduced by the amounts specified in paragraph (1) of section 661(a). For purposes of this subsection, the amount specified in paragraph (2) of section 661(a) shall be determined without regard to section 666. Any amount paid to a United States person which is from a payor who is not a United States person and which is derived directly or indirectly from a foreign trust created by a United States person shall be deemed in the year of payment to have been directly paid by the foreign trust."

(c) ALLOCATION OF ACCUMULATION DISTRIBUTIONS TO PRECEDING YEARS.—Section 666(a) (relating to accumulation distribution allocated to 5 preceding years) is amended—

26 USC 666.

(1) by striking out "(a) AMOUNT ALLOCATED.—In the case of a trust" and inserting in lieu thereof the following:

"(a) AMOUNT ALLOCATED.—In the case of a trust (other than a foreign trust created by a United States person)"; and

(2) by adding at the end thereof the following new sentence: "In the case of a foreign trust created by a United States person, this subsection shall apply to the preceding taxable years of the trust without regard to any provision of the preceding sentences which would (but for this sentence) limit its application to the 5 preceding taxable years."

(d) AMOUNTS TREATED AS RECEIVED IN PRIOR YEARS.—Section 668(a) (relating to amounts treated as received in prior taxable years) is amended by adding at the end thereof the following new sentence: "Except as provided in section 669, in the case of a foreign trust created by a United States person the preceding sentence shall not apply to any beneficiary who is a United States person."

(e) SPECIAL RULES FOR FOREIGN TRUSTS.—Subpart D of part I of subchapter J of chapter 1 (relating to treatment of excess distributions by trusts) is amended by adding at the end thereof the following new section:

26 USC 665-668.

"SEC. 669. SPECIAL RULES APPLICABLE TO CERTAIN FOREIGN TRUSTS.

"(a) LIMITATION ON TAX.—

"(1) GENERAL RULE.—At the election of a beneficiary who is a United States person (as defined in section 7701(a)(30)) and who satisfies the requirements of subsection (b), the tax attributable to the amounts treated under section 668(a) as having been received by him from a foreign trust created by a United States person on the last day of a preceding taxable year of the trust shall not be greater than—

Post, p. 988.

"(A) the tax determined under the next to the last sentence of section 668(a), or

"(B) the tax determined by multiplying by the number of preceding taxable years of the trust, on the last day of each of which an amount is deemed under section 666(a) to have been distributed, the average of the increase in tax attributable to recomputing the beneficiary's gross income for the taxable year and each of his 2 taxable years immediately preceding

Supra.

the year of the accumulation distribution by adding to the income of each of such years an amount determined by dividing the amount required to be included in income under section 668(a) by such number of preceding taxable years of the trust. The recomputation for the taxable year shall be made without regard to the inclusion in income required by section 668(a) of any amount other than pursuant to this paragraph.

26 USC 668; *Ante*, p. 986.

"(2) EXCEPTIONS.—

"(A) When an accumulation distribution is deemed under section 666(a) to have been distributed on the last day of less than 3 taxable years of the trust, the taxable years of the beneficiary for which a recomputation is made under subsection (a)(1)(B) shall equal the number of years to which section 666(a) applies, commencing with the most recent taxable year of the beneficiary.

26 USC 666; *Ante*, p. 986.

"(B) If a beneficiary was not alive on the last day of each preceding taxable year of the trust with respect to which a distribution is deemed made under section 666(a), paragraph (1)(A) of this subsection shall not apply. In applying paragraph (1)(B) of this subsection, no recomputation shall be made for a beneficiary for a taxable year for which he was not alive; if he has no preceding taxable year, the recomputation shall be made on the basis of his taxable year without regard to the inclusion in income required by section 668(a) of any amount other than pursuant to paragraph (1)(B).

"(3) EFFECT OF PRIOR ELECTION.—In computing the limitation on tax under paragraph (1) of this subsection for any beneficiary—

"(A) SUBSEQUENT ELECTION UNDER PARAGRAPH (1)(A).—If an election has been made under paragraph (1)(B) of this subsection, for purposes of a subsequent election under paragraph (1)(A) the income of any year with respect to which an amount is deemed distributed to a beneficiary under section 666(a) shall include amounts previously deemed distributed to such beneficiary for such year as a result of an accumulation distribution with respect to which an election under paragraph (1)(B) was made.

"(B) SUBSEQUENT ELECTION UNDER PARAGRAPH (1)(B).—If with respect to an accumulation distribution an election has been made under either paragraph (1)(A) or paragraph (1)(B) of this subsection, or the next to the last sentence of section 668(a) has applied, for purposes of a subsequent election under paragraph (1)(B) the number of preceding taxable years of the trust with respect to which an amount is deemed distributed to a beneficiary under section 666(a) shall be determined without regard to any such year with respect to which an amount was previously deemed distributed to such beneficiary.

"(b) INFORMATION REQUIREMENT.—The election of a beneficiary to apply the limitations on tax provided in subsection (a) of this section shall not be effective unless the beneficiary at the time of making the election supplies such information with respect to the operation and accounts of the trust, for each taxable year on the last day of which an amount is deemed distributed under section 666(a), as the Secretary or his delegate may by regulations prescribe."

(f) INFORMATION RETURNS WITH RESPECT TO FOREIGN TRUSTS.—Subpart B of part III of subchapter A of chapter 61 (relating to infor-

mation concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6048. RETURNS AS TO CREATION OF OR TRANSFERS TO CERTAIN FOREIGN TRUSTS.

"(a) GENERAL RULE.—On or before the 90th day after—

"(1) the creation of any foreign trust by a United States person, or

"(2) the transfer of any money or property to a foreign trust by a United States person,

the grantor in the case of an inter vivos trust, the fiduciary of an estate in the case of a testamentary trust, or the transferor, as the case may be, shall make a return in compliance with the provisions of subsection (b).

"(b) FORM AND CONTENTS OF RETURNS.—The returns required by subsection (a) shall be in such form and shall set forth, in respect of the foreign trust, such information as the Secretary or his delegate prescribes by regulation as necessary for carrying out the provisions of the income tax laws.

"(c) CROSS REFERENCES.—

"(1) For provisions relating to penalties for violations of this section, see sections 6677 and 7203.

Infra; 26 USC 7203.

"(2) For definition of the term 'foreign trust created by a United States person', see section 643(d)."

Ante, p. 985.

(g) FAILURE TO FILE INFORMATION RETURNS.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

26 USC 6651-6659.

"SEC. 6677. FAILURE TO FILE INFORMATION RETURNS WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, any person required to file a return under section 6048 who fails to file such return at the time provided in such section, or who files a return which does not show the information required pursuant to such section, shall pay a penalty equal to 5 percent of the amount transferred to a trust, but not more than $1,000, unless it is shown that such failure is due to reasonable cause.

"(b) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, and gift taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a)."

26 USC 6211-6216.

26 USC 7701.

(h) UNITED STATES PERSON DEFINED.—Section 7701(a) is amended by adding at the end thereof the following new paragraphs:

"(30) UNITED STATES PERSON.—The term 'United States person' means—

"(A) a citizen or resident of the United States,

"(B) a domestic partnership,

"(C) a domestic corporation, and

"(D) any estate or trust (other than a foreign estate or foreign trust, within the meaning of section 7701(a)(31)).

"(31) FOREIGN ESTATE OR TRUST.—The terms 'foreign estate' and 'foreign trust' mean an estate or trust, as the case may be, the income of which from sources without the United States is not includible in gross income under subtitle A."

(i) TECHNICAL AMENDMENTS.—

(1) The table of sections for subpart D of subchapter J of chapter 1 (relating to treatment of excess distributions by trusts) is amended by adding at the end thereof

"Sec. 669. Special rules applicable to certain foreign trusts."

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof

"Sec. 6048. Returns as to creation of or transfers to certain foreign trusts."

(3) The table of sections for subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof

"Sec. 6677. Failure to file information returns with respect to certain foreign trusts."

(j) EFFECTIVE DATE.—The amendments made by this section (other than by subsections (f), (g), and (h)) shall apply with respect to distributions made after December 31, 1962.

SEC. 8. MUTUAL INSURANCE COMPANIES (OTHER THAN LIFE, MARINE, AND CERTAIN FIRE OR FLOOD INSURANCE COMPANIES), ETC.

(a) IMPOSITION OF TAX.—So much of part II of subchapter L (relating to mutual insurance companies, other than life or marine or fire insurance companies issuing perpetual policies) of chapter 1 as precedes section 822 is amended to read as follows: 26 USC 821-826; *Ante*, p. 114.

"PART II—MUTUAL INSURANCE COMPANIES (OTHER THAN LIFE AND CERTAIN MARINE INSURANCE COMPANIES AND OTHER THAN FIRE OR FLOOD INSURANCE COMPANIES WHICH OPERATE ON BASIS OF PERPETUAL POLICIES OR PREMIUM DEPOSITS)

"Sec. 821. Tax on mutual insurance companies to which part II applies.
"Sec. 822. Determination of taxable investment income.
"Sec. 823. Determination of statutory underwriting income or loss.
"Sec. 824. Adjustments to provide protection against losses.
"Sec. 825. Unused loss deduction.
"Sec. 826. Election by reciprocal.

"SEC. 821. TAX ON MUTUAL INSURANCE COMPANIES TO WHICH PART II APPLIES.

"(a) IMPOSITION OF TAX.—A tax is hereby imposed for each taxable year beginning after December 31, 1962, on the mutual insurance company taxable income of every mutual insurance company (other than a life insurance company and other than a fire, flood, or marine insurance company subject to the tax imposed by section 831). Such tax shall consist of— *Post*, pp. 997, 998.

"(1) NORMAL TAX.—

"(A) TAXABLE YEARS BEGINNING BEFORE JULY 1, 1963.—In the case of taxable years beginning before July 1, 1963, a normal tax of 30 percent of the mutual insurance company taxable income, or 60 percent of the amount by which such taxable income exceeds $6,000, whichever is the lesser;

"(B) TAXABLE YEARS BEGINNING AFTER JUNE 30, 1963.—In the case of taxable years beginning after June 30, 1963, a normal tax of 25 percent of the mutual insurance company taxable income, or 50 percent of the amount by which such taxable income exceeds $6,000, whichever is the lesser; plus

"(2) SURTAX.—A surtax of 22 percent of the mutual insurance company taxable income (computed without regard to the deduction provided in section 242 for partially tax-exempt interest) in excess of $25,000. 26 USC 242.

"(b) MUTUAL INSURANCE COMPANY TAXABLE INCOME DEFINED.—For purposes of this part, the term 'mutual insurance company tax-

able income' means, with respect to any taxable year, the amount by which—

"(1) the sum of—

"(A) the taxable investment income (as defined in section 822(a)(1)),

Post, p. 992.

"(B) the statutory underwriting income (as defined in section 823(a)(1)), and

Post, p. 992.

Post, p. 994.

"(C) the amounts required by section 824(d) to be subtracted from the protection against loss account, exceeds

"(2) the sum of—

"(A) the investment loss (as defined in section 822(a)(2)),

"(B) the statutory underwriting loss (as defined in section 823(a)(2)), and

Post, p. 995.

"(C) the unused loss deduction provided by section 825(a).

"(c) ALTERNATIVE TAX FOR CERTAIN SMALL COMPANIES.—

"(1) IMPOSITION OF TAX.—In the case of taxable years beginning after December 31, 1962, there is hereby imposed for each taxable year on the income of each mutual insurance company to which this subsection applies a tax (which shall be in lieu of the tax imposed by subsection (a)) computed as follows:

"(A) NORMAL TAX.—

"(i) TAXABLE YEARS BEGINNING BEFORE JULY 1, 1963.—In the case of taxable years beginning before July 1, 1963, a normal tax of 30 percent of the taxable investment income, or 60 percent of the amount by which such taxable income exceeds $3,000, whichever is the lesser;

"(ii) TAXABLE YEARS BEGINNING AFTER JUNE 30, 1963.—In the case of taxable years beginning after June 30, 1963, a normal tax of 25 percent of the taxable investment income, or 50 percent of the amount by which such taxable income exceeds $3,000, whichever is the lesser; plus

"(B) SURTAX.—A surtax of 22 percent of the taxable investment income (computed without regard to the deduction provided in section 242 for partially tax-exempt interest) in excess of $25,000.

26 USC 242.

"(2) GROSS AMOUNT RECEIVED, OVER $150,000 BUT LESS THAN $250,000.—If the gross amount received during the taxable year from the items described in section 822(b) (other than paragraph (1)(D) thereof) and premiums (including deposits and assessments) is over $150,000 but less than $250,000, the tax imposed by paragraph (1) shall be reduced to an amount which bears the same proportion to the amount of the tax determined under paragraph (1) as the excess over $150,000 of such gross amount received bears to $100,000.

"(3) COMPANIES TO WHICH SUBSECTION APPLIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), this subsection shall apply to every mutual insurance company (other than a life insurance company and other than a fire, flood, or marine insurance company subject to the tax imposed by section 831) which received during the taxable year from the items described in section 822(b) (other than paragraph (1)(D) thereof) and premiums (including deposits and assessments) a gross amount in excess of $150,000 but not in excess of $500,000.

Post, pp. 997, 998.

"(B) EXCEPTIONS.—This subsection shall not apply to a mutual insurance company for the taxable year if—

"(i) there is in effect an election by such company made under subsection (d) to be taxable under subsection (a); or

"(ii) there is any amount in the protection against loss account at the beginning of the taxable year.

"(d) ELECTION TO INCLUDE STATUTORY UNDERWRITING INCOME OR LOSS.—

"(1) IN GENERAL.—Any mutual insurance company which is subject to the tax imposed by subsection (c) may elect, in such manner and at such time as the Secretary or his delegate may by regulations prescribe, to be subject to the tax imposed by subsection (a).

"(2) EFFECT OF ELECTION.—If an election is made under paragraph (1), the electing company shall be subject to the tax imposed by subsection (a) (and shall not be subject to the tax imposed by subsection (c)) for the first taxable year for which such election is made and for all taxable years thereafter unless the Secretary or his delegate consents to a revocation of such election.

"(e) NO UNITED STATES INSURANCE BUSINESS.—Foreign mutual insurance companies (other than a life insurance company and other than a fire, flood, or marine insurance company subject to the tax imposed by section 831) not carrying on an insurance business within the United States shall not be subject to this part but shall be taxable as other foreign corporations. *Post*, pp. 997, 998.

"(f) SPECIAL TRANSITIONAL UNDERWRITING LOSS.—

"(1) COMPANIES TO WHICH SUBSECTION APPLIES.—This subsection shall apply to every mutual insurance company which has been subject to the tax imposed by this section (as in effect before the enactment of this subsection) for the 5 taxable years immediately preceding January 1, 1962, and has incurred an underwriting loss for each of such 5 taxable years.

"(2) REDUCTION OF STATUTORY UNDERWRITING INCOME.—For purposes of this part, the statutory underwriting income of a company described in paragraph (1) for the taxable year shall be the statutory underwriting income for the taxable year (determined without regard to this subsection) reduced by the amount by which—

"(A) the sum of the underwriting losses of such company for the 5 taxable years immediately preceding January 1, 1962, exceeds

"(B) the total amount by which the company's statutory underwriting income was reduced by reason of this subsection for prior taxable years.

"(3) UNDERWRITING LOSS DEFINED.—For purposes of this subsection, the term 'underwriting loss' means statutory underwriting loss, computed without any deduction under section 824(a) and without any deduction under section 832(c)(11). *Post*, p. 993. *Post*, p. 997.

"(4) YEARS TO WHICH SUBSECTION APPLIES.—This subsection shall apply with respect to any taxable year beginning after December 31, 1962, and before January 1, 1968, for which the taxpayer is subject to the tax imposed by subsection (a).

"(g) CROSS REFERENCES.—

"(1) For exemption from tax of certain mutual insurance companies, see section 501(c)(15). 26 USC 501; *Post*, p. 997.

"(2) For alternative tax in case of capital gains, see section 1201(a)." 26 USC 1201; *Post*, p. 999.

(b) TAXABLE INVESTMENT INCOME.—

(1) IN GENERAL.—Section 822 (relating to determination of mutual insurance company taxable income) is amended by strik- 26 USC 822; *Post*, p. 992.

ing out the heading and subsection (a) and inserting in lieu thereof the following:

"SEC. 822. DETERMINATION OF TAXABLE INVESTMENT INCOME.

"(a) DEFINITIONS.—For purposes of this part—

"(1) The term 'taxable investment income' means the gross investment income, minus the deductions provided in subsection (c).

"(2) The term 'investment loss' means the amount by which the deductions provided in subsection (c) exceed the gross investment income."

(2) CONFORMING AMENDMENTS.—Subsections (c) and (e) of section 822 are each amended by striking out "mutual insurance company taxable income" each place it appears and inserting in lieu thereof "taxable investment income".

26 USC 822.

(3) DIVIDENDS RECEIVED DEDUCTION.—Section 822(c)(7) (relating to special deductions) is amended by adding at the end thereof the following new sentence: "In applying section 246(b) (relating to limitation on aggregate amount of deductions for dividends received) for purposes of this paragraph, the reference in such section to 'taxable income' shall be treated as a reference to 'taxable investment income'."

26 USC 246.

(4) REDESIGNATION OF SECTION 823.—Part II of subchapter L of chapter 1 is amended by striking out

"SEC. 823. OTHER DEFINITIONS.

"For purposes of this part—",

and inserting in lieu thereof (at the end of section 822) the following:

"(f) DEFINITIONS.—For purposes of this part—".

(c) STATUTORY UNDERWRITING INCOME OR LOSS.—Part II of subchapter L of chapter 1 is amended by adding after section 822(f) (as redesignated by subsection (b)(4) of this section) the following new sections:

"SEC. 823. DETERMINATION OF STATUTORY UNDERWRITING INCOME OR LOSS.

"(a) IN GENERAL.—For purposes of this part—

"(1) The term 'statutory underwriting income' means the amount by which—

"(A) the gross income which would be taken into account in computing taxable income under section 832 if the taxpayer were subject to the tax imposed by section 831, reduced by the gross investment income, exceeds

26 USC 832.

Post, pp. 997, 998.

"(B) the sum of (i) the deductions which would be taken into account in computing taxable income if the taxpayer were subject to the tax imposed by section 831, reduced by the deductions provided in section 822(c), plus (ii) the deductions provided in subsection (c) and section 824(a).

Supra; 26 USC 822.

"(2) The term 'statutory underwriting loss' means the excess of the amount referred to in paragraph (1)(B) over the amount referred to in paragraph (1)(A).

"(b) MODIFICATIONS.—In applying subsection (a)—

"(1) NET OPERATING LOSS DEDUCTION.—The deduction for net operating losses provided in section 172 shall not be allowed.

26 USC 172.

"(2) INTERINSURERS.—In the case of a mutual insurance company which is an interinsurer or reciprocal underwriter—

"(A) there shall be allowed as a deduction the increase for the taxable year in savings credited to subscriber accounts, or

"(B) there shall be included as an item of gross income the decrease for the taxable year in savings credited to subscriber accounts.

For purposes of the preceding sentence, the term 'savings credited to subscriber accounts' means such portion of the surplus as is credited to the individual accounts of subscribers before the 16th day of the third month following the close of the taxable year, but only if the company would be obligated to pay such amount promptly to such subscriber if he terminated his contract at the close of the company's taxable year. For purposes of determining his taxable income, the subscriber shall treat any such savings credited to his account as a dividend paid or declared.

"(c) SPECIAL DEDUCTION FOR SMALL COMPANY HAVING GROSS AMOUNT OF LESS THAN $1,100,000.—

"(1) IN GENERAL.—If the gross amount received during the taxable year by a taxpayer subject to the tax imposed by section 821(a) from the items described in section 822(b) (other than paragraph (1)(D) thereof) and premiums (including deposits and assessments) does not equal or exceed $1,100,000, then in determining the statutory underwriting income or loss for the taxable year there shall be allowed an additional deduction of $6,000; except that if such gross amount exceeds $500,000, such additional deduction shall be equal to 1 percent of the amount by which $1,100,000 exceeds such gross amount.

"(2) LIMITATION.—The amount of the deduction allowed under paragraph (1) shall not exceed the statutory underwriting income for the taxable year, computed without regard to any deduction under this subsection or section 824(a).

"SEC. 824. ADJUSTMENTS TO PROVIDE PROTECTION AGAINST LOSSES.

"(a) ALLOWANCE OF DEDUCTION.—

"(1) IN GENERAL.—In determining the statutory underwriting income or loss for any taxable year there shall be allowed as a deduction the sum of—

"(A) an amount equal to 1 percent of the losses incurred during the taxable year (as determined under section 832(b)(5)), plus 26 USC 832.

"(B) an amount equal to 25 percent of the underwriting gain for the taxable year, plus

"(C) if the concentrated windstorm, etc., premium percentage for the taxable year exceeds 40 percent, an amount determined by applying so much of such percentage as exceeds 40 percent to the underwriting gain for the taxable year.

For purposes of this paragraph, the term 'underwriting gain' means statutory underwriting income, computed without any deduction under this subsection.

"(2) SPECIAL RULE FOR COMPANIES HAVING CONCENTRATED WINDSTORM, ETC., RISKS.—For purposes of paragraph (1)(C), the term 'concentrated windstorm, etc., premium percentage' means, with respect to any taxable year, the percentage obtained by dividing—

"(A) the amount of the premiums earned on insurance contracts during the taxable year (as defined in section 832(b)(4)), to the extent attributable to insuring against losses arising, either in any one State or within 200 miles of any fixed point selected by the taxpayer, from windstorm, hail, flood, earthquake, or similar hazards, by 26 USC 832; *Post*, p. 997.

"(B) the amount of the premiums earned on insurance contracts during the taxable year (as so defined).

"(b) PROTECTION AGAINST LOSS ACCOUNT.—Each insurance company subject to the tax imposed by section 821(a) for any taxable year shall, for purposes of this part, establish and maintain a protection against loss account. *Ante*, p. 989.

"(c) ADDITIONS TO ACCOUNT.—There shall be added to the protection against loss account for each taxable year an amount equal to the amount allowable as a deduction for the taxable year under subsection (a)(1).

"(d) SUBTRACTIONS.—

"(1) ANNUAL SUBTRACTIONS.—After applying subsection (c), there shall be subtracted for the taxable year from the protection against loss account—

"(A) first, an amount equal to the excess (if any) of the deduction allowed under subsection (a) for the taxable year over the underwriting gain (within the meaning of subsection (a)(1)) for the taxable year,

"(B) then, the amount (if any) by which—

"(i) the sum of the investment loss for such year and the statutory underwriting loss (reduced by the amount referred to in subparagraph (A)) for such year, exceeds

"(ii) the sum of the statutory underwriting income for such taxable year and the taxable investment income for such taxable year,

"(C) next (in the order in which the losses occurred), amounts equal to the unused loss carryovers to such year,

"(D) next, any amount remaining which was added to the account for the fifth preceding taxable year, minus one-half of the amount remaining in the account for such taxable year which was added by reason of subsection (a)(1)(B), and

"(E) finally, the amount by which the total amount in the account exceeds whichever of the following is the greater:

"(i) 10 percent of premiums earned on insurance contracts during the taxable year (as defined in section 832(b)(4)) less dividends to policyholders (as defined in section 832(c)(11)), or

Post, p. 997.

"(ii) the total amount in the account at the close of the preceding taxable year.

"(2) RULES FOR CEILING ON PROTECTION AGAINST LOSS ACCOUNT.—For purposes of paragraph (1)(E), the total amount in the account shall be determined—

"(A) after the application of this section without regard to paragraph (1)(E), and

"(B) without taking into consideration amounts remaining in the account which were added, with respect to all taxable years, by reason of subsection (a)(1)(C).

"(3) PRIORITIES.—The amounts required to be subtracted from the protection against loss account—

"(A) under subparagraphs (A), (B), and (C) of paragraph (1) shall be subtracted—

"(i) first (on a first-in, first-out, basis) from amounts in the account with respect to the five preceding taxable years and the taxable year, and

"(ii) then from amounts in the account with respect to earlier years,

"(B) under subparagraph (E) of paragraph (1) shall be subtracted only from amounts in the account with respect to the taxable year, and

"(C) under paragraphs (A), (B), (C), and (E) of paragraph (1) shall, if the amount to be subtracted from the total amounts in the account with respect to any taxable year is less than such total, be subtracted from each of the amounts (referred to in subsection (a)(1)) in the account with respect to such year in the proportion which each bears to such total.

"(4) TERMINATION OF TAXABILITY UNDER SECTION 821.—If the taxpayer is not subject to tax under section 821 for any taxable year, the entire amount in the account at the close of the preceding taxable year shall be subtracted from the account in such preceding taxable year. *Ante*, p. 989.

"(5) ELECTION TO SUBTRACT AMOUNT FROM ACCOUNT.—

"(A) A taxpayer may elect for any taxable year for which it is subject to tax under section 821(a) to subtract from its protection against loss account any amount which, but for the application of this subparagraph, would be in such account as of the close of such taxable year.

"(B) The election provided by subparagraph (A) for any taxable year shall be made (in such manner and in such form as the Secretary or his delegate may by regulations prescribe) after the close of such taxable year and not later than the time prescribed by law for filing the return (including extensions thereof) for the taxable year following such taxable year. Such an election, once made, may not be revoked.

"SEC. 825. UNUSED LOSS DEDUCTION.

"(a) AMOUNT OF DEDUCTION.—For purposes of this part, the unused loss deduction for the taxable year shall be an amount equal to the unused loss carryovers or carrybacks to the taxable year.

"(b) UNUSED LOSS DEFINED.—For purposes of this part, the term 'unused loss' means, with respect to any taxable year, the amount (if any) by which—

"(1) the sum of the statutory underwriting loss and the investment loss, exceeds

"(2) the sum of—

"(A) the taxable investment income,

"(B) the statutory underwriting income, and

"(C) the amounts required by section 824(d) to be subtracted from the protection against loss account. *Ante*, p. 994.

"(c) LOSS YEAR DEFINED.—For purposes of this part, the term 'loss year' means, with respect to any company subject to the tax imposed by section 821(a), any taxable year in which the unused loss (as defined in subsection (b)) of such taxpayer is more than zero.

"(d) YEARS TO WHICH CARRIED.—The unused loss for any loss year shall be—

"(1) an unused loss carryback to each of the 3 taxable years preceding the loss year, and

"(2) an unused loss carryover to each of the 5 taxable years following the loss year.

"(e) AMOUNT OF CARRYBACKS AND CARRYOVERS.—The entire amount of the unused loss for any loss year shall be carried to the earliest of the taxable years to which such loss may be carried. The portion of such loss which shall be carried to each of the other taxable years shall be the excess (if any) of the amount of such loss over the sum of the offsets (as defined in subsection (f)) for each of the prior taxable years to which such loss may be carried.

"(f) OFFSET DEFINED.—For purposes of subsection (e), the term 'offset' means with respect to any taxable year (hereinafter referred to as the 'offset year')—

"(1) in the case of an unused loss carryback from the loss year to the offset year, the mutual insurance company taxable income for the offset year; or

"(2) in the case of an unused loss carryover from the loss year to the offset year, an amount equal to the sum of—.

"(A) the amount required to be subtracted from the protection against loss account under section 824(d)(1)(C) for the offset year, plus

Ante, p. 994.

"(B) the mutual insurance company taxable income for the offset year.

For purposes of paragraphs (1) and (2)(B), the mutual insurance company taxable income for the offset year shall be determined without regard to any unused loss carryback or carryover from the loss year or any taxable year thereafter.

"(g) LIMITATIONS.—For purposes of this part, an unused loss shall not be carried—

"(1) to or from any taxable year beginning before January 1, 1963,

"(2) to or from any taxable year for which the insurance company is not subject to the tax imposed by section 821(a), nor

Ante, p. 989.

"(3) to any taxable year if, between the loss year and such taxable year, there is an intervening taxable year for which the insurance company was not subject to the tax imposed by section 821(a).

"SEC. 826. ELECTION BY RECIPROCAL.

"(a) IN GENERAL.—Except as otherwise provided in this section, any mutual insurance company which is an interinsurer or reciprocal underwriter (hereinafter in this section referred to as a 'reciprocal') subject to the taxes imposed by section 821(a) may, under regulations prescribed by the Secretary or his delegate, elect to be subject to the limitation provided in subsection (b). Such election shall be effective for the taxable year for which made and for all succeeding taxable years, and shall not be revoked except with the consent of the Secretary or his delegate.

"(b) LIMITATION.—The deduction for amounts paid or incurred in the taxable year to the attorney-in-fact by a reciprocal making the election provided in subsection (a) shall be limited to, but in no case increased by, the deductions of the attorney-in-fact allocable, in accordance with regulations prescribed by the Secretary or his delegate, to the income received by the attorney-in-fact from the reciprocal.

"(c) EXCEPTION.—An election may not be made by a reciprocal under subsection (a) unless the attorney-in-fact of such reciprocal—

26 USC 11; Ante, p. 114.

"(1) is subject to the taxes imposed by section 11 (b) and (c);

"(2) consents in such manner as the Secretary or his delegate shall prescribe by regulations to make available such information as may be required during the period in which the election provided in subsection (a) is in effect, under regulations prescribed by the Secretary or his delegate;

"(3) reports the income received from the reciprocal and the deductions allocable thereto under the same method of accounting under which the reciprocal reports deductions for amounts paid to the attorney-in-fact; and

"(4) files its return on the calendar year basis.

Ante, p. 994.

"(d) SPECIAL RULE.—In applying section 824(d)(1)(D), any amount which was added to the protection against loss account by reason of an election under this section shall be treated as having been added by reason of section 824(a)(1)(A).

Ante, p. 993.

"(e) CREDIT.—Any reciprocal electing to be subject to the limitation provided in subsection (b) shall be credited with so much of the tax paid by the attorney-in-fact as is attributable, under regulations prescribed by the Secretary or his delegate, to the income received by the attorney-in-fact from the reciprocal in such taxable year.

"(f) SURTAX EXEMPTION DENIED.—Any increase in taxable income of a reciprocal attributable to the limitation provided in subsection (b) shall be taxed without regard to the surtax exemption provided in section 821(a)(2). *Ante*, p. 989.

"(g) ADJUSTMENT FOR REFUND.—If for any taxable year an attorney-in-fact is allowed a credit or refund for taxes paid with respect to which credit or refund to the reciprocal resulted under subsection (e), the taxes of such reciprocal for such taxable year shall be properly adjusted under regulations prescribed by the Secretary or his delegate.

"(h) TAXES OF ATTORNEY-IN-FACT UNAFFECTED.—Nothing in this section shall increase or decrease the taxes imposed by this chapter on the income of the attorney-in-fact."

(d) EXEMPTION FROM TAX.—Section 501(c)(15) (relating to exemption from tax of certain mutual insurance companies) is amended by striking out "$75,000" and in lieu thereof inserting "$150,000". 26 USC 501.

(e) MUTUAL FIRE INSURANCE COMPANIES OPERATING ON BASIS OF PREMIUM DEPOSITS.—

(1) APPLICATION OF SECTION 831(a).—Section 831(a) (imposing a tax on certain mutual marine and fire insurance companies and on stock insurance companies which are not life insurance companies) is amended to read as follows: 26 USC 831.

"(a) IMPOSITION OF TAX.—Taxes computed as provided in section 11 shall be imposed for each taxable year on the taxable income of— 26 USC 11; *Ante*, p. 114.

"(1) every insurance company (other than a life or mutual insurance company),

"(2) every mutual marine insurance company, and

"(3) every mutual fire or flood insurance company—

"(A) exclusively issuing perpetual policies, or

"(B) whose principal business is the issuance of policies for which the premium deposits are the same, regardless of the length of the term for which the policies are written, if the unabsorbed portion of such premium deposits not required for losses, expenses, or establishment of reserves is returned or credited to the policyholder on cancellation or expiration of the policy."

(2) TREATMENT OF UNABSORBED PREMIUM DEPOSITS.—Section 832(b)(4) (relating to definition of premiums earned) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, unearned premiums of mutual fire or flood insurance companies described in section 831(a)(3)(B) means (with respect to the policies described in section 831(a)(3)(B)) the amount of unabsorbed premium deposits which the company would be obligated to return to its policyholders at the close of the taxable year if all of its policies were terminated at such time; and the determination of such amount shall be based on the schedule of unabsorbed premium deposit returns for each such company then in effect. Premiums paid by the subscriber of a mutual flood insurance company referred to in paragraph (3) of section 831(a) shall be treated, for purposes of computing the taxable income of such subscriber, in the same manner as premiums paid by a policyholder to a mutual fire insurance company referred to in such paragraph (3)." 26 USC 832. *Supra*.

(3) CONFORMING AMENDMENT.—Section 832(b)(1)(C) is amended by striking out "section 831(a)," and inserting in lieu thereof "section 831(a)(3)(A),". 26 USC 832. 26 USC 831.

(4) ADJUSTMENT OF PREMIUM DEPOSIT.—Section 832(c)(11) is amended to read as follows:

"(11) dividends and similar distributions paid or declared to policyholders in their capacity as such, except in the case of a

mutual fire insurance company described in section 831(a)(3)(A). For purposes of the preceding sentence, the term 'dividends and similar distributions' includes amounts returned or credited to policyholders on cancellation or expiration of policies described in section 831(a)(3)(B). For purposes of this paragraph, the term 'paid or declared' shall be construed according to the method of accounting regularly employed in keeping the books of the insurance company; and".

26 USC 832.

(5) ADDITIONAL ITEM OF INCOME.—Section 832(b)(1) is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(D) in the case of a mutual fire or flood insurance company described in section 831(a)(3)(B), an amount equal to 2 percent of the premiums earned on insurance contracts during the taxable year with respect to policies described in section 831(a)(3)(B) after deduction of premium deposits returned or credited during the same taxable year."

(f) ELECTION OF CERTAIN MUTUAL COMPANIES TO BE TAXED ON TOTAL INCOME.—Section 831 is amended by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following new subsection:

Ante, p. 997.

"(c) ELECTION FOR MULTIPLE LINE COMPANY TO BE TAXED ON TOTAL INCOME.—

"(1) IN GENERAL.—Any mutual insurance company engaged in writing marine, fire, and casualty insurance which for any 5-year period beginning after December 31, 1941, and ending before January 1, 1962, was subject to the tax imposed by section 831 (or the tax imposed by corresponding provisions of prior law) may elect, in such manner and at such time as the Secretary or his delegate may by regulations prescribe, to be subject to the tax imposed by section 831, whether or not marine insurance is its predominant source of premium income.

"(2) EFFECT OF ELECTION.—If an election is made under paragraph (1), the electing company shall (in lieu of being subject to the tax imposed by section 821) be subject to the tax imposed by this section for taxable years beginning after December 31, 1961. Such election shall not be revoked except with the consent of the Secretary or his delegate."

Ante, p. 989.

(g) TECHNICAL AMENDMENTS, ETC.—

26 USC 841.

(1) CREDIT FOR FOREIGN TAXES.—Section 841 (relating to credit for foreign taxes) is amended by striking out "and" at the end of paragraph (1), by renumbering paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

"(2) in the case of the tax imposed by section 821(a), the mutual insurance company taxable income (as defined in section 821(b)); and in the case of the tax imposed by section 821(c), the taxable investment income (as defined in section 822(a)), and".

26 USC 1016.

(2) ADJUSTMENTS TO BASIS FOR DEPRECIATION SUSTAINED.—Section 1016(a)(3) (relating to adjustments to basis for depreciation, etc., sustained) is amended by striking out "and" at the end of subparagraph (B), by inserting "and" at the end of subparagraph (C), and by inserting after subparagraph (C) the following new subparagraph:

"(D) since February 28, 1913, during which such property was held by a person subject to tax under part II of subchapter L (or the corresponding provisions of prior income tax laws), to the extent that paragraph (2) does not apply,".

(3) ALTERNATIVE TAX ON CAPITAL GAINS.—Section 1201(a) (relating to alternative tax on corporations) is amended by striking out "821 (a)(1) or (b)," and inserting in lieu thereof "821 (a) or (c),". 26 USC 1201.

(4) CLERICAL AMENDMENTS.— *Ante*, p. 989.

(A) The table of parts for subchapter L is amended by striking out the portion referring to part II and inserting in lieu thereof the following:

"Part II. Mutual insurance companies (other than life and certain marine insurance companies and other than fire or flood insurance companies which operate on basis of perpetual policies or premium deposits)."

(B) The heading to section 831 is amended to read as follows:

"SEC. 831. TAX ON INSURANCE COMPANIES (OTHER THAN LIFE OR MUTUAL), MUTUAL MARINE INSURANCE COMPANIES, AND CERTAIN MUTUAL FIRE OR FLOOD INSURANCE COMPANIES."

(C) The table of sections for part III of subchapter L is amended by striking out the portion referring to section 831 and inserting in lieu thereof the following:

"Sec. 831. Tax on insurance companies (other than life or mutual), mutual marine insurance companies, and certain mutual fire or flood insurance companies."

(h) EFFECTIVE DATE.—The amendments made by this section (other than by subsection (f)) shall apply with respect to taxable years beginning after December 31, 1962.

SEC. 9. DOMESTIC CORPORATIONS RECEIVING DIVIDENDS FROM FOREIGN CORPORATIONS.

(a) FOREIGN TAXES DEEMED PAID BY DOMESTIC CORPORATIONS.—Section 902 (relating to credit for corporate stockholder in foreign corporations) is amended to read as follows: 26 USC 902.

"SEC. 902. CREDIT FOR CORPORATE STOCKHOLDER IN FOREIGN CORPORATION.

"(a) TREATMENT OF TAXES PAID BY FOREIGN CORPORATION.—For purposes of this subpart, a domestic corporation which owns at least 10 percent of the voting stock of a foreign corporation from which it receives dividends in any taxable year shall—

"(1) to the extent such dividends are paid by such foreign corporation out of accumulated profits (as defined in subsection (c)(1)(A)) of a year for which such foreign corporation is not a less developed country corporation, be deemed to have paid the same proportion of any income, war profits, or excess profits taxes paid or deemed to be paid by such foreign corporation to any foreign country or to any possession of the United States on or with respect to such accumulated profits, which the amount of such dividends (determined without regard to section 78) bears to the amount of such accumulated profits in excess of such income, war profits, and excess profits taxes (other than those deemed paid); and *Post*, p. 1001.

"(2) to the extent such dividends are paid by such foreign corporation out of accumulated profits (as defined in subsection (c)(1)(B)) of a year for which such foreign corporation is a less developed country corporation, be deemed to have paid the same proportion of any income, war profits, or excess profits taxes paid or deemed to be paid by such foreign corporation to any foreign country or to any possession of the United States on or with respect to such accumulated profits, which the amount of such dividends bears to the amount of such accumulated profits.

"(b) FOREIGN SUBSIDIARY OF FOREIGN CORPORATION.—If such foreign corporation owns 50 percent or more of the voting stock of another foreign corporation from which it receives dividends in any taxable year, it shall be deemed to have paid the same proportion of any income, war profits, or excess profits taxes paid by such other foreign corporation to any foreign country or to any possession of the United States, on or with respect to the accumulated profits of the corporation from which such dividends were paid which—

"(1) for purposes of applying subsection (a)(1), the amount of such dividends bears to the amount of the accumulated profits (as defined in subsection (c)(1)(A)) of such other foreign corporation from which such dividends were paid in excess of such income, war profits, and excess profits taxes, or

"(2) for purposes of applying subsection (a)(2), the amount of such dividends bears to the amount of the accumulated profits (as defined in subsection (c)(1)(B)) of such other foreign corporation from which such dividends were paid.

"(c) APPLICABLE RULES.—

"(1) ACCUMULATED PROFITS DEFINED.—For purposes of this section, the term 'accumulated profits' means with respect to any foreign corporation—

"(A) for purposes of subsections (a)(1) and (b)(1), the amount of its gains, profits, or income computed without reduction by the amount of the income, war profits, and excess profits taxes imposed on or with respect to such profits or income by any foreign country or any possession of the United States; and

"(B) for purposes of subsections (a)(2) and (b)(2), the amount of its gains, profits, or income in excess of the income, war profits, and excess profits taxes imposed on or with respect to such profits or income.

The Secretary or his delegate 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 60 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.

"(2) ACCOUNTING PERIODS.—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 1 year, the word 'year' as used in this subsection shall be construed to mean such accounting period.

"(d) LESS DEVELOPED COUNTRY CORPORATION DEFINED.—For purposes of this section, the term 'less developed country corporation' means—

"(1) a foreign corporation which, for its taxable year, is a less developed country corporation within the meaning of section 955(c)(1) or (2), and

Post, p. 1014.

"(2) a foreign corporation which owns 10 percent or more of the total combined voting power of all classes of stock entitled to vote of a foreign corporation which is a less developed country corporation within the meaning of section 955(c)(1), and—

"(A) 80 percent or more of the gross income of which for its taxable year meets the requirement of section 955(c)(1)(A); and

"(B) 80 percent or more in value of the assets of which on each day of such year consists of property described in section 955(c)(1)(B).

A foreign corporation which is a less developed country corporation for its first taxable year beginning after December 31, 1962, shall, for purposes of this section, be treated as having been a less developed country corporation for each of its taxable years beginning before January 1, 1963.

"(e) CROSS REFERENCES.—

"(1) For inclusion in gross income of an amount equal to taxes deemed paid under subsection (a)(1), see section 78. *Infra.*

"(2) For application of subsections (a) and (b) with respect to taxes deemed paid in a prior taxable year by a United States shareholder with respect to a controlled foreign corporation, see section 960. *Post,* p. 1020.

"(3) For reduction of credit with respect to dividends paid out of accumulated profits for years for which certain information is not furnished, see section 6038." *Post,* p. 1059.

(b) INCLUSION IN GROSS INCOME OF AMOUNT EQUAL TO TAXES DEEMED PAID.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section: 26 USC 71-77.

"SEC. 78. DIVIDENDS RECEIVED FROM CERTAIN FOREIGN CORPORATIONS BY DOMESTIC CORPORATIONS CHOOSING FOREIGN TAX CREDIT.

"If a domestic corporation chooses to have the benefits of subpart A of part III of subchapter N (relating to foreign tax credit) for any taxable year, an amount equal to the taxes deemed to be paid by such corporation under section 902(a)(1) (relating to credit for corporate stockholder in foreign corporation) or under section 960(a)(1)(C) (relating to taxes paid by foreign corporation) for such taxable year shall be treated for purposes of this title (other than section 245) as a dividend received by such domestic corporation from the foreign corporation." *Ante,* p. 999. *Post,* p. 1020.

(c) DETERMINATION OF SOURCE OF DIVIDENDS RECEIVED FROM CERTAIN FOREIGN CORPORATIONS.—Section 861(a)(2)(B) (relating to dividends from foreign corporations treated as income from sources within the United States) is amended by striking out "to the extent exceeding the amount of the deduction allowable under section 245 in respect of such dividends" and inserting in lieu thereof "to the extent exceeding the amount which is 100/85ths of the amount of the deduction allowable under section 245 in respect of such dividends". 26 USC 245; *Ante,* p. 977.

(d) TECHNICAL AMENDMENTS.—

(1) The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end thereof the following:

"Sec. 78. Dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit."

(2) Section 535(b)(1) and the first sentence of section 545(b)(1) are each amended by striking out "accrued during the taxable year," and inserting in lieu thereof "accrued during the taxable year or deemed to be paid by a domestic corporation under section 902(a)(1) or 960(a)(1)(C) for the taxable year,". 26 USC 535, 545.

(3) Section 901(d) is amended by adding the following new paragraph: 26 USC 901.

"(4) For reduction of credit for failure of a United States person to furnish certain information with respect to a foreign corporation controlled by him, see section 6038."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply—

(1) in respect of any distribution received by a domestic corporation after December 31, 1964, and

(2) in respect of any distribution received by a domestic corporation before January 1, 1965, in a taxable year of such

corporation beginning after December 31, 1962, but only to the extent that such distribution is made out of the accumulated profits of a foreign corporation for a taxable year (of such foreign corporation) beginning after December 31, 1962.

For purposes of paragraph (2), a distribution made by a foreign corporation out of its profits which are attributable to a distribution received from a foreign subsidiary to which section 902(b) applies shall be treated as made out of the accumulated profits of a foreign corporation for a taxable year beginning before January 1, 1963, to the extent that such distribution was paid out of the accumulated profits of such foreign subsidiary for a taxable year beginning before January 1, 1963.

Ante, p. 1000.

SEC. 10. SEPARATE LIMITATION ON FOREIGN TAX CREDIT WITH RESPECT TO CERTAIN INTEREST INCOME.

26 USC 904.

(a) LIMITATION ON FOREIGN TAX CREDIT.—Section 904 (relating to limitations on foreign tax credit) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

Post, p. 1031.

"(f) APPLICATION OF SECTION IN CASE OF CERTAIN INTEREST INCOME.—

"(1) IN GENERAL.—The provisions of subsections (a), (c), (d), and (e) of this section shall be applied separately with respect to—

"(A) the interest income described in paragraph (2), and

"(B) income other than the interest income described in paragraph (2).

"(2) INTEREST INCOME TO WHICH APPLICABLE.—For purposes of this subsection, the interest income described in this paragraph is interest other than interest—

"(A) derived from any transaction which is directly related to the active conduct of a trade or business in a foreign country or a possession of the United States,

"(B) derived in the conduct of a banking, financing, or similar business,

"(C) received from a corporation in which the taxpayer owns at least 10 percent of the voting stock, or

"(D) received on obligations acquired as a result of the disposition of a trade or business actively conducted by the taxpayer in a foreign country or possession of the United States or as a result of the disposition of stock or obligations of a corporation in which the taxpayer owned at least 10 percent of the voting stock.

"(3) OVERALL LIMITATION NOT TO APPLY.—The limitation provided by subsection (a)(2) shall not apply with respect to the interest income described in paragraph (2). The Secretary or his delegate shall by regulations prescribe the manner of application of subsection (e) with respect to cases in which the limitation provided by subsection (a)(2) applies with respect to income other than the interest income described in paragraph (2).

"(4) TRANSITIONAL RULES FOR CARRYBACKS AND CARRYOVERS.—

"(A) CARRYBACKS TO YEARS PRIOR TO REVENUE ACT OF 1962.—Where, under the provisions of subsection (d), taxes (i) paid or accrued to any foreign country or possession of the United States in any taxable year beginning after the date of the enactment of the Revenue Act of 1962 are deemed (ii) paid or accrued in one or more taxable years beginning on or before the date of enactment of the Revenue Act of 1962, the amount of such taxes deemed paid or accrued shall be determined without regard to the provisions of this sub-

section. To the extent the taxes paid or accrued to a foreign country or possession of the United States in any taxable year described in clause (i) are not, with the application of the preceding sentence, deemed paid or accrued in any taxable year described in clause (ii), such taxes shall, for purposes of applying subsection (d), be deemed paid or accrued in a taxable year beginning after the date of the enactment of the Revenue Act of 1962, with respect to interest income described in paragraph (2), and with respect to income other than interest income described in paragraph (2), in the same ratios as the amount of such taxes paid or accrued with respect to interest income described in paragraph (2), and the amount of such taxes paid or accrued with respect to income other than interest income described in paragraph (2), respectively, bear to the total amount of such taxes paid or accrued to such foreign country or possession of the United States.

"(B) CARRYOVERS TO YEARS AFTER REVENUE ACT OF 1962.—Where, under the provisions of subsection (d), taxes (i) paid or accrued to any foreign country or possession of the United States in any taxable year beginning on or before the date of the enactment of the Revenue Act of 1962 are deemed (ii) paid or accrued in one or more taxable years beginning after the date of the enactment of the Revenue Act of 1962, the amount of such taxes deemed paid or accrued in any year described in clause (ii) shall, with respect to interest income described in paragraph (2), be an amount which bears the same ratio to the amount of such taxes deemed paid or accrued as the amount of the taxes paid or accrued to such foreign country or possession for such year with respect to interest income described in paragraph (2) bears to the total amount of the taxes paid or accrued to such foreign country or possession for such year; and the amount of such taxes deemed paid or accrued in any year described in clause (ii) with respect to income other than interest income described in paragraph (2) shall be an amount which bears the same ratio to the amount of such taxes deemed paid or accrued for such year as the amount of taxes paid or accrued to such foreign country or possession for such year with respect to income other than interest income described in paragraph (2) bears to the total amount of the taxes paid or accrued to such foreign country or possession for such year."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to taxable years beginning after the date of the enactment of this Act, but only with respect to interest resulting from transactions consummated after April 2, 1962.

SEC. 11. EARNED INCOME FROM SOURCES WITHOUT THE UNITED STATES.

(a) LIMITATION ON AMOUNT AND TYPE OF INCOME EXCLUDED.—Section 911 (relating to earned income from sources without the United States) is amended to read as follows: 26 USC 911; *Post*, p. 1005.

"SEC. 911. EARNED INCOME FROM SOURCES WITHOUT THE UNITED STATES.

"(a) GENERAL RULE.—The following items shall not be included in gross income and shall be exempt from taxation under this subtitle:

"(1) BONA FIDE RESIDENT OF FOREIGN COUNTRY.—In the case of an individual citizen of the United States who establishes to the satisfaction of the Secretary or his delegate that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, amounts

received from sources without the United States (except amounts paid by the United States or any agency thereof) which constitute earned income attributable to services performed during such uninterrupted period. The amount excluded under this paragraph for any taxable year shall be computed by applying the special rules contained in subsection (c).

"(2) PRESENCE IN FOREIGN COUNTRY FOR 17 MONTHS.—In the case of an individual citizen of the United States who during any period of 18 consecutive months is present in a foreign country or countries during at least 510 full days in such period, amounts received from sources without the United States (except amounts paid by the United States or any agency thereof) which constitute earned income attributable to services performed during such 18-month period. The amount excluded under this paragraph for any taxable year shall be computed by applying the special rules contained in subsection (c).

An individual shall not be allowed, as a deduction from his gross income, any deductions (other than those allowed by section 151, relating to personal exemptions) properly allocable to or chargeable against amounts excluded from gross income under this subsection.

26 USC 151.

"(b) DEFINITION OF EARNED INCOME.—For purposes of this section, the term 'earned income' means wages, salaries, or professional fees, and other amounts received as compensation for personal services actually rendered, but does not include 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, under regulations prescribed by the Secretary or his delegate, a reasonable allowance as compensation for the personal services rendered by the taxpayer, not in excess of 30 percent of his share of the net profits of such trade or business, shall be considered as earned income.

"(c) SPECIAL RULES.—For purposes of computing the amount excludable under subsection (a), the following rules shall apply:

"(1) LIMITATIONS ON AMOUNT OF EXCLUSION.—The amount excluded from the gross income of an individual under subsection (a) for any taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of—

"(A) except as provided in subparagraph (B), $20,000 in the case of an individual who qualifies under subsection (a), or

"(B) $35,000 in the case of an individual who qualifies under subsection (a)(1), but only with respect to that portion of such taxable year occurring after such individual has been a bona fide resident of a foreign country or countries for an uninterrupted period of 3 consecutive years.

"(2) ATTRIBUTION TO YEAR IN WHICH SERVICES ARE PERFORMED.—For purposes of applying paragraph (1), amounts received shall be considered received in the taxable year in which the services to which the amounts are attributable are performed.

"(3) TREATMENT OF COMMUNITY INCOME.—In applying paragraph (1) with respect to amounts received for services performed by a husband or wife which are community income under community property laws applicable to such income, the aggregate amount excludable under subsection (a) from the gross income of such husband and wife shall equal the amount which would be excludable if such amounts did not constitute such community income.

"(4) REQUIREMENT AS TO TIME OF RECEIPT.—No amount received after the close of the taxable year following the taxable year in which the services to which the amounts are attributable are performed may be excluded under subsection (a).

"(5) CERTAIN AMOUNTS NOT EXCLUDABLE.—No amount—

"(A) received as a pension or annuity, or

"(B) included in gross income by reason of section 402(b) (relating to taxability of beneficiary of non-exempt trust), section 403(c) (relating to taxability of beneficiary under a non-qualified annuity), or section 403(d) (relating to taxability of beneficiary under certain forfeitable contracts purchased by exempt organizations),

may be excluded under subsection (a). 26 USC 402. 26 USC 403.

"(6) TEST OF BONA FIDE RESIDENCE.—A statement by an individual who has earned income from sources within a foreign country to the authorities of that country that he is not a resident of that country, if he is held not subject as a resident of that country to the income tax of that country by its authorities with respect to such earnings, shall be conclusive evidence with respect to such earnings that he is not a bona fide resident of that country for purposes of subsection (a)(1).

"(7) CERTAIN NONCASH REMUNERATION.—If an individual who qualifies under subsection (a)(1) receives compensation from sources without the United States (except from the United States or any agency thereof) in the form of the right to use property or facilities, the limitation under paragraph (1) applicable with respect to such individual—

"(A) for a taxable year ending in 1963, shall be increased by an amount equal to the amount of such compensation so received during such taxable year;

"(B) for a taxable year ending in 1964, shall be increased by an amount equal to two-thirds of such compensation so received during such taxable year; and

"(C) for a taxable year ending in 1965, shall be increased by an amount equal to one-third of such compensation so received during such taxable year.

"(d) CROSS REFERENCES.—

"For administrative and penal provisions relating to the exclusion provided for in this section, see sections 6001, 6011, 6012(c), and the other provisions of subtitle F."

(b) COMPUTATION OF EMPLOYEES' CONTRIBUTIONS.—Section 72(f) (relating to special rules for computing employees' contributions) is amended by adding after paragraph (2) the following new sentences: "Paragraph (2) shall not apply to amounts which were contributed by the employer after December 31, 1962, and which would not have been includible in the gross income of the employee by reason of the application of section 911 if such amounts had been paid directly to the employee at the time of contribution. The preceding sentence shall not apply to amounts which were contributed by the employer, as determined under regulations prescribed by the Secretary or his delegate, to provide pension or annuity credits, to the extent such credits are attributable to services performed before January 1, 1963, and are provided pursuant to pension or annuity plan provisions in existence on March 12, 1962, and on that date applicable to such services." 26 USC 72; *Post*, p. 1006. *Ante*, p. 1003.

(c) EFFECTIVE DATES.—

(1) AMENDMENT TO SECTION 911.—The amendment made by subsection (a) shall apply to taxable years ending after September 4, 1962, but only with respect to amounts—

(A) received after March 12, 1962, which are attributable to services performed after December 31, 1962, or

(B) received after December 31, 1962, which are attributable to services performed on or before December 31, 1962, unless on March 12, 1962, there existed a right (whether forfeitable or nonforfeitable) to receive such amounts.

Ante, p. 1005.

(2) AMENDMENT TO SECTION 72(f).—The amendment made by subsection (b) shall apply to taxable years ending after December 31, 1962.

SEC. 12. CONTROLLED FOREIGN CORPORATIONS.

26 USC 901 *et seq.*

(a) IN GENERAL.—Part III of subchapter N of chapter 1 (relating to income from sources without the United States) is amended by adding at the end thereof the following new subparts:

"Subpart F—Controlled Foreign Corporations

"SEC. 951. AMOUNTS INCLUDED IN GROSS INCOME OF UNITED STATES SHAREHOLDERS.

"(a) AMOUNTS INCLUDED.—

"(1) IN GENERAL.—If a foreign corporation is a controlled foreign corporation for an uninterrupted period of 30 days or more during any taxable year beginning after December 31, 1962, every person who is a United States shareholder (as defined in subsection (b)) of such corporation and who owns (within the meaning of section 958(a)) stock in such corporation on the last day, in such year, on which such corporation is a controlled foreign corporation shall include in his gross income, for his taxable year in which or with which such taxable year of the corporation ends—

Post, p. 1018.

"(A) the sum of—

Post, p. 1023.

"(i) except as provided in section 963, his pro rata share (determined under paragraph (2)) of the corporation's subpart F income for such year, and

"(ii) his pro rata share (determined under section 955(a)(3)) of the corporation's previously excluded subpart F income withdrawn from investment in less developed countries for such year; and

"(B) his pro rata share (determined under section 956(a)(2)) of the corporation's increase in earnings invested in United States property for such year (but only to the extent not excluded from gross income under section 959(a)(2)).

Post, p. 1016.

Post, p. 1019.

"(2) PRO RATA SHARE OF SUBPART F INCOME.—The pro rata share referred to in paragraph (1)(A)(i) in the case of any United States shareholder is the amount—

"(A) which would have been distributed with respect to the stock which such shareholder owns (within the meaning of section 958(a)) in such corporation if on the last day, in its taxable year, on which the corporation is a controlled foreign corporation it had distributed pro rata to its shareholders an amount (i) which bears the same ratio to its subpart F income for the taxable year, as (ii) the part of such year during which the corporation is a controlled foreign corporation bears to the entire year, reduced by

Post, p. 1018.

"(B) the amount of distributions received by any other person during such year as a dividend with respect to such stock, but only to the extent of the dividend which would have been received if the distribution by the corporation had been the amount (i) which bears the same ratio to the subpart F income of such corporation for the taxable year, as (ii) the part of such year during which such shareholder did not own (within the meaning of section 958(a)) such stock bears to the entire year.

"(3) LIMITATION ON PRO RATA SHARE OF PREVIOUSLY EXCLUDED SUBPART F INCOME WITHDRAWN FROM INVESTMENT.—For purposes of paragraph (1)(A)(ii), the pro rata share of any United States shareholder of the previously excluded subpart F income of a controlled foreign corporation withdrawn from investment in less developed countries shall not exceed an amount (A) which bears the same ratio to his pro rata share of such income withdrawn (as determined under section 955(a)(3)) for the taxable year, as (B) the part of such year during which the corporation is a controlled foreign corporation bears to the entire year.

Post, p. 1013.

"(4) LIMITATION ON PRO RATA SHARE OF INVESTMENT IN UNITED STATES PROPERTY.—For purposes of paragraph (1)(B), the pro rata share of any United States shareholder in the increase of the earnings of a controlled foreign corporation invested in United States property shall not exceed an amount (A) which bears the same ratio to his pro rata share of such increase (as determined under section 956(a)(2)) for the taxable year, as (B) the part of such year during which the corporation is a controlled foreign corporation bears to the entire year.

"(b) UNITED STATES SHAREHOLDER DEFINED.—For purposes of this subpart, the term 'United States shareholder' means, with respect to any foreign corporation, a United States person (as defined in section 957(d)) who owns (within the meaning of section 958(a)), or is considered as owning by applying the rules of ownership of section 958(b), 10 percent or more of the total combined voting power of all classes of stock entitled to vote of such foreign corporation.

"(c) COORDINATION WITH ELECTION OF A FOREIGN INVESTMENT COMPANY TO DISTRIBUTE INCOME.—A United States shareholder who, for his taxable year, is a qualified shareholder (within the meaning of section 1247(c)) of a foreign investment company with respect to which an election under section 1247 is in effect shall not be required to include in gross income, for such taxable year, any amount under subsection (a) with respect to such company.

Post, p. 1039.

"(d) COORDINATION WITH FOREIGN PERSONAL HOLDING COMPANY PROVISIONS.—A United States shareholder who, for his taxable year, is subject to tax under section 551(b) (relating to foreign personal holding company income included in gross income of United States shareholders) on income of a controlled foreign corporation shall not be required to include in gross income, for such taxable year, any amount under subsection (a) with respect to such company.

26 USC 551.

"SEC. 952. SUBPART F INCOME DEFINED.

"(a) IN GENERAL.—For purposes of this subpart, the term 'subpart F income' means, in the case of any controlled foreign corporation, the sum of—

"(1) the income derived from the insurance of United States risks (as determined under section 953), and *Infra.*

"(2) the foreign base company income (as determined under section 954).

"(b) EXCLUSION OF UNITED STATES INCOME.—Subpart F income does not include any item includible in gross income under this chapter (other than this subpart) as income derived from sources within the United States of a foreign corporation engaged in trade or business in the United States.

"(c) LIMITATION.—For purposes of subsection (a), the subpart F income of any controlled foreign corporation for any taxable year shall not exceed the earnings and profits of such corporation for such year reduced by the amount (if any) by which—

"(1) an amount equal to—

"(A) the sum of the deficits in earnings and profits for prior taxable years beginning after December 31, 1962, plus

"(B) the sum of the deficits in earnings and profits for taxable years beginning after December 31, 1959, and before January 1, 1963 (reduced by the sum of the earnings and profits for such taxable years); exceeds

"(2) an amount equal to the sum of the earnings and profits for prior taxable years beginning after December 31, 1962, allocated to other earnings and profits under section 959(c)(3). *Post,* p. 1020.

For purposes of the preceding sentence, any deficit in earnings and profits for any prior taxable year shall be taken into account under paragraph (1) for any taxable year only to the extent it has not been taken into account under such paragraph for any preceding taxable year to reduce earnings and profits of such preceding year.

"(d) SPECIAL RULE IN CASE OF INDIRECT OWNERSHIP.—For purposes of subsection (c), if—

"(1) a United States shareholder owns (within the meaning of section 958(a)) stock of a foreign corporation, and by reason of such ownership owns (within the meaning of such section) stock of any other foreign corporation, and

"(2) any of such foreign corporations has a deficit in earnings and profits for the taxable year,

then the earnings and profits for the taxable year of each such foreign corporation which is a controlled foreign corporation shall, with respect to such United States shareholder, be properly reduced to take into account any deficit described in paragraph (2) in such manner as the Secretary or his delegate shall prescribe by regulations.

"SEC. 953. INCOME FROM INSURANCE OF UNITED STATES RISKS.

"(a) GENERAL RULE.—For purposes of section 952(a)(1), the term 'income derived from the insurance of United States risks' means that income which—

"(1) is attributable to the reinsurance or the issuing of any insurance or annuity contract—

"(A) in connection with property in, or liability arising out of activity in, or in connection with the lives or health of residents of, the United States, or

"(B) in connection with risks not included in subparagraph (A) as the result of any arrangement whereby another corporation receives a substantially equal amount of premiums or other consideration in respect to any reinsurance or the issuing of any insurance or annuity contract in connection

with property in, or liability arising out of activity in, or in connection with the lives or health of residents of, the United States, and

"(2) would (subject to the modifications provided by paragraphs (1), (2), and (3) of subsection (b)) be taxed under subchapter L of this chapter if such income were the income of a domestic insurance corporation.

This section shall apply only in the case of a controlled foreign corporation which receives, during any taxable year, premiums or other consideration in respect of the reinsurance, and the issuing, of insurance and annuity contracts described in paragraph (1) in excess of 5 percent of the total of premiums and other consideration received during such taxable year in respect of all reinsurance and issuing of insurance and annuity contracts.

"(b) SPECIAL RULES.—For purposes of subsection (a)—

"(1) In the application of part I of subchapter L, life insurance company taxable income is the gain from operations as defined in section 809(b). 26 USC 809.

"(2) A corporation which would, if it were a domestic insurance corporation, be taxable under part II of subchapter L shall apply subsection (a) as if it were taxable under part III of subchapter L. 26 USC 821-826; *Ante*, pp. 114, 989-999.

"(3) The following provisions of subchapter L shall not apply:

"(A) Section 809(d)(4) (operations loss deduction).

"(B) Section 809(d)(5) (certain nonparticipating contracts).

"(C) Section 809(d)(6) (group life, accident, and health insurance).

"(D) Section 809(d)(10) (small business deduction).

"(E) Section 817(b) (gain on property held on December 31, 1958, and certain substituted property acquired after 1958).

"(F) Section 832(b)(5) (certain capital losses).

"(4) The items referred to in—

"(A) section 809(c)(1) (relating to gross amount of premiums and other considerations),

"(B) section 809(c)(2) (relating to net decrease in reserves),

"(C) section 809(d)(2) (relating to net increase in reserves), and

"(D) section 832(b)(4) (relating to premiums earned on insurance contracts),

shall be taken into account only to the extent they are in respect of any reinsurance or the issuing of any insurance or annuity contract described in subsection (a)(1).

"(5) All items of income, expenses, losses, and deductions (other than those taken into account under paragraph (4)) shall be properly allocated or apportioned under regulations prescribed by the Secretary or his delegate.

"SEC. 954. FOREIGN BASE COMPANY INCOME.

"(a) FOREIGN BASE COMPANY INCOME.—For purposes of section 952(a)(2), the term 'foreign base company income' means for any taxable year the sum of—

"(1) the foreign personal holding company income for the taxable year (determined under subsection (c) and reduced as provided in subsection (b)(5)),

"(2) the foreign base company sales income for the taxable year (determined under subsection (d) and reduced as provided in subsection (b)(5)), and

"(3) the foreign base company services income for the taxable year (determined under subsection (e) and reduced as provided in subsection (b)(5)).

"(b) EXCLUSIONS AND SPECIAL RULES.—

"(1) EXCLUSION OF CERTAIN DIVIDENDS, INTEREST, AND GAINS FROM QUALIFIED INVESTMENTS IN LESS DEVELOPED COUNTRIES.—For purposes of subsection (a), foreign base company income does not include—

"(A) dividends and interest received during the taxable year from investments which at the time of receipt are qualified investments in less developed countries (as defined in section 955(b)), or

Post, p. 1013.

"(B) if the gains from the sale or exchange during the taxable year of investments which at the time of sale or exchange are qualified investments in less developed countries exceed the losses from the sale or exchange during the taxable year of such qualified investments, the amount by which such gains exceed such losses.

The preceding sentence shall apply only to the extent that the sum of the dividends and interest described in subparagraph (A) and the amount described in subparagraph (B) does not exceed the increase for the taxable year in qualified investments in less developed countries of the controlled foreign corporation (as determined under subsection (f)).

"(2) EXCLUSION OF CERTAIN SHIPPING INCOME.—For purposes of subsection (a), foreign base company income does not include income derived from, or in connection with, the use (or hiring or leasing for use) of any aircraft or vessel in foreign commerce, or the performance of services directly related to the use of any such aircraft or vessel.

"(3) SPECIAL RULE WHERE FOREIGN BASE COMPANY INCOME IS LESS THAN 30 PERCENT OR MORE THAN 70 PERCENT OF GROSS INCOME.—For purposes of subsection (a)—

"(A) If the foreign base company income (determined without regard to paragraphs (1) and (5)) is less than 30 percent of gross income, no part of the gross income of the taxable year shall be treated as foreign base company income.

"(B) If the foreign base company income (determined without regard to paragraphs (1) and (5)) exceeds 70 percent of gross income, the entire gross income of the taxable year shall, subject to the provisions of paragraphs (1), (2), (4), and (5), be treated as foreign base company income.

"(4) EXCEPTION FOR FOREIGN CORPORATIONS NOT AVAILED OF TO REDUCE TAXES.—For purposes of subsection (a), foreign base company income does not include any item of income received by a controlled foreign corporation if it is established to the satisfaction of the Secretary or his delegate with respect to such item that the creation or organization of the controlled foreign corporation receiving such item under the laws of the foreign country in which it is incorporated does not have the effect of substantial reduction of income, war profits, or excess profits taxes or similar taxes.

"(5) DEDUCTIONS TO BE TAKEN INTO ACCOUNT.—For purposes of subsection (a), the foreign personal holding company income, the foreign base company sales income, and the foreign base company services income shall be reduced, under regulations prescribed by the Secretary or his delegate, so as to take into account deductions (including taxes) properly allocable to such income.

"(c) FOREIGN PERSONAL HOLDING COMPANY INCOME.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), the term 'foreign personal holding company income' means the foreign personal holding company income (as defined in section 553), modified and adjusted as provided in paragraphs (2), (3), and (4). 26 USC 553.

"(2) RENTS INCLUDED WITHOUT REGARD TO 50 PERCENT LIMITATION.—For purposes of paragraph (1), all rents shall be included in foreign personal holding company income without regard to whether or not such rents constitute 50 percent or more of gross income.

"(3) CERTAIN INCOME DERIVED IN ACTIVE CONDUCT OF TRADE OR BUSINESS.—For purposes of paragraph (1), foreign personal holding company income does not include—

"(A) rents and royalties which are derived in the active conduct of a trade or business and which are received from a person other than a related person (within the meaning of subsection (d)(3)), or

"(B) dividends, interest, and gains from the sale or exchange of stock or securities derived in the conduct of a banking, financing, or similar business, or derived from the investments made by an insurance company of its unearned premiums or reserves ordinary and necessary for the proper conduct of its insurance business, and which are received from a person other than a related person (within the meaning of subsection (d)(3)).

"(4) CERTAIN INCOME RECEIVED FROM RELATED PERSONS.—For purposes of paragraph (1), foreign personal holding company income does not include—

"(A) dividends and interest received from a related person which (i) is created or organized under the laws of the same foreign country under the laws of which the controlled foreign corporation is created or organized, and (ii) has a substantial part of its assets used in its trade or business located in such same foreign country;

"(B) interest received in the conduct of a banking, financing, or similar business from a related person engaged in the conduct of a banking, financing, or similar business if the businesses of the recipient and the payor are predominantly with persons other than related persons; and

"(C) rents, royalties, and similar amounts received from a related person for the use of, or the privilege of using, property within the country under the laws of which the controlled foreign corporation is created or organized.

"(d) FOREIGN BASE COMPANY SALES INCOME.—

"(1) IN GENERAL.—For purposes of subsection (a)(2), the term 'foreign base company sales income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with the purchase of personal property from a related person and its sale to any person, the sale of personal property to any person on behalf of a related person, the purchase of personal property from any person and its sale to a related person, or the purchase of personal property from any person on behalf of a related person where—

"(A) the property which is purchased (or in the case of property sold on behalf of a related person, the property which is sold) is manufactured, produced, grown, or extracted outside the country under the laws of which the controlled foreign corporation is created or organized, and

"(B) the property is sold for use, consumption, or disposition outside such foreign country, or, in the case of property purchased on behalf of a related person, is purchased for use, consumption, or disposition outside such foreign country.

"(2) CERTAIN BRANCH INCOME.—For purposes of determining foreign base company sales income in situations in which the carrying on of activities by a controlled foreign corporation through a branch or similar establishment outside the country of incorporation of the controlled foreign corporation has substantially the same effect as if such branch or similar establishment were a wholly owned subsidiary corporation deriving such income, under regulations prescribed by the Secretary or his delegate the income attributable to the carrying on of such activities of such branch or similar establishment shall be treated as income derived by a wholly owned subsidiary of the controlled foreign corporation and shall constitute foreign base company sales income of the controlled foreign corporation.

"(3) RELATED PERSON DEFINED.—For purposes of this section, a person is a related person with respect to a controlled foreign corporation, if—

"(A) such person is an individual, partnership, trust, or estate which controls the controlled foreign corporation;

"(B) such person is a corporation which controls, or is controlled by, the controlled foreign corporation; or

"(C) such person is a corporation which is controlled by the same person or persons which control the controlled foreign corporation.

For purposes of the preceding sentence, control means the ownership, directly or indirectly, of stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote. For purposes of this paragraph, the rules for determining ownership of stock prescribed by section 958 shall apply.

"(e) FOREIGN BASE COMPANY SERVICES INCOME.—For purposes of subsection (a)(3), the term 'foreign base company services income' means income (whether in the form of compensation, commissions, fees, or otherwise) derived in connection with the performance of technical, managerial, engineering, architectural, scientific, skilled, industrial, commercial, or like services which—

"(1) are performed for or on behalf of any related person (within the meaning of subsection (d)(3)), and

"(2) are performed outside the country under the laws of which the controlled foreign corporation is created or organized.

The preceding sentence shall not apply to income derived in connection with the performance of services which are directly related to the sale or exchange by the controlled foreign corporation of property manufactured, produced, grown, or extracted by it and which are performed prior to the time of the sale or exchange, or of services directly related to an offer or effort to sell or exchange such property.

"(f) INCREASE IN QUALIFIED INVESTMENTS IN LESS DEVELOPED COUNTRIES.—For purposes of subsection (b)(1), the increase for any taxable year in qualified investments in less developed countries of any controlled foreign corporation is the amount by which—

"(1) the qualified investments in less developed countries (as defined in section 955(b)) of the controlled foreign corporation at the close of the taxable year, exceeds

Post, p. 1013.

"(2) the qualified investments in less developed countries (as so defined) of the controlled foreign corporation at the close of the preceding taxable year.

"SEC. 955. WITHDRAWAL OF PREVIOUSLY EXCLUDED SUBPART F INCOME FROM QUALIFIED INVESTMENT.

"(a) GENERAL RULES.—

"(1) AMOUNT WITHDRAWN.—For purposes of this subpart, the amount of previously excluded subpart F income of any controlled foreign corporation withdrawn from investment in less developed countries for any taxable year is an amount equal to the decrease in the amount of qualified investments in less developed countries of the controlled foreign corporation for such year, but only to the extent that the amount of such decrease does not exceed an amount equal to—

"(A) the sum of the amounts excluded under section 954 (b)(1) from the foreign base company income of such corporation for all prior taxable years, reduced by

"(B) the sum of the amounts of previously excluded subpart F income withdrawn from investment in less developed countries of such corporation determined under this subsection for all prior taxable years.

"(2) DECREASE IN QUALIFIED INVESTMENTS.—For purposes of paragraph (1), the amount of the decrease in qualified investments in less developed countries of any controlled foreign corporation for any taxable year is the amount by which—

"(A) the amount of qualified investments in less developed countries of the controlled foreign corporation at the close of the preceding taxable year, exceeds

"(B) the amount of qualified investments in less developed countries of the controlled foreign corporation at the close of the taxable year,

to the extent the amount of such decrease does not exceed the sum of the earnings and profits for the taxable year and the earnings and profits accumulated for prior taxable years beginning after December 31, 1962. For purposes of this paragraph, if qualified investments in less developed countries are disposed of by the controlled foreign corporation during the taxable year, the amount of the decrease in qualified investments in less developed countries of such controlled foreign corporation for such year shall be reduced by an amount equal to the amount (if any) by which the losses on such dispositions during such year exceed the gains on such dispositions during such year.

"(3) PRO RATA SHARE OF AMOUNT WITHDRAWN.—In the case of any United States shareholder, the pro rata share of the amount of previously excluded subpart F income of any controlled foreign corporation withdrawn from investment in less developed countries for any taxable year is his pro rata share of the amount determined under paragraph (1).

"(b) QUALIFIED INVESTMENTS IN LESS DEVELOPED COUNTRIES.—

"(1) IN GENERAL.—For purposes of this subpart, the term 'qualified investments in less developed countries' means property which is—

"(A) stock of a less developed country corporation held by the controlled foreign corporation, but only if the controlled foreign corporation owns 10 percent or more of the total combined voting power of all classes of stock of such less developed country corporation;

"(B) an obligation of a less developed country corporation held by the controlled foreign corporation, which, at the

time of its acquisition by the controlled foreign corporation, has a maturity of one year or more, but only if the controlled foreign corporation owns 10 percent or more of the total combined voting power of all classes of stock of such less developed country corporation; or

"(C) an obligation of a less developed country.

"(2) COUNTRY CEASES TO BE LESS DEVELOPED COUNTRY.—For purposes of this subpart, property which would be a qualified investment in less developed countries, but for the fact that a foreign country has, after the acquisition of such property by the controlled foreign corporation, ceased to be a less developed country, shall be treated as a qualified investment in less developed countries.

"(3) SPECIAL RULE.—For purposes of this subpart, a United States shareholder of a controlled foreign corporation may, under regulations prescribed by the Secretary or his delegate, make the determinations under subsection (a)(2) of this section and under subsection (f) of section 954 as of the close of the years following the years referred to in such subsections, or as of the close of such longer period of time as such regulations may permit, in lieu of on the last day of such years. Any election under this paragraph made with respect to any taxable year shall apply to such year and to all succeeding taxable years unless the Secretary or his delegate consents to the revocation of such election.

Ante, p. 1012.

"(4) EXCEPTION.—For purposes of this subpart, property shall not constitute qualified investments in less developed countries if such property is disposed of within 6 months after the date of its acquisition.

"(5) AMOUNT ATTRIBUTABLE TO PROPERTY.—The amount taken into account under this subpart with respect to any property described in paragraph (1) or (2) shall be its adjusted basis, reduced by any liability to which such property is subject.

"(c) LESS DEVELOPED COUNTRY CORPORATIONS.—

"(1) IN GENERAL.—For purposes of this subpart, the term 'less developed country corporation' means a foreign corporation which during the taxable year is engaged in the active conduct of one or more trades or businesses and—

"(A) 80 percent or more of the gross income of which for the taxable year is derived from sources within less developed countries; and

"(B) 80 percent or more in value of the assets of which on each day of the taxable year consists of—

"(i) property used in such trades or businesses and located in less developed countries,

"(ii) money, and deposits with persons carrying on the banking business,

"(iii) stock, and obligations which, at the time of their acquisition, have a maturity of one year or more, of any other less developed country corporation,

"(iv) an obligation of a less developed country,

"(v) an investment which is required because of restrictions imposed by a less developed country, and

"(vi) property described in section 956(b)(2).

Post, p. 1016.

For purposes of subparagraph (A), the determination as to whether income is derived from sources within less developed countries shall be made under regulations prescribed by the Secretary or his delegate.

"(2) SHIPPING COMPANIES.—For purposes of this subpart, the term 'less developed country corporation' also means a foreign corporation—

"(A) 80 percent or more of the gross income of which for the taxable year consists of—

"(i) gross income derived from, or in connection with, the using (or hiring or leasing for use) in foreign commerce of aircraft or vessels registered under the laws of a less developed country, or from, or in connection with, the performance of services directly related to use of such aircraft or vessels, or from the sale or exchange of such aircraft or vessels, and

"(ii) dividends and interest received from foreign corporations which are less developed country corporations within the meaning of this paragraph and 10 percent or more of the total combined voting power of all classes of stock of which are owned by the foreign corporation, and gain from the sale or exchange of stock or obligations of foreign corporations which are such less developed country corporations, and

"(B) 80 percent or more of the assets of which on each day of the taxable year consists of (i) assets used, or held for use, for or in connection with the production of income described in subparagraph (A), and (ii) property described in section 956(b)(2). Post, p. 1016.

"(3) LESS DEVELOPED COUNTRY DEFINED.—For purposes of this subpart, the term 'less developed country' means (in respect of any foreign corporation) any foreign country (other than an area within the Sino-Soviet bloc) or any possession of the United States with respect to which, on the first day of the taxable year, there is in effect an Executive order by the President of the United States designating such country or possession as an economically less developed country for purposes of this subpart. For purposes of the preceding sentence, an overseas territory, department, province, or possession may be treated as a separate country. No designation shall be made under this paragraph with respect to—

Australia	Liechtenstein
Austria	Luxembourg
Belgium	Monaco
Canada	Netherlands
Denmark	New Zealand
France	Norway
Germany (Federal Republic)	Union of South Africa
Hong Kong	San Marino
Italy	Sweden
Japan	Switzerland
	United Kingdom

After the President has designated any foreign country or any possession of the United States as an economically less developed country for purposes of this subpart, he shall not terminate such designation (either by issuing an Executive order for that purpose or by issuing an Executive order under the first sentence of this paragraph which has the effect of terminating such designation) unless, at least 30 days prior to such termination, he has notified the Senate and the House of Representatives of his intention to terminate such designation.

"SEC. 956. INVESTMENT OF EARNINGS IN UNITED STATES PROPERTY.

"(a) GENERAL RULES.—For purposes of this subpart—

"(1) AMOUNT OF INVESTMENT.—The amount of earnings of a controlled foreign corporation invested in United States property at the close of any taxable year is the aggregate amount of such property held, directly or indirectly, by the controlled foreign

corporation at the close of the taxable year, to the extent such amount would have constituted a dividend (determined after the application of section 955(a)) if it had been distributed.

Ante, p. 1013.

"(2) PRO RATA SHARE OF INCREASE FOR YEAR.—In the case of any United States shareholder, the pro rata share of the increase for any taxable year in the earnings of a controlled foreign corporation invested in United States property is the amount determined by subtracting his pro rata share of—

"(A) the amount determined under paragraph (1) for the close of the preceding taxable year, reduced by amounts paid during such preceding taxable year to which section 959(c)(1) applies, from

Post, p. 1019.

"(B) the amount determined under paragraph (1) for the close of the taxable year.

The determinations under subparagraphs (A) and (B) shall be made on the basis of stock owned (within the meaning of section 958(a)) by such United States shareholder on the last day during the taxable year on which the foreign corporation is a controlled foreign corporation.

Post, p. 1018.

"(3) AMOUNT ATTRIBUTABLE TO PROPERTY.—The amount taken into account under paragraph (1) or (2) with respect to any property shall be its adjusted basis, reduced by any liability to which the property is subject.

(b) UNITED STATES PROPERTY DEFINED.—

"(1) IN GENERAL.—For purposes of subsection (a), the term 'United States property' means any property acquired after December 31, 1962, which is—

"(A) tangible property located in the United States;

"(B) stock of a domestic corporation;

"(C) an obligation of a United States person; or

"(D) any right to the use in the United States of—

"(i) a patent or copyright,

"(ii) an invention, model, or design (whether or not patented),

"(iii) a secret formula or process, or

"(iv) any other similar property right,

which is acquired or developed by the controlled foreign corporation for use in the United States.

"(2) EXCEPTIONS.—For purposes of subsection (a), the term 'United States property' does not include—

"(A) obligations of the United States, money, or deposits with persons carrying on the banking business;

"(B) property located in the United States which is purchased in the United States for export to, or use in, foreign countries;

"(C) any obligation of a United States person arising in connection with the sale or processing of property if the amount of such obligation outstanding at no time during the taxable year exceeds the amount which would be ordinary and necessary to carry on the trade or business of both the other party to the sale or processing transaction and the United States person had the sale or processing transaction been made between unrelated persons;

"(D) any aircraft, railroad rolling stock, vessel, motor vehicle, or container used in the transportation of persons or property in foreign commerce and used predominantly outside the United States;

"(E) an amount of assets of an insurance company equivalent to the unearned premiums or reserves ordinary and necessary for the proper conduct of its insurance business

attributable to contracts which are not contracts described in section 953(a)(1); and

Ante, p. 1008.

"(F) an amount of assets of the controlled foreign corporation equal to the earnings and profits accumulated after December 31, 1962, and excluded from subpart F income under section 952(b).

Ante, p. 1008.

"(c) PLEDGES AND GUARANTEES.—For purposes of subsection (a), a controlled foreign corporation shall, under regulations prescribed by the Secretary or his delegate, be considered as holding an obligation of a United States person if such controlled foreign corporation is a pledgor or guarantor of such obligation.

"SEC. 957. CONTROLLED FOREIGN CORPORATIONS; UNITED STATES PERSONS.

"(a) GENERAL RULE.—For purposes of this subpart, the term 'controlled foreign corporation' means any foreign corporation of which more than 50 percent of the total combined voting power of all classes of stock entitled to vote is owned (within the meaning of section 958(a)), or is considered as owned by applying the rules of ownership of section 958(b), by United States shareholders on any day during the taxable year of such foreign corporation.

Post, p. 1018.

"(b) SPECIAL RULE FOR INSURANCE.—For purposes only of taking into account income described in section 953(a) (relating to income derived from insurance of United States risks), the term 'controlled foreign corporation' includes not only a foreign corporation as defined by subsection (a) but also one of which more than 25 percent of the total combined voting power of all classes of stock is owned (within the meaning of section 958(a)), or is considered as owned by applying the rules of ownership of section 958(b), by United States shareholders on any day during the taxable year of such corporation, if the gross amount of premiums or other consideration in respect of the reinsurance or the issuing of insurance or annuity contracts described in section 953(a)(1) exceeds 75 percent of the gross amount of all premiums or other consideration in respect of all risks.

"(c) CORPORATIONS ORGANIZED IN UNITED STATES POSSESSIONS.—For purposes of this subpart, the term 'controlled foreign corporation' does not include any corporation created or organized in the Commonwealth of Puerto Rico or a possession of the United States or under the laws of the Commonwealth of Puerto Rico or a possession of the United States if—

"(1) 80 percent or more of the gross income of such corporation for the 3-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 the Commonwealth of Puerto Rico or a possession of the United States; and

"(2) 50 percent or more of the gross income of such corporation for such period, or for such part thereof, was derived from the active conduct within the Commonwealth of Puerto Rico or a possession of the United States of any trades or businesses constituting the manufacture or processing of goods, wares, merchandise, or other tangible personal property; the processing of agricultural or horticultural products or commodities (including but not limited to livestock, poultry, or fur-bearing animals); the catching or taking of any kind of fish or the mining or extraction of natural resources, or any manufacturing or processing of any products or commodities obtained from such activities; or the ownership or operation of hotels.

For purposes of paragraphs (1) and (2), the determination as to whether income was derived from sources within the Commonwealth

of Puerto Rico or a possession of the United States and was derived from the active conduct of a described trade or business within the Commonwealth of Puerto Rico or a possession of the United States shall be made under regulations prescribed by the Secretary or his delegate.

"(d) UNITED STATES PERSON.—For purposes of this subpart, the term 'United States person' has the meaning assigned to it by section 7701(a)(30) except that—

Ante, p. 988.

"(1) with respect to a corporation organized under the laws of the Commonwealth of Puerto Rico, such term does not include an individual who is a bona fide resident of Puerto Rico, if a dividend received by such individual during the taxable year from such corporation would, for purposes of section 933(1), be treated as income derived from sources within Puerto Rico,

26 USC 933.

"(2) with respect to a corporation organized under the laws of the Virgin Islands, such term does not include an individual who is a bona fide resident of the Virgin Islands and whose income tax obligation under this subtitle for the taxable year is satisfied pursuant to section 28(a) of the Revised Organic Act of the Virgin Islands, approved July 22, 1954 (48 U.S.C. 1642), by paying tax on income derived from all sources both within and outside the Virgin Islands into the treasury of the Virgin Islands, and

68 Stat. 508.

"(3) with respect to a corporation organized under the laws of any other possession of the United States, such term does not include an individual who is a bona fide resident of any such other possession and whose income derived from sources within possessions of the United States is not, by reason of section 931(a), includible in gross income under this subtitle for the taxable year.

"SEC. 958. RULES FOR DETERMINING STOCK OWNERSHIP.

"(a) DIRECT AND INDIRECT OWNERSHIP.—

"(1) GENERAL RULE.—For purposes of this subpart (other than sections 955(b)(1)(A) and (B), 955(c)(2)(A)(ii), and 960(a)(1)), stock owned means—

Ante, p. 1013.
Post, p. 1020.

"(A) stock owned directly, and

"(B) stock owned with the application of paragraph (2).

"(2) STOCK OWNERSHIP THROUGH FOREIGN ENTITIES.—For purposes of subparagraph (B) of paragraph (1), stock owned, directly or indirectly, by or for a foreign corporation, foreign partnership, or foreign trust or foreign estate (within the meaning of section 7701(a)(31)) shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

Ante, p. 988.

"(3) SPECIAL RULE FOR MUTUAL INSURANCE COMPANIES.—For purposes of applying paragraph (1) in the case of a foreign mutual insurance company, the term 'stock' shall include any certificate entitling the holder to voting power in the corporation.

"(b) CONSTRUCTIVE OWNERSHIP.—For purposes of sections 951(b), 954(d)(3), and 957, section 318(a) (relating to constructive ownership of stock) shall apply to the extent that the effect is to treat any United States person as a United States shareholder within the meaning of section 951(b), to treat a person as a related person within the meaning of section 954(d)(3), or to treat a foreign corporation as a controlled foreign corporation under section 957, except that—

26 USC 318.

"(1) In applying paragraph (1)(A) of section 318(a), stock owned by a nonresident alien individual (other than a foreign trust or foreign estate) shall not be considered as owned by a citizen or by a resident alien individual.

"(2) In applying the first sentence of subparagraphs (A) and (B), and in applying clause (i) of subparagraph (C), of section 318(a)(2), if a partnership, estate, trust, or corporation owns, directly or indirectly, more than 50 percent of the total combined voting power of all classes of stock entitled to vote of a corporation, it shall be considered as owning all the stock entitled to vote. 26 USC 318.

"(3) Stock owned by a partnership, estate, trust, or corporation, by reason of the application of the second sentence of subparagraphs (A) and (B), and the application of clause (ii) of subparagraph (C), of section 318(a)(2), shall not be considered as owned by such partnership, estate, trust, or corporation, for purposes of applying the first sentence of subparagraphs (A) and (B), and in applying clause (i) of subparagraph (C), of section 318(a)(2).

"(4) In applying clause (i) of subparagraph (C) of section 318(a)(2), the phrase '10 percent' shall be substituted for the phrase '50 percent' used in subparagraph (C).

"(5) The second sentence of subparagraphs (A) and (B), and clause (ii) of subparagraph (C), of section 318(a)(2) shall not be applied so as to consider a United States person as owning stock which is owned by a person who is not a United States person.

"SEC. 959. EXCLUSION FROM GROSS INCOME OF PREVIOUSLY TAXED EARNINGS AND PROFITS.

"(a) EXCLUSION FROM GROSS INCOME OF UNITED STATES PERSONS.—For purposes of this chapter, the earnings and profits for a taxable year of a foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder under section 951(a) shall not, when—

"(1) such amounts are distributed to, or

"(2) such amounts would, but for this subsection, be included under section 951(a)(1)(B) in the gross income of, *Ante*, p. 1006.

such shareholder (or any other United States person who acquires from any person any portion of the interest of such United States shareholder in such foreign corporation, but only to the extent of such portion, and subject to such proof of the identity of such interest as the Secretary or his delegate may by regulations prescribe) directly, or indirectly through a chain of ownership described under section 958(a), be again included in the gross income of such United States shareholder (or of such other United States person).

"(b) EXCLUSION FROM GROSS INCOME OF CERTAIN FOREIGN SUBSIDIARIES.—For purposes of section 951(a), the earnings and profits for a taxable year of a controlled foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder under section 951(a), shall not, when distributed through a chain of ownership described under section 958(a), be also included in the gross income of another controlled foreign corporation in such chain for purposes of the application of section 951(a) to such other controlled foreign corporation with respect to such United States shareholder (or to any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder in the controlled foreign corporation, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary or his delegate may prescribe by regulations).

"(c) ALLOCATION OF DISTRIBUTIONS.—For purposes of subsections (a) and (b), section 316(a) shall be applied by applying paragraph (2) thereof, and then paragraph (1) thereof— 26 USC 316.

"(1) first to earnings and profits attributable to amounts included in gross income under section 951(a)(1)(B) (or which

would have been included except for subsection (a)(2) of this section),

"(2) then to earnings and profits attributable to amounts included in gross income under section 951(a)(1)(A) (but reduced by amounts not included under section 951(a)(1)(B) because of the exclusion in subsection (a)(2) of this section), and

"(3) then to other earnings and profits.

Ante, p. 1006.

"(d) DISTRIBUTIONS EXCLUDED FROM GROSS INCOME NOT TO BE TREATED AS DIVIDENDS.—Except as provided in section 960(a)(3), any distribution excluded from gross income under subsection (a) shall be treated, for purposes of this chapter, as a distribution which is not a dividend.

Infra.

"SEC. 960. SPECIAL RULES FOR FOREIGN TAX CREDIT.

"(a) TAXES PAID BY A FOREIGN CORPORATION.—

"(1) GENERAL RULE.—For purposes of subpart A of this part, if there is included, under section 951(a), in the gross income of a domestic corporation any amount attributable to earnings and profits—

"(A) of a foreign corporation at least 10 percent of the voting stock of which is owned by such domestic corporation, or

"(B) of a foreign corporation at least 50 percent of the voting stock of which is owned by a foreign corporation at least 10 percent of the voting stock of which is in turn owned by such domestic corporation,

then, under regulations prescribed by the Secretary or his delegate, such domestic corporation shall be deemed to have paid the same proportion of the total income, war profits, and excess profits taxes paid (or deemed paid) by such foreign corporation to a foreign country or possession of the United States for the taxable year on or with respect to the earnings and profits of such foreign corporation which the amount of earnings and profits of such foreign corporation so included in gross income of the domestic corporation bears to—

"(C) if the foreign corporation at least 10 percent of the voting stock of which is owned by such domestic corporation referred to in subparagraph (A) or (B) is not a less developed country corporation (as defined in section 902(d)) for such taxable year, the entire amount of the earnings and profits of such foreign corporation for such taxable year, or

Ante, p. 1000.

"(D) if the foreign corporation at least 10 percent of the voting stock of which is owned by such domestic corporation referred to in subparagraph (A) or (B) is a less developed country corporation (as defined in section 902(d)) for such taxable year, the sum of the entire amount of the earnings and profits of such foreign corporation for such taxable year and the total income, war profits, and excess profits taxes paid by such foreign corporation to foreign countries or possessions of the United States for such taxable year.

"(2) TAXES PREVIOUSLY DEEMED PAID BY DOMESTIC CORPORATION.—If a domestic corporation receives a distribution from a foreign corporation, any portion of which is excluded from gross income under section 959, the income, war profits, and excess profits taxes paid or deemed paid by such foreign corporation to any foreign country or to any possession of the United States in connection with the earnings and profits of such foreign corporation from which such distribution is made shall not be taken into account for purposes of section 902, to the extent such taxes

Ante, p. 1019.

were deemed paid by a domestic corporation under paragraph (1) for any prior taxable year.

"(3) TAXES PAID BY FOREIGN CORPORATION AND NOT PREVIOUSLY DEEMED PAID BY DOMESTIC CORPORATION.—Any portion of a distribution from a foreign corporation received by a domestic corporation which is excluded from gross income under section 959 (a) shall be treated by the domestic corporation as a dividend, solely for purposes of taking into account under section 902 any income, war profits, or excess profits taxes paid to any foreign country or to any possession of the United States, on or with respect to the accumulated profits of such foreign corporation from which such distribution is made, which were not deemed paid by the domestic corporation under paragraph (1) for any prior taxable year.

Ante, p. 1019.
Ante, p. 999.

"(b) SPECIAL RULES FOR FOREIGN TAX CREDIT IN YEAR OF RECEIPT OF PREVIOUSLY TAXED EARNINGS AND PROFITS.—

"(1) INCREASE IN SECTION 904 LIMITATION.—In the case of any taxpayer who—

"(A) either (i) chose to have the benefits of subpart A of this part for a taxable year in which he was required under section 951(a) to include in his gross income an amount in respect of a controlled foreign corporation, or (ii) did not pay or accrue for such taxable year any income, war profits, or excess profits taxes to any foreign country or to any possession of the United States, and

Ante, p. 1006.

"(B) chooses to have the benefits of subpart A of this part for the taxable year in which he receives a distribution or amount which is excluded from gross income under section 959(a) and which is attributable to earnings and profits of the controlled foreign corporation which was included in his gross income for the taxable year referred to in subparagraph (A), and

"(C) for the taxable year in which such distribution or amount is received, pays, or is deemed to have paid, or accrues income, war profits, or excess profits taxes to a foreign country or to any possession of the United States with respect to such distribution or amount,

the applicable limitation under section 904 for the taxable year in which such distribution or amount is received shall be increased as provided in paragraph (2), but such increase shall not exceed the amount of such taxes paid, or deemed paid, or accrued with respect to such distribution or amount.

26 USC 904.

"(2) AMOUNT OF INCREASE.—The amount of increase of the applicable limitation under section 904(a) for the taxable year in which the distribution or amount referred to in paragraph (1)(B) is received shall be an amount equal to—

74 Stat. 1010.
26 USC 904.

"(A) the amount by which the applicable limitation under section 904(a) for the taxable year referred to in paragraph (1)(A) was increased by reason of the inclusion in gross income under section 951(a) of the amount in respect of the controlled foreign corporation, reduced by

"(B) the amount of any income, war profits, and excess profits taxes paid, or deemed paid, or accrued to any foreign country or possession of the United States which were allowable as a credit under section 901 for the taxable year referred to in paragraph (1)(A) and which would not have been allowable but for the inclusion in gross income of the amount described in subparagraph (A).

26 USC 901; *Ante*, p. 99. *Post*, p. 1031.

"(3) CASES IN WHICH TAXES NOT TO BE ALLOWED AS DEDUCTION.—In the case of any taxpayer who—

"(A) chose to have the benefits of subpart A of this part for a taxable year in which he was required under section 951(a) to include in his gross income an amount in respect of a controlled foreign corporation, and

"(B) does not choose to have the benefits of subpart A of this part for the taxable year in which he receives a distribution or amount which is excluded from gross income under section 959(a) and which is attributable to earnings and profits of the controlled foreign corporation which was included in his gross income for the taxable year referred to in subparagraph (A),

26 USC 164. no deduction shall be allowed under section 164 for the taxable year in which such distribution or amount is received for any income, war profits, or excess profits taxes paid or accrued to any foreign country or to any possession of the United States on or with respect to such distribution or amount.

"(4) INSUFFICIENT TAXABLE INCOME.—If an increase in the limitation under this subsection exceeds the tax imposed by this chapter for such year, the amount of such excess shall be deemed an overpayment of tax for such year.

"SEC. 961. ADJUSTMENTS TO BASIS OF STOCK IN CONTROLLED FOREIGN CORPORATIONS AND OF OTHER PROPERTY.

"(a) INCREASE IN BASIS.—Under regulations prescribed by the Secretary or his delegate, the basis of a United States shareholder's stock in a controlled foreign corporation, and the basis of property of a United States shareholder by reason of which he is considered under *Ante*, p. 1018. section 958(a)(2) as owning stock of a controlled foreign corporation, shall be increased by the amount required to be included in his *Ante*, p. 1006. gross income under section 951(a) with respect to such stock or with respect to such property, as the case may be, but only to the extent to which such amount was included in the gross income of such United States shareholder. In the case of a United States shareholder who *Post*, p. 1023. has made an election under section 962 for the taxable year, the increase in basis provided by this subsection shall not exceed an amount equal to the amount of tax paid under this chapter with respect to the amounts required to be included in his gross income under section 951(a).

"(b) REDUCTION IN BASIS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary or his delegate, the adjusted basis of stock or other property with respect to which a United States shareholder or a United States person receives an amount which is excluded from gross *Ante*, p. 1019. income under section 959(a) shall be reduced by the amount so excluded. In the case of a United States shareholder who has made an election under section 962 for any prior taxable year, the reduction in basis provided by this paragraph shall not exceed an amount equal to the amount received which is excluded from gross income under section 959(a) after the application of section 962(d).

"(2) AMOUNT IN EXCESS OF BASIS.—To the extent that an amount excluded from gross income under section 959(a) exceeds the adjusted basis of the stock or other property with respect to which it is received, the amount shall be treated as gain from the sale or exchange of property.

"SEC. 962. ELECTION BY INDIVIDUALS TO BE SUBJECT TO TAX AT CORPORATE RATES.

"(a) GENERAL RULE.—Under regulations prescribed by the Secretary or his delegate, in the case of a United States shareholder who is an individual and who elects to have the provisions of this section apply for the taxable year—

"(1) the tax imposed under this chapter on amounts which are included in his gross income under section 951(a) shall (in lieu of the tax determined under section 1) be an amount equal to the tax which would be imposed under section 11 if such amounts were received by a domestic corporation, and

Ante, p. 1006.

"(2) for purposes of applying the provisions of section 960 (relating to foreign tax credit) such amounts shall be treated as if they were received by a domestic corporation.

Ante, p. 1020.

"(b) ELECTION.—An election to have the provisions of this section apply for any taxable year shall be made by a United States shareholder at such time and in such manner as the Secretary or his delegate shall prescribe by regulations. An election made for any taxable year may not be revoked except with the consent of the Secretary or his delegate.

"(c) SURTAX EXEMPTION.—For purposes of applying subsection (a)(1), the surtax exemption provided by section 11(c) shall not exceed, in the case of any United States shareholder, an amount which bears the same ratio to $25,000 as the amounts included in his gross income under section 951(a) for the taxable year bears to his pro rata share of the earnings and profits for the taxable year of all controlled foreign corporations with respect to which such United States shareholder includes any amount in gross income under section 951(a).

68A Stat. 11.
26 USC 11.

"(d) SPECIAL RULE FOR ACTUAL DISTRIBUTIONS.—The earnings and profits of a foreign corporation attributable to amounts which were included in the gross income of a United States shareholder under section 951(a) and with respect to which an election under this section applied shall, when such earnings and profits are distributed, notwithstanding the provisions of section 959(a)(1), be included in gross income to the extent that such earnings and profits so distributed exceed the amount of tax paid under this chapter on the amounts to which such election applied.

Ante, p. 1019.

"SEC. 963. RECEIPT OF MINIMUM DISTRIBUTIONS BY DOMESTIC CORPORATIONS.

"(a) GENERAL RULE.—In the case of a United States shareholder which is a domestic corporation and which consents to all the regulations prescribed by the Secretary or his delegate under this section prior to the last day prescribed by law for filing its return of the tax imposed by this chapter for the taxable year, no amount shall be included in gross income under section 951(a)(1)(A)(i) for the taxable year with respect to the subpart F income of a controlled foreign corporation, if—

"(1) in the case of a controlled foreign corporation described in subsection (c)(1), the United States shareholder receives a minimum distribution of the earnings and profits for the taxable year of such controlled foreign corporation;

"(2) in the case of controlled foreign corporations described in subsection (c)(2), the United States shareholder receives a minimum distribution with respect to the consolidated earnings and profits for the taxable year of all such controlled foreign corporations; or

"(3) in the case of controlled foreign corporations described in subsection (c)(3), the United States shareholder receives a min-

imum distribution of the consolidated earnings and profits for the taxable year of all such controlled foreign corporations.

"(b) MINIMUM DISTRIBUTIONS.—For purposes of this section, a minimum distribution with respect to the earnings and profits for the taxable year of any controlled foreign corporation or corporations shall, in the case of any United States shareholder, be its pro rata share of an amount determined in accordance with the following table:

"If the effective foreign tax rate is (percentage)—	The required minimum distribution of earnings and profits is (percentage)—
Under 10	90
10 or over but less than 20	86
20 or over but less than 28	82
28 or over but less than 34	75
34 or over but less than 39	68
39 or over but less than 42	55
42 or over but less than 44	40
44 or over but less than 46	27
46 or over but less than 47	14
47 or over	0

"(c) AMOUNTS TO WHICH SECTION APPLIES.—

"(1) FOREIGN SUBSIDIARIES.—Subsection (a)(1) shall apply to amounts which (but for the provisions of this section) would be included in the gross income of the United States shareholder under section 951(a)(1)(A)(i) by reason of its ownership, within the meaning of section 958(a)(1)(A), of stock of a controlled foreign corporation.

Ante, p. 1006.
Ante, p. 1018.

"(2) CHAIN OF CONTROLLED FOREIGN CORPORATIONS.—Subsection (a)(2) shall apply to amounts which (but for the provisions of this section) would be included in the gross income of the United States shareholder under section 951(a)(1)(A)(i)—

"(A) by reason of its ownership, within the meaning of section 958(a)(1)(A), of stock of a controlled foreign corporation, and

"(B) to the extent that the United States shareholder so elects, by reason of its ownership, within the meaning of section 958(a)(2), of stock of any other controlled foreign corporation (on account of its ownership of the stock described in subparagraph (A) or of stock described in this subparagraph), but only if there is taken into account the earnings and profits of each foreign corporation, whether or not a controlled foreign corporation, by reason of which the United States shareholder owns, within the meaning of section 958(a)(2), stock of such controlled foreign corporation.

"(3) ALL CONTROLLED FOREIGN CORPORATIONS.—Except as provided in paragraph (4), subsection (a)(3) shall apply to amounts which (but for the provisions of this section) would be included in the gross income of the United States shareholder under section 951(a)(1)(A)(i)—

"(A) by reason of its ownership, within the meaning of section 958(a)(1)(A), of stock of all controlled foreign corporations in which it owns stock within the meaning of such section, and

"(B) by reason of its ownership, within the meaning of section 958(a)(2), of stock of all controlled foreign corporations in which it owns stock within the meaning of such section, but only if there is taken into account the earnings and profits of each foreign corporation, whether or not a controlled foreign corporation, by reason of which the United States shareholder owns, within the meaning of section 958(a), stock of any of such controlled foreign corporations.

"(4) EXCEPTIONS AND SPECIAL RULES.—

"(A) LESS DEVELOPED COUNTRY CORPORATIONS.—If the United States shareholder so elects, subsection (a)(3) and paragraph (3) of this subsection shall not apply to amounts which would be included in the gross income of such shareholder under section 951(a)(1)(A)(i) by reason of its ownership, within the meaning of section 958(a), of stock of controlled foreign corporations which are less developed country corporations (as defined in section 955(c)). This subparagraph shall not apply with respect to a less developed country corporation if, by reason of the ownership of the stock of such corporation, the United States shareholder owns, within the meaning of section 958(a)(2), stock of any other controlled foreign corporation which is not a less developed country corporation. Except as provided in the preceding sentence, an election under this subparagraph may be made only with respect to all controlled foreign corporations which are less developed country corporations and with respect to which the domestic corporation making the election is a United States shareholder. *Ante*, p. 1006.

"(B) FOREIGN BRANCHES.—In applying subsection (a)(3) and paragraph (3) of this subsection, if a United States shareholder so elects, all branches maintained by such shareholder in foreign countries, the Commonwealth of Puerto Rico, or possessions of the United States shall, under regulations prescribed by the Secretary or his delegate, be treated as wholly owned subsidiary corporations of such shareholder organized under the laws of such foreign countries, the Commmonwealth of Puerto Rico, or possessions of the United States, as the case may be. Each branch so treated shall, for purposes of this section, be considered to have distributed to the United States shareholder all of its earnings and profits for the taxable year. This subparagraph shall not apply to a branch maintained by a United States shareholder in the Commonwealth of Puerto Rico or a possession of the United States unless—

"(i) such branch would be a controlled foreign corporation (as defined in section 957) if it were incorporated under the laws of the Commonwealth of Puerto Rico or the possession of the United States, as the case may be, and

"(ii) the gross income of the United States shareholder for the taxable year includes income derived from sources within the Commonwealth of Puerto Rico and possessions of the United States.

"(C) BLOCKED FOREIGN INCOME.—If a United States shareholder so elects, the provisions of subsection (a)(3) and of paragraph (3) of this subsection shall not apply with respect to any foreign corporation, if it is established to the satisfaction of the Secretary or his delegate that the earnings and profits of such foreign corporation could not have been distributed to United States shareholders who own (within the meaning of section 958(a)) stock of such foreign corporation because of currency or other restrictions or limitations imposed under the laws of any foreign country.

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"(d) EFFECTIVE FOREIGN TAX RATE.—For purposes of this section, the term 'effective foreign tax rate' means—

"(1) with respect to a single controlled foreign corporation, the percentage which—

"(A) the income, war profits, or excess profits taxes paid or accrued to foreign countries or possessions of the United States by the controlled foreign corporation for the taxable year on or with respect to its earnings and profits for the taxable year, is of

"(B) the sum of (i) the earnings and profits of the controlled foreign corporation described in subparagraph (A) and (ii) and the taxes described in subparagraph (A); and

"(2) with respect to two or more foreign corporations, the percentage which—

"(A) the total income, war profits, or excess profits taxes paid or accrued to foreign countries or possessions of the United States by such foreign corporations for the taxable year on or with respect to the consolidated earnings and profits of such foreign corporations for the taxable year, is of

"(B) the sum of (i) the consolidated earnings and profits of such foreign corporations described in subparagraph (A) and (ii) the taxes described in subparagraph (A).

For purposes of the preceding sentence, in the case of any United States shareholder, the computation of the effective foreign tax rate applicable with respect to any controlled foreign corporation or corporations shall be made without regard to distributions made by such controlled foreign corporation or corporations to such United States shareholder.

"(e) SPECIAL RULES.—

"(1) YEAR FROM WHICH DISTRIBUTIONS ARE MADE.—For purposes of this section, the second sentence of section 902(c)(1) shall apply in determining from the earnings and profits of what year distributions are made by any foreign corporation, except that the Secretary or his delegate may by regulations provide a period in excess of 60 days in lieu of the 60-day period prescribed in such section.

Ante, p. 1000.

"(2) INSUFFICIENT DISTRIBUTIONS.—If—

"(A) a United States shareholder, in making its return of the tax imposed by this chapter for any taxable year, applies the provisions of this section with respect to any controlled foreign corporation,

"(B) it is subsequently determined that this section did not apply with respect to such controlled foreign corporation for such taxable year due to the failure of the United States shareholder to receive a minimum distribution with respect to such controlled foreign corporation, and

"(C) such failure is due to reasonable cause,

then a subsequent distribution made with respect to such controlled foreign corporation may, if made at a time and in a manner prescribed by the Secretary or his delegate by regulations, be treated, for purposes of this chapter, as having been made for, and received in, the taxable year of the United States shareholder for which such shareholder applied the provisions of this section.

"(3) AFFILIATED GROUPS OF CORPORATIONS.—An affiliated group of corporations which makes a consolidated return under section 1501 for the taxable year, may, if it so elects, be treated as a single United States shareholder for purposes of applying this section for the taxable year.

26 USC 1501.

"(f) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as he may deem necessary to carry out the provisions of this section, including regulations for the determination of the amount of foreign tax credit in the case of distributions with respect to the earnings and profits of two or more foreign corporations.

"SEC. 964. MISCELLANEOUS PROVISIONS.

"(a) EARNINGS AND PROFITS.—For purposes of this subpart, the earnings and profits of any foreign corporation, and the deficit in earnings and profits of any foreign corporation, for any taxable year shall be determined according to rules substantially similar to those applicable to domestic corporations, under regulations prescribed by the Secretary or his delegate.

"(b) BLOCKED FOREIGN INCOME.—Under regulations prescribed by the Secretary or his delegate, no part of the earnings and profits of a controlled foreign corporation for any taxable year shall be included in earnings and profits for purposes of sections 952, 955, and 956, if it is established to the satisfaction of the Secretary or his delegate that such part could not have been distributed by the controlled foreign corporation to United States shareholders who own (within the meaning of section 958(a)) stock of such controlled foreign corporation because of currency or other restrictions or limitations imposed under the laws of any foreign country.

"(c) RECORDS AND ACCOUNTS OF UNITED STATES SHAREHOLDERS.—

"(1) RECORDS AND ACCOUNTS TO BE MAINTAINED.—The Secretary or his delegate may by regulations require each person who is, or has been, a United States shareholder of a controlled foreign corporation to maintain such records and accounts as may be prescribed by such regulations as necessary to carry out the provisions of this subpart and subpart G.

"(2) TWO OR MORE PERSONS REQUIRED TO MAINTAIN OR FURNISH THE SAME RECORDS AND ACCOUNTS WITH RESPECT TO THE SAME FOREIGN CORPORATION.—Where, but for this paragraph, two or more United States persons would be required to maintain or furnish the same records and accounts as may by regulations be required under paragraph (1) with respect to the same controlled foreign corporation for the same period, the Secretary or his delegate may by regulations provide that the maintenance or furnishing of such records and accounts by only one such person shall satisfy the requirements of paragraph (1) for such other persons.

"Subpart G—Export Trade Corporations

"SEC. 970. REDUCTION OF SUBPART F INCOME OF EXPORT TRADE CORPORATIONS.

"(a) EXPORT TRADE INCOME CONSTITUTING FOREIGN BASE COMPANY INCOME.—

"(1) IN GENERAL.—In the case of a controlled foreign corporation (as defined in section 957) which for the taxable year is an export trade corporation, the subpart F income (determined without regard to this subpart) of such corporation for such year shall be reduced by an amount equal to so much of the export trade income (as defined in section 971(b)) of such corporation for such year as constitutes foreign base company income (as defined

Ante, p. 1017.

in section 954), but only to the extent that such amount does not exceed whichever of the following amounts is the lesser:

"(A) an amount equal to 1½ times so much of the export promotion expenses (as defined in section 971(d)) of such corporation for such year as is properly allocable to the export trade income which constitutes foreign base company income of such corporation for such year, or

"(B) an amount equal to 10 percent of so much of the gross receipts for such year (or, in the case of gross receipts arising from commissions, fees, or other compensation for its services, so much of the gross amount upon the basis of which such commissions, fees, or other compensation is computed) accruing to such export trade corporation from the sale, installation, operation, maintenance, or use of property in respect of which such corporation derives export trade income as is properly allocable to the export trade income which constitutes foreign base company income of such corporation for such year.

The allocations with respect to export trade income which constitutes foreign base company income under subparagraphs (A) and (B) shall be made under regulations prescribed by the Secretary or his delegate.

"(2) OVERALL LIMITATION.—The reduction under paragraph (1) for any taxable year shall not exceed an amount which bears the same ratio to the increase in the investments in export trade assets (as defined in section 971(c)) of such corporation for such year as the export trade income which constitutes foreign base company income of such corporation for such year bears to the entire export trade income of such corporation for such year.

"(b) INCLUSION OF CERTAIN PREVIOUSLY EXCLUDED AMOUNTS.—Each United States shareholder of a controlled foreign corporation which for any prior taxable year was an export trade corporation shall include in his gross income under section 951(a)(1)(A)(ii), as an amount to which section 955 (relating to withdrawal of previously excluded subpart F income from qualified investment) applies, his pro rata share of the amount of decrease in the investments in export trade assets of such corporation for such year, but only to the extent that his pro rata share of such amount does not exceed an amount equal to—

Ante, p. 1006.

"(1) his pro rata share of the sum of (A) the amounts by which the subpart F income of such corporation was reduced for all prior taxable years under subsection (a), and (B) the amounts not included in subpart F income (determined without regard to this subpart) for all prior taxable years by reason of the application of section 972, reduced by

"(2) the sum of the amounts which were included in his gross income under section 951(a)(1)(A)(ii) under the provisions of this subsection for all prior taxable years.

"(c) INVESTMENTS IN EXPORT TRADE ASSETS.—

"(1) AMOUNT OF INVESTMENTS.—For purposes of this section, the amount taken into account with respect to any export trade asset shall be its adjusted basis, reduced by any liability to which the asset is subject.

"(2) INCREASE IN INVESTMENTS IN EXPORT TRADE ASSETS.—For purposes of subsection (a), the amount of increase in investments in export trade assets of any controlled foreign corporation for any taxable year is the amount by which—

"(A) the amount of such investments at the close of the taxable year, exceeds

"(B) the amount of such investments at the close of the preceding taxable year.

"(3) DECREASE IN INVESTMENTS IN EXPORT TRADE ASSETS.—For purposes of subsection (b), the amount of decrease in investments in export trade assets of any controlled foreign corporation for any taxable year is the amount by which—

"(A) the amount of such investments at the close of the preceding taxable year (reduced by an amount equal to the amount of net loss sustained during the taxable year with respect to export trade assets), exceeds

"(B) the amount of such investments at the close of the taxable year.

"(4) SPECIAL RULE.—A United States shareholder of an export trade corporation may, under regulations prescribed by the Secretary or his delegate, make the determinations under paragraphs (2) and (3) as of the close of the 75th day after the close of the years referred to in such paragraphs in lieu of on the last day of such years. A United States shareholder of an export trade corporation may, under regulations prescribed by the Secretary or his delegate, make the determinations under paragraphs (2) and (3) with respect to export trade assets described in section 971(c)(3) as of the close of the years following the years referred to in such paragraphs, or as of the close of such longer period of time as such regulations may permit, in lieu of on the last day of such years and in lieu of on the day prescribed in the preceding sentence. Any election under this paragraph made with respect to any taxable year shall apply to such year and to all succeeding taxable years unless the Secretary or his delegate consents to the revocation of such election.

"SEC. 971. DEFINITIONS.

"(a) EXPORT TRADE CORPORATIONS.—For purposes of this subpart, the term 'export trade corporation' means—

"(1) IN GENERAL.—A controlled foreign corporation (as defined in section 957) which satisfies the following conditions:

"(A) 90 percent or more of the gross income of such corporation for the 3-year period immediately preceding the close of the taxable year (or such part of such period subsequent to the effective date of this subpart during which the corporation was in existence) was derived from sources without the United States, and

"(B) 75 percent or more of the gross income of such corporation for such period constituted gross income in respect of which such corporation derived export trade income.

"(2) SPECIAL RULE.—If 50 percent or more of the gross income of a controlled foreign corporation in the period specified in subsection (a)(1)(A) is gross income in respect of which such corporation derived export trade income in respect of agricultural products grown in the United States, it may qualify as an export trade corporation although it does not meet the requirements of subsection (a)(1)(B).

"(b) EXPORT TRADE INCOME.—For the purposes of this subpart, the term 'export trade income' means net income from—

"(1) the sale to an unrelated person for use, consumption, or disposition outside the United States of export property (as defined in subsection (e)), or from commissions, fees, compensation, or other income from the performance of commercial, industrial, financial, technical, scientific, managerial, engineering, architectural, skilled, or other services in respect of such sales or

in respect of the installation or maintenance of such export property;

"(2) commissions, fees, compensation, or other income from commercial, industrial, financial, technical, scientific, managerial, engineering, architectural, skilled, or other services performed in connection with the use by an unrelated person outside the United States of patents, copyrights, secret processes and formulas, goodwill, trademarks, trade brands, franchises, and other like property acquired or developed and owned by the manufacturer, producer, grower, or extractor of export property in respect of which the export trade corporation earns export trade income under paragraph (1);

"(3) commissions, fees, rentals, or other compensation or income attributable to the use of export property by an unrelated person or attributable to the use of export property in the rendition of technical, scientific, or engineering services to an unrelated person; and

"(4) interest from export trade assets described in subsection (c)(4).

For purposes of paragraph (3), if a controlled foreign corporation receives income from an unrelated person attributable to the use of export property in the rendition of services to such unrelated person together with income attributable to the rendition of other services to such unrelated person, including personal services, the amount of such aggregate income which shall be considered to be attributable to the use of the export property shall (if such amount cannot be established by reference to transactions between unrelated persons) be that part of such aggregate income which the cost of the export property consumed in the rendition of such services (including a reasonable allowance for depreciation) bears to the total costs and expenses attributable to such aggregate income.

"(c) EXPORT TRADE ASSETS.—For purposes of this subpart, the term 'export trade assets' means—

"(1) working capital reasonably necessary for the production of export trade income,

"(2) inventory of export property held for use, consumption, or disposition outside the United States,

"(3) facilities located outside the United States for the storage, handling, transportation, packaging, or servicing of export property, and

"(4) evidences of indebtedness executed by persons, other than related persons, in connection with payment for purchases of export property for use, consumption, or disposition outside the United States, or in connection with the payment for services described in subsections (b) (2) and (3)

"(d) EXPORT PROMOTION EXPENSES.—For purposes of this subpart, the term 'export promotion expenses' means the following expenses paid or incurred in the receipt or production of export trade income—

"(1) a reasonable allowance for salaries or other compensation for personal services actually rendered for such purpose,

"(2) rentals or other payments for the use of property actually used for such purpose,

"(3) a reasonable allowance for the exhaustion, wear and tear, or obsolescence of property actually used for such purpose, and

"(4) any other ordinary and necessary expenses of the corporation to the extent reasonably allocable to the receipt or production of export trade income.

No expense incurred within the United States shall be treated as an export promotion expense within the meaning of the preceding sentence, unless at least 90 percent of each category of expenses described in such sentence is incurred outside the United States.

"(e) EXPORT PROPERTY.—For purposes of this subpart, the term 'export property' means any property or any interest in property manufactured, produced, grown, or extracted in the United States.

"(f) UNRELATED PERSON.—For purposes of this subpart, the term 'unrelated person' means a person other than a related person as defined in section 954(d)(3). *Ante*, p. 1012.

"SEC. 972. CONSOLIDATION OF GROUP OF EXPORT TRADE CORPORATIONS.

"For purposes of this subpart and subpart F of this part, a United States shareholder of a controlled foreign corporation which is an export trade corporation may, under regulations prescribed by the Secretary or his delegate, treat as a single controlled foreign corporation—

"(1) such controlled foreign corporation,

"(2) all controlled foreign corporations which are export trade corporations and 80 percent or more of the total combined voting power of all classes of stock entitled to vote of which is owned by such controlled foreign corporation; and

"(3) all controlled foreign corporations which are export trade corporations and 80 percent or more of the total combined voting power of all classes of stock entitled to vote of which is owned by controlled foreign corporations described in paragraph (2)."

(b) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) Section 901 (relating to foreign tax credit) is amended by striking out "section 902" and inserting in lieu thereof "sections 902 and 960".

(2) Section 904(g) (as redesignated by section 10(a) of this Act) is amended to read as follows: *Ante*, p. 1002.

"(g) CROSS REFERENCES.—

"(1) For increase of applicable limitation under subsection (a) for taxes paid with respect to amounts received which were included in the gross income of the taxpayer for a prior taxable year as a United States shareholder with respect to a controlled foreign corporation, see section 960(b). *Ante*, p. 1020.

"(2) For special rule relating to the application of the credit provided by section 901 in the case of affiliated groups which include Western Hemisphere trade corporations for years in which the limitation provided by subsection (a)(2) applies, see section 1503(d)." 74 Stat. 1011.

(3) The table of subparts for part III of subchapter N of chapter 1 is amended by adding at the end thereof the following: 26 USC 901-905.

"Subpart F. Controlled foreign corporations.
"Subpart G. Export trade corporations."

(4) Section 1016(a) (relating to adjustments to basis) is amended by adding after paragraph (19) (as added by section 2(f) of this Act) the following new paragraph: *Ante*, p. 972.

"(20) to the extent provided in section 961 in the case of stock in controlled foreign corporations (or foreign corporations which were controlled foreign corporations) and of property by reason of which a person is considered as owning such stock."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years of foreign corporations beginning after December 31, 1962, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

SEC. 13. GAIN FROM DISPOSITIONS OF CERTAIN DEPRECIABLE PROPERTY.

(a) IN GENERAL.—

26 USC 1231-1244.

(1) Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding at the end thereof the following new section:

"SEC. 1245. GAIN FROM DISPOSITIONS OF CERTAIN DEPRECIABLE PROPERTY.

"(a) GENERAL RULE.—

"(1) ORDINARY INCOME.—Except as otherwise provided in this section, if section 1245 property is disposed of during a taxable year beginning after December 31, 1962, the amount by which the lower of—

"(A) the recomputed basis of the property, or

"(B) (i) in the case of a sale, exchange, or involuntary conversion, the amount realized, or

"(ii) in the case of any other disposition, the fair market value of such property,

exceeds the adjusted basis of such property shall be treated as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(2) RECOMPUTED BASIS.—For purposes of this section, the term 'recomputed basis' means, with respect to any property, its adjusted basis recomputed by adding thereto all adjustments, attributable to periods after December 31, 1961, reflected in such adjusted basis on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for depreciation, or for amortization under section 168. For purposes of the preceding sentence, if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed for depreciation, or for amortization under section 168, for any period was less than the amount allowable, the amount added for such period shall be the amount allowed.

"(3) SECTION 1245 PROPERTY.—For purposes of this section, the term 'section 1245 property' means any property (other than livestock) which is or has been property of a character subject to the allowance for depreciation provided in section 167 and is either—

"(A) personal property, or

"(B) other property (not including a building or its structural components) but only if such other property is tangible and has an adjusted basis in which there are reflected adjustments described in paragraph (2) for a period in which such property (or other property)—

"(i) was used as an integral part of manufacturing, production, or extraction or of furnishing transportation, communications, electrical energy, gas, water, or sewage disposal services, or

"(ii) constituted research or storage facilities used in connection with any of the activities referred to in clause (i).

"(b) EXCEPTIONS AND LIMITATIONS.—

"(1) GIFTS.—Subsection (a) shall not apply to a disposition by gift.

"(2) TRANSFERS AT DEATH.—Except as provided in section 691 (relating to income in respect of a decedent), subsection (a) shall not apply to a transfer at death.

"(3) CERTAIN TAX-FREE TRANSACTIONS.—If the basis of property in the hands of a transferee is determined by reference to its basis in the hands of the transferor by reason of the application of section 332, 351, 361, 371(a), 374(a), 721, or 731, then the amount of gain taken into account by the transferor under subsection (a)(1) shall not exceed the amount of gain recognized to the transferor on the transfer of such property (determined without regard to this section). This paragraph shall not apply to a disposition to an organization (other than a cooperative described in section 521) which is exempt from the tax imposed by this chapter.

"(4) LIKE KIND EXCHANGES; INVOLUNTARY CONVERSIONS, ETC.—If property is disposed of and gain (determined without regard to this section) is not recognized in whole or in part under section 1031 or 1033, then the amount of gain taken into account by the transferor under subsection (a)(1) shall not exceed the sum of—

"(A) the amount of gain recognized on such disposition (determined without regard to this section), plus

"(B) the fair market value of property acquired which is not section 1245 property and which is not taken into account under subparagraph (A).

"(5) SECTION 1071 AND 1081 TRANSACTIONS.—Under regulations prescribed by the Secretary or his delegate, rules consistent with paragraphs (3) and (4) of this subsection shall apply in the case of transactions described in section 1071 (relating to gain from sale or exchange to effectuate policies of FCC) or section 1081 (relating to exchanges in obedience to SEC orders).

"(6) PROPERTY DISTRIBUTED BY A PARTNERSHIP TO A PARTNER.—

"(A) IN GENERAL.—For purposes of this section, the basis of section 1245 property distributed by a partnership to a partner shall be deemed to be determined by reference to the adjusted basis of such property to the partnership.

"(B) ADJUSTMENTS ADDED BACK.—In the case of any property described in subparagraph (A), for purposes of computing the recomputed basis of such property the amount of the adjustments added back for periods before the distribution by the partnership shall be—

"(i) the amount of the gain to which subsection (a) would have applied if such property had been sold by the partnership immediately before the distribution at its fair market value at such time, reduced by

"(ii) the amount of such gain to which section 751(b) applied.

"(c) ADJUSTMENTS TO BASIS.—The Secretary or his delegate shall prescribe such regulations as he may deem necessary to provide for adjustments to the basis of property to reflect gain recognized under subsection (a).

"(d) APPLICATION OF SECTION.—This section shall apply notwithstanding any other provision of this subtitle."

(2) The table of sections for such part IV is amended by adding at the end thereof the following: 26 USC 1231-1244.

"Sec. 1245. Gain from dispositions of certain depreciable property."

(b) CHANGE IN METHOD OF DEPRECIATION.—Subsection (e) of section 167 (relating to depreciation) is amended to read as follows:

26 USC 167.

"(e) CHANGE IN METHOD.—

"(1) CHANGE FROM DECLINING BALANCE METHOD.—In the absence of an agreement under subsection (d) containing a provision to the contrary, a taxpayer may at any time elect in accordance with regulations prescribed by the Secretary or his delegate to change from the method of depreciation described in subsection (b)(2) to the method described in subsection (b)(1).

"(2) CHANGE WITH RESPECT TO SECTION 1245 PROPERTY.—A taxpayer may, on or before the last day prescribed by law (including extensions thereof) for filing his return for his first taxable year beginning after December 31, 1962, and in such manner as the Secretary or his delegate shall by regulations prescribe, elect to change his method of depreciation in respect of section 1245 property (as defined in section 1245(a)(3)) from any declining balance or sum of the years-digits method to the straight line method. An election may be made under this paragraph notwithstanding any provision to the contrary in an agreement under subsection (d)."

Ante, p. 1032.

(c) SALVAGE VALUE OF PERSONAL PROPERTY.—

(1) AMOUNT TAKEN INTO ACCOUNT.—Section 167 (relating to depreciation) is amended by redesignating subsections (f), (g), and (h) as (g), (h), and (i), respectively, and by inserting after subsection (e) the following new subsection:

"(f) SALVAGE VALUE.—

"(1) GENERAL RULE.—Under regulations prescribed by the Secretary or his delegate, a taxpayer may, for purposes of computing the allowance under subsection (a) with respect to personal property, reduce the amount taken into account as salvage value by an amount which does not exceed 10 percent of the basis of such property (as determined under subsection (g) as of the time as of which such salvage value is required to be determined).

"(2) PERSONAL PROPERTY DEFINED.—For purposes of this subsection, the term 'personal property' means depreciable personal property (other than livestock) with a useful life of 3 years or more acquired after the date of the enactment of the Revenue Act of 1962."

(2) CONFORMING AMENDMENTS.—

26 USC 179.

(A) Sections 179(d)(5) and 642(e) are each amended by striking out "167(g)" and inserting in lieu thereof "167(h)".

(B) Section 179(d)(8) is amended by striking out "167(f)" and inserting in lieu thereof "167(g)".

(d) SPECIAL RULE FOR CHARITABLE CONTRIBUTIONS OF SECTION 1245 PROPERTY.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsections (e) and (f) as (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

26 USC 170.

Ante, p. 1032.

"(e) SPECIAL RULE FOR CHARITABLE CONTRIBUTIONS OF SECTION 1245 PROPERTY.—The amount of any charitable contribution taken into account under this section shall be reduced by the amount which would have been treated as gain to which section 1245(a) applies if the property contributed had been sold at its fair market value (determined at the time of such contribution)."

(e) COMPUTATION OF TAXABLE INCOME FOR PURPOSES OF LIMITATION ON PERCENTAGE DEPLETION DEDUCTION.—Section 613(a) (relating to percentage depletion) is amended by inserting after the second sentence thereof the following new sentence: "For purposes of the preceding sentence, the allowable deductions taken into account with

26 USC 613.

respect to expenses of mining in computing the taxable income from the property shall be decreased by an amount equal to so much of any gain which (1) is treated under section 1245 (relating to gain from disposition of certain depreciable property) as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231, and (2) is properly allocable to the property." 26 USC 1231.

(f) TECHNICAL AMENDMENTS.—

(1) SPECIAL RULE FOR PARTNERSHIPS.—Section 751(c) (relating to definition of "unrealized receivables" for purposes of subchapter K) is amended by adding after paragraph (2) the following: 26 USC 751.

"For purposes of this section and sections 731, 736, and 741, such term also includes section 1245 property (as defined in section 1245(a)(3)), but only to the extent of the amount which would be treated as gain to which section 1245(a) would apply if (at the time of the transaction described in this section or section 731, 736, or 741, as the case may be) such property had been sold by the partnership at its fair market value." *Ante*, p. 1032.

(2) CORPORATE DISTRIBUTION OF PROPERTY.—Subsections (b) and (d) of section 301 (relating to amount distributed) are each amended by striking out "subsection (b) or (c) of section 311" and inserting in lieu thereof "subsection (b) or (c) of section 311 or under section 1245(a)".

(3) EFFECT ON EARNINGS AND PROFITS.—Section 312(c)(3) (relating to adjustments of earnings and profits) is amended by striking out "subsection (b) or (c) of section 311" and inserting in lieu thereof "subsection (b) or (c) of section 311 or under section 1245(a)".

(4) COLLAPSIBLE CORPORATIONS.—Section 341(e) (relating to collapsible corporations) is amended by inserting after paragraph (11) the following new paragraph: 26 USC 341.

"(12) NONAPPLICATION OF SECTION 1245(a).—For purposes of this subsection, the determination of whether gain from the sale or exchange of property would under any provision of this chapter be considered as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231(b) shall be made without regard to the application of section 1245(a)."

(5) INSTALLMENT OBLIGATIONS IN CERTAIN LIQUIDATIONS.—

(A) Section 453(d)(4)(A) (relating to distribution of installment obligations in section 332 liquidations) is amended by adding at the end thereof the following new sentence: "If the basis of the property of the liquidating corporation in the hands of the distributee is determined under section 334(b)(2) then the preceding sentence shall not apply to the extent that under paragraph (1) gain to the distributing corporation would be considered as gain to which section 1245(a) applies."

(B) Section 453(d)(4)(B) (relating to distribution of installment obligations in liquidations to which section 337 applies) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to the extent that under paragraph (1) gain to the distributing corporation would be considered as gain to which section 1245(a) applies."

(g) EFFECTIVE DATES.—The amendments made by this section (other than the amendments made by subsection (c)) shall apply to taxable years beginning after December 31, 1962. The amendments

made by subsection (c) shall apply to taxable years beginning after December 31, 1961, and ending after the date of the enactment of this Act.

SEC. 14. FOREIGN INVESTMENT COMPANIES.

(a) TREATMENT OF SALE OF STOCK OF FOREIGN INVESTMENT COMPANIES.—

26 USC 1231-1244.

(1) IN GENERAL.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding after section 1245 (as added by section 13 of this Act) the following new sections:

Ante, p. 1032.

"SEC. 1246. GAIN ON FOREIGN INVESTMENT COMPANY STOCK.

"(a) TREATMENT OF GAIN AS ORDINARY INCOME.—

"(1) GENERAL RULE.—In the case of a sale or exchange (or a distribution which, under section 302 or 331, is treated as an exchange of stock) after December 31, 1962, of stock in a foreign corporation which was a foreign investment company (as defined in subsection (b)) at any time during the period during which the taxpayer held such stock, any gain shall be treated as gain from the sale or exchange of property which is not a capital asset, to the extent of the taxpayer's ratable share of the earnings and profits of such corporation accumulated for taxable years beginning after December 31, 1962.

"(2) RATABLE SHARE.—For purposes of this section, the taxpayer's ratable share shall be determined under regulations prescribed by the Secretary or his delegate, but shall include only his ratable share of the accumulated earnings and profits of such corporation—

"(A) for the period during which the taxpayer held such stock, but

"(B) excluding such earnings and profits attributable to any amount previously included in the gross income of such taxpayer under section 951 (but only to the extent the inclusion of such amount did not result in an exclusion of any other amount from gross income under section 959).

Ante, p. 1006.

Ante, p. 1019.

"(3) TAXPAYER TO ESTABLISH EARNINGS AND PROFITS.—Unless the taxpayer establishes the amount of the accumulated earnings and profits of the foreign investment company and the ratable share thereof for the period during which the taxpayer held such stock, all the gain from the sale or exchange of stock in such company shall be considered as gain from the sale or exchange of property which is not a capital asset.

"(4) HOLDING PERIOD OF STOCK MUST BE MORE THAN 6 MONTHS.—This section shall not apply with respect to the sale or exchange of stock where the holding period of such stock as of the date of such sale or exchange is 6 months or less.

"(b) DEFINITION OF FOREIGN INVESTMENT COMPANY.—For purposes of this section, the term 'foreign investment company' means any foreign corporation which, for any taxable year beginning after December 31, 1962, is—

"(1) registered under the Investment Company Act of 1940, as amended (15 U.S.C. 80a–1 to 80b–2), either as a management company or as a unit investment trust, or

54 Stat. 789.

"(2) engaged (or holding itself out as being engaged) primarily in the business of investing, reinvesting, or trading in securities (within the meaning of section 3(a)(1) of such Act, as limited by paragraphs (2) through (10) (except paragraph (6)(C)) and paragraphs (12) through (15) of section 3(c) of such Act) at a time when more than 50 percent of the total com-

bined voting power of all classes of stock entitled to vote, or of the total value of shares of all classes of stock, was held, directly or indirectly (within the meaning of section 958(a)), by United States persons (as defined in section 7701(a)(30)).

Ante, p. 1018.
Ante, p. 988.

"(c) STOCK HAVING TRANSFERRED OR SUBSTITUTED BASIS.—To the extent provided in regulations prescribed by the Secretary or his delegate, stock in a foreign corporation, the basis of which (in the hands of the taxpayer selling or exchanging such stock) is determined by reference to the basis (in the hands of such taxpayer or any other person) of stock in a foreign investment company, shall be treated as stock of a foreign investment company and held by the taxpayer throughout the holding period for such stock (determined under section 1223).

26 USC 1223.

"(d) RULES RELATING TO ENTITIES HOLDING FOREIGN INVESTMENT COMPANY STOCK.—To the extent provided in regulations prescribed by the Secretary or his delegate—

"(1) trust certificates of a trust to which section 677 (relating to income for benefit of grantor) applies, and

26 USC 677.

"(2) stock of a domestic corporation,

shall be treated as stock of a foreign investment company and held by the taxpayer throughout the holding period for such certificates or stock (determined under section 1223) in the same proportion that the investment in stock in a foreign investment company by the trust or domestic corporation bears to the total assets of such trust or corporation.

"(e) RULES RELATING TO STOCK ACQUIRED FROM A DECEDENT.—

"(1) BASIS.—In the case of stock of a foreign investment company acquired by bequest, devise, or inheritance (or by the decedent's estate) from a decedent dying after December 31, 1962, the basis determined under section 1014 shall be reduced (but not below the adjusted basis of such stock in the hands of the decedent immediately before his death) by the amount of the decedent's ratable share of the earnings and profits of such company accumulated after December 31, 1962. Any stock so acquired shall be treated as stock described in subsection (c).

26 USC 1014.

"(2) DEDUCTION FOR ESTATE TAX.—If stock to which subsection (a) applies is acquired from a decedent, the taxpayer shall, under regulations prescribed by the Secretary or his delegate, be allowed (for the taxable year of the sale or exchange) a deduction from gross income equal to that portion of the decedent's estate tax deemed paid which is attributable to the excess of (A) the value at which such stock was taken into account for purposes of determining the value of the decedent's gross estate, over (B) the value at which it would have been so taken into account if such value had been reduced by the amount described in paragraph (1).

"(f) INFORMATION WITH RESPECT TO CERTAIN FOREIGN INVESTMENT COMPANIES.—Every United States person who, on the last day of the taxable year of a foreign investment company beginning after December 31, 1962, owns 5 percent or more in value of the stock of such company shall furnish with respect to such company such information as the Secretary or his delegate shall by regulations prescribe.

"(g) CROSS REFERENCE.—

"For special rules relating to the earnings and profits of foreign investment companies, see section 312(l).

"SEC. 1247. ELECTION BY FOREIGN INVESTMENT COMPANIES TO DISTRIBUTE INCOME CURRENTLY.

"(a) ELECTION BY FOREIGN INVESTMENT COMPANY.—

"(1) IN GENERAL.—If a foreign investment company which is described in section 1246(b)(1) elects (in the manner provided

Ante, p. 1036.

in regulations prescribed by the Secretary or his delegate) on or before December 31, 1962, with respect to each taxable year beginning after December 31, 1962, to—

"(A) distribute to its shareholders 90 percent or more of what its taxable income would be if it were a domestic corporation;

"(B) designate in a written notice mailed to its shareholders at any time before the expiration of 45 days after the close of its taxable year the pro rata amount of the excess (determined as if such corporation were a domestic corporation) of the net long-term capital gain over the net short-term capital loss of the taxable year; and the portion thereof which is being distributed; and

"(C) provide such information as the Secretary or his delegate deems necessary to carry out the purposes of this section,

Ante, p. 1036. then section 1246 shall not apply with respect to the qualified shareholders of such company during any taxable year to which such election applies.

"(2) SPECIAL RULES.—

"(A) COMPUTATION OF TAXABLE INCOME.—For purposes of paragraph (1)(A), the taxable income of the company shall be computed without regard to—

"(i) the excess of the net long-term capital gain over the net short-term capital loss referred to in paragraph (1)(B),

26 USC 172. "(ii) section 172 (relating to net operating losses), and

"(iii) any deduction provided by part VIII of subchapter B (other than the deduction provided by section 26 USC 248. 248, relating to organizational expenditures).

"(B) DISTRIBUTIONS AFTER THE CLOSE OF THE TAXABLE YEAR.—For purposes of paragraph (1)(A), a distribution made after the close of the taxable year and on or before the 15th day of the third month of the next taxable year shall be treated as distributed during the taxable year to the extent elected by the company (in accordance with regulations prescribed by the Secretary or his delegate) on or before the 15th day of such third month.

"(C) CARRYOVER OF CAPITAL LOSSES FROM NONELECTION YEARS DENIED.—In computing the excess of the net long-term capital gain over the net short-term capital loss referred to in 26 USC 1212. paragraph (1)(B), section 1212 shall not apply to losses incurred in or with respect to taxable years before the first taxable year to which the election applies.

"(b) YEARS TO WHICH ELECTION APPLIES.—The election of any foreign investment company under this section shall terminate as of the close of the taxable year preceding its first taxable year in which any of the following occurs:

"(1) the company fails to comply with the provisions of subparagraph (A), (B), or (C) of subsection (a)(1), unless it is shown that such failure is due to reasonable cause and not due to willful neglect,

"(2) the company is a foreign personal holding company, or

"(3) the company is not a foreign investment company which is described in section 1246(b)(1).

"(c) QUALIFIED SHAREHOLDERS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified shareholder' means any shareholder who is a United States person (as defined in section 7701(a)(30)), other than a shareholder described in paragraph (2). *Ante*, p. 988.

"(2) CERTAIN UNITED STATES PERSONS EXCLUDED FROM DEFINITION.—A United States person shall not be treated as a qualified shareholder for the taxable year if for such taxable year (or for any prior taxable year) he did not include, in computing his long-term capital gains in his return for such taxable year, the amount designated by such company pursuant to subsection (a)(1)(B) as his share of the undistributed capital gains of such company for its taxable year ending within or with such taxable year of the taxpayer. The preceding sentence shall not apply with respect to any failure by the taxpayer to treat an amount as provided therein if the taxpayer shows that such failure was due to reasonable cause and not due to willful neglect.

"(d) TREATMENT OF DISTRIBUTED AND UNDISTRIBUTED CAPITAL GAINS BY A QUALIFIED SHAREHOLDER.—Every qualified shareholder of a foreign investment company for any taxable year of such company with respect to which an election pursuant to subsection (a) is in effect shall include, in computing his long-term capital gains—

"(1) for his taxable year in which received, his pro rata share of the distributed portion of the excess of the net long-term capital gain over the net short-term capital loss for such taxable year of such company, and

"(2) for his taxable year in which or with which the taxable year of such company ends, his pro rata share of the undistributed portion of the excess of the net long-term capital gain over the net short-term capital loss for such taxable year of such company.

"(e) ADJUSTMENTS.—Under regulations prescribed by the Secretary or his delegate, proper adjustment shall be made—

"(1) in the earnings and profits of the electing foreign investment company and a qualified shareholder's ratable share thereof, and

"(2) in the adjusted basis of stock of such company held by such shareholder,

to reflect such shareholder's inclusion in gross income of undistributed capital gains.

"(f) ELECTION BY FOREIGN INVESTMENT COMPANY WITH RESPECT TO FOREIGN TAX CREDIT.—A foreign investment company with respect to which an election pursuant to subsection (a) is in effect and more than 50 percent of the value (as defined in section 851(c)(4)) of whose total assets at the close of the taxable year consists of stock or securities in foreign corporations may, for such taxable year, elect the application of this subsection with respect to income, war profits, and excess profits taxes described in section 901(b)(1) which are paid by the foreign investment company during such taxable year to foreign countries and possessions of the United States. If such election is made— 26 USC 851. 26 USC 901.

"(1) the foreign investment company—

"(A) shall compute its taxable income, for purposes of subsection (a)(1)(A), without any deductions for income, war profits, or excess profits taxes paid to foreign countries or possessions of the United States, and

"(B) shall treat the amount of such taxes, for purposes of subsection (a)(1)(A), as distributed to its shareholders;

"(2) each qualified shareholder of such foreign investment company—

"(A) shall include in gross income and treat as paid by him his proportionate share of such taxes, and

"(B) shall treat, for purposes of applying subpart A of part III of subchapter N, his proportionate share of such taxes as having been paid to the country in which the foreign investment company is incorporated, and

"(C) shall treat as gross income from sources within the country in which the foreign investment company is incorporated, for purposes of applying subpart A of part III of subchapter N, the sum of his proportionate share of such taxes and any dividend paid to him by such foreign investment company.

"(g) NOTICE TO SHAREHOLDERS.—The amounts to be treated by qualified shareholders, for purposes of subsection (f)(2), as their proportionate share of the taxes described in subsection (f)(1)(A) paid by a foreign investment company shall not exceed the amounts so designated by the foreign investment company in a written notice mailed to its shareholders not later than 45 days after the close of its taxable year.

"(h) MANNER OF MAKING ELECTION AND NOTIFYING SHAREHOLDERS.—The election provided in subsection (f) and the notice to shareholders required by subsection (g) shall be made in such manner as the Secretary or his delegate may prescribe by regulations.

"(i) LOSS ON SALE OR EXCHANGE OF CERTAIN STOCK HELD LESS THAN 6 MONTHS.—If—

"(1) under this section, any qualified shareholder treats any amount designated under subsection (a)(1)(B) with respect to a share of stock as long-term capital gain, and

"(2) such share is held by the taxpayer for less than 6 months, then any loss on the sale or exchange of such share shall, to the extent of the amount described in paragraph (1), be treated as loss from the sale or exchange of a capital asset held for more than 6 months."

(2) The table of sections for such part IV is amended by adding at the end thereof the following:

"Sec. 1246. Gain on foreign investment company stock.
"Sec. 1247. Election by foreign investment companies to distribute income currently."

(b) CONFORMING AMENDMENTS.—

(1) EARNINGS AND PROFITS OF FOREIGN INVESTMENT COMPANIES.—Section 312 (relating to effect on earnings and profits) is amended by adding after subsection (k) the following new subsection:

Ante, p. 6; 26 USC 312.

"(l) EARNINGS AND PROFITS OF FOREIGN INVESTMENT COMPANIES.—

"(1) ALLOCATION WITHIN AFFILIATED GROUP.—In the case of a sale or exchange of stock in a foreign investment company (as defined in section 1246(b)) by a United States person (as defined in section 7701(a)(30)), if such company is a member of an affiliated group, then the accumulated earnings and profits of all members of such affiliated group shall be allocated, under regulations prescribed by the Secretary or his delegate, in such manner as is proper to carry out the purposes of section 1246.

Ante, p. 1036.
Ante, p. 988.

"(2) AFFILIATED GROUP DEFINED.—For purposes of paragraph (1) of this subsection, the term 'affiliated group' has the meaning assigned to such term by section 1504(a); except that (A) 'more than 50 percent' shall be substituted for '80 percent or more', and (B) all corporations shall be treated as includible corporations (without regard to the provisions of section 1504(b)).

26 USC 1504.

"(3) PARTIAL LIQUIDATIONS AND REDEMPTIONS.—

"(A) IN GENERAL.—If a foreign investment company (as defined in section 1246) distributes amounts in partial liquidation or in a redemption to which section 302(a) or 303 applies, the part of such distribution which is properly chargeable to earnings and profits shall be an amount which is not in excess of the ratable share of the earnings and profits of the company accumulated after February 28, 1913, attributable to the stock so redeemed. *Ante*, p. 1036. 26 USC 302, 303.

"(B) EFFECTIVE DATE.—Subparagraph (A) shall apply only with respect to distributions made after December 31, 1962."

(2) SALE OR EXCHANGE OF INTEREST IN PARTNERSHIP.—Section 751(d)(2) (relating to inventory items which have appreciated substantially in value) is amended by striking out "and" at the end of subparagraph (B), and by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraphs: 26 USC 751.

"(C) any other property of the partnership which, if sold or exchanged by the partnership, would result in a gain taxable under subsection (a) of section 1246 (relating to gain on foreign investment company stock), and

"(D) any other property held by the partnership which, if held by the selling or distributee partner, would be considered property of the type described in subparagraph (A), (B), or (C)."

(3) HOLDING PERIOD OF PROPERTY.—Section 1223 (relating to holding period of property) is amended by redesignating paragraph (10) as paragraph (11) and inserting after paragraph (9) the following paragraph: 26 USC 1223.

"(10) In determining the period for which the taxpayer has held trust certificates of a trust to which subsection (d) of section 1246 applies, or the period for which the taxpayer has held stock in a corporation to which subsection (d) of section 1246 applies, there shall be included the period for which the trust or corporation (as the case may be) held the stock of foreign investment companies."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1962.

SEC. 15. GAIN FROM CERTAIN SALES OR EXCHANGES OF STOCK IN CERTAIN FOREIGN CORPORATIONS.

(a) TREATMENT OF GAIN FROM THE REDEMPTION, CANCELLATION, OR SALE OF STOCK IN CERTAIN FOREIGN CORPORATIONS.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding after section 1247 (as added by section 14 of this Act) the following new section: *Ante*, p. 1037.

"SEC. 1248. GAIN FROM CERTAIN SALES OR EXCHANGES OF STOCK IN CERTAIN FOREIGN CORPORATIONS.

"(a) GENERAL RULE.—If—

"(1) a United States person sells or exchanges stock in a foreign corporation, or if a United States person receives a distribution from a foreign corporation which, under section 302 or 331, is treated as an exchange of stock, and 26 USC 302, 331.

"(2) such person owns, within the meaning of section 958(a), or is considered as owning by applying the rules of ownership of section 958(b), 10 percent or more of the total combined voting power of all classes of stock entitled to vote of such foreign corporation at any time during the 5-year period ending on the date of the sale or exchange when such foreign corporation was a controlled foreign corporation (as defined in section 957), *Ante*, p. 1018. *Ante*, p. 1017.

then the gain recognized on the sale or exchange of such stock shall be included in the gross income of such person as a dividend, to the extent of the earnings and profits of the foreign corporation attributable (under regulations prescribed by the Secretary or his delegate) to such stock which were accumulated in taxable years of such foreign corporation beginning after December 31, 1962, and during the period or periods the stock sold or exchanged was held by such person while such foreign corporation was a controlled foreign corporation.

"(b) LIMITATION ON TAX APPLICABLE TO INDIVIDUALS.—In the case of an individual, if the stock sold or exchanged is a capital asset (within the meaning of section 1221) and has been held for more than 6 months, the tax attributable to an amount included in gross income as a dividend under subsection (a) shall not be greater than a tax equal to the sum of—

26 USC 1221.

"(1) a pro rata share of the excess of—

"(A) the taxes that would have been paid by the foreign corporation with respect to its income had it been taxed under this chapter as a domestic corporation (but without allowance for deduction of, or credit for, taxes described in subparagraph (B)), for the period or periods the stock sold or exchanged was held by the United States person in taxable years beginning after December 31, 1962, while the foreign corporation was a controlled foreign corporation, adjusted for distributions and amounts previously included in gross income of a United States shareholder under section 951, over

Ante, p. 1006.

"(B) the income, war profits, or excess profits taxes paid by the foreign corporation with respect to such income; and

"(2) an amount equal to the tax that would result by including in gross income, as gain from the sale or exchange of a capital asset held for more than 6 months, an amount equal to the excess of (A) the amount included in gross income as a dividend under subsection (a), over (B) the amount determined under paragraph (1).

"(c) DETERMINATION OF EARNINGS AND PROFITS.—

"(1) IN GENERAL.—For purposes of this section, the earnings and profits of any foreign corporation for any taxable year shall be determined according to rules substantially similar to those applicable to domestic corporations, under regulations prescribed by the Secretary or his delegate.

"(2) EARNINGS AND PROFITS OF SUBSIDIARIES OF FOREIGN CORPORATIONS.—If—

"(A) subsection (a) applies to a sale or exchange by a United States person of stock of a foreign corporation and, by reason of the ownership of the stock sold or exchanged, such person owned within the meaning of section 958(a)(2) stock of any other foreign corporation; and

Ante, p. 1018.

"(B) such person owned, within the meaning of section 958(a), or was considered as owning by applying the rules of ownership of section 958(b), 10 percent or more of the total combined voting power of all classes of stock entitled to vote of such other foreign corporation at any time during the 5-year period ending on the date of the sale or exchange when such other foreign corporation was a controlled foreign corporation (as defined in section 957),

Ante, p. 1017.

then, for purposes of this section, the earnings and profits of the foreign corporation the stock of which is sold or exchanged which are attributable to the stock sold or exchanged shall be deemed

to include the earnings and profits of such other foreign corporation which—

"(C) are attributable (under regulations prescribed by the Secretary or his delegate) to the stock of such other foreign corporation which such person owned within the meaning of section 958(a)(2) (by reason of his ownership within the meaning of section 958(a)(1)(A) of the stock sold or exchanged) on the date of such sale or exchange; and

Ante, p. 1018.

"(D) were accumulated in taxable years of such other corporation beginning after December 31, 1962, and during the period or periods—

"(i) such other corporation was a controlled foreign corporation, and

"(ii) such person owned within the meaning of section 958(a)(2) the stock of such other foreign corporation.

"(d) EXCLUSIONS FROM EARNINGS AND PROFITS.—For purposes of this section, the following amounts shall be excluded, with respect to any United States person, from the earnings and profits of a foreign corporation:

"(1) AMOUNTS INCLUDED IN GROSS INCOME UNDER SECTION 951.—Earnings and profits of the foreign corporation attributable to any amount previously included in the gross income of such person under section 951, with respect to the stock sold or exchanged, but only to the extent the inclusion of such amount did not result in an exclusion of an amount from gross income under section 959.

Ante, p. 1006.

"(2) GAIN REALIZED FROM THE SALE OR EXCHANGE OF PROPERTY IN PURSUANCE OF A PLAN OF COMPLETE LIQUIDATION.—If a foreign corporation adopts a plan of complete liquidation in a taxable year of a foreign corporation beginning after December 31, 1962, and if section 337(a) would apply if such foreign corporation were a domestic corporation, earnings and profits of the foreign corporation attributable (under regulations prescribed by the Secretary or his delegate) to any net gain from the sale or exchange of property.

26 USC 337.

"(3) LESS DEVELOPED COUNTRY CORPORATIONS.—Earnings and profits accumulated by a foreign corporation while it was a less developed country corporation (as defined in section 902(d)), if the stock sold or exchanged was owned for a continuous period of at least 10 years, ending with the date of the sale or exchange, by the United States person who sold or exchanged such stock. In the case of stock sold or exchanged by a corporation, if United States persons who are individuals, estates, or trusts (each of whom owned within the meaning of section 958(a), or were considered as owning by applying the rules of ownership of section 958(b), 10 percent or more of the total combined voting power of all classes of stock entitled to vote of such corporation) owned, or were considered as owning, at any time during the 10-year period ending on the date of the sale or exchange more than 50 percent of the total combined voting power of all classes of stock entitled to vote of such corporation, this paragraph shall apply only if such United States persons owned, or were considered as owning, at all times during the remainder of such 10-year period more than 50 percent of the total combined voting power of all classes of stock entitled to vote of such corporation. For purposes of this paragraph, stock owned by a United States person who is an individual, estate, or trust which was acquired by reason of the death of the predecessor in interest of such United States

Ante, p. 1000.

person shall be considered as owned by such United States person during the period such stock was owned by such predecessor in interest, and during the period such stock was owned by any other predecessor in interest if between such United States person and such other predecessor in interest there was no transfer other than by reason of the death of an individual.

"(4) UNITED STATES INCOME.—Any item includible in gross income of the foreign corporation under this chapter as income derived from sources within the United States of a foreign corporation engaged in trade or business in the United States.

"(5) AMOUNTS INCLUDED IN GROSS INCOME UNDER SECTION 1247.—If the United States person whose stock is sold or exchanged was a qualified shareholder (as defined in section 1247(c)) of a foreign corporation which was a foreign investment company (as described in section 1246(b)(1)), the earnings and profits of the foreign corporation for taxable years in which such person was a qualified shareholder.

Ante, p. 1039.

Ante, p. 1036.

"(e) SALES OR EXCHANGES OF STOCK IN CERTAIN DOMESTIC CORPORATIONS.—Under regulations prescribed by the Secretary or his delegate, if—

"(1) a United States person sells or exchanges stock of a domestic corporation, or receives a distribution from a domestic corporation which, under section 302 or 331, is treated as an exchange of stock, and

26 USC 302, 331.

"(2) such domestic corporation was formed or availed of principally for the holding, directly or indirectly, of stock of one or more foreign corporations,

such sale or exchange shall, for purposes of this section, be treated as a sale or exchange of the stock of the foreign corporation or corporations held by the domestic corporation.

"(f) EXCEPTIONS.—This section shall not apply to—

"(1) distributions to which section 303 (relating to distributions in redemption of stock to pay death taxes) applies;

26 USC 303.

"(2) gain realized on exchanges to which section 356 (relating to receipt of additional consideration in certain reorganizations) applies; or

26 USC 356.

"(3) any amount to the extent that such amount is, under any other provision of this title, treated as—

"(A) a dividend,

"(B) gain from the sale of an asset which is not a capital asset, or

"(C) gain from the sale of an asset held for not more than 6 months.

"(g) TAXPAYER TO ESTABLISH EARNINGS AND PROFITS.—Unless the taxpayer establishes the amount of the earnings and profits of the foreign corporation to be taken into account under subsection (a), all gain from the sale or exchange shall be considered a dividend under subsection (a), and unless the taxpayer establishes the amount of foreign taxes to be taken into account under subsection (b), the limitation of such subsection shall not apply."

(b) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by adding at the end thereof the following:

"Sec. 1248. Gain from certain sales or exchanges of stock in certain foreign corporations."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to sales or exchanges occurring after December 31, 1962.

SEC. 16. SALES AND EXCHANGES OF PATENTS, ETC., TO CERTAIN FOREIGN CORPORATIONS.

(a) TREATMENT OF GAIN AS ORDINARY INCOME.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding after section 1248 (as added by section 15 of this Act) the following new section: *Ante*, p. 1041.

"SEC. 1249. GAIN FROM CERTAIN SALES OR EXCHANGES OF PATENTS, ETC., TO FOREIGN CORPORATIONS.

"(a) GENERAL RULE.—Except as provided in subsection (c), gain from the sale or exchange after December 31, 1962, of a patent, an invention, model, or design (whether or not patented), a copyright, a secret formula or process, or any other similar property right to any foreign corporation by any United States person (as defined in section 7701(a)(30)) which controls such foreign corporation shall, *Ante*, p. 988. if such gain would (but for the provisions of this subsection) be gain from the sale or exchange of a capital asset or of property described in section 1231, be considered as gain from the sale or exchange of 26 USC 1231. property which is neither a capital asset nor property described in section 1231.

"(b) CONTROL.—For purposes of subsection (a), control means, with respect to any foreign corporation, the ownership, directly or indirectly, of stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote. For purposes of this subsection, the rules for determining ownership of stock prescribed by section 958 shall apply." *Ante*, p. 1018.

(b) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by adding at the end thereof the following:

"Sec. 1249. Gain from certain sales or exchanges of patents, etc., to foreign corporations."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1962.

SEC. 17. TAX TREATMENT OF COOPERATIVES AND PATRONS.

(a) IN GENERAL.—Chapter 1 (relating to normal taxes and surtaxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter T—Cooperatives and Their Patrons

"Part I. Tax treatment of cooperatives.
"Part II. Tax treatment by patrons of patronage dividends.
"Part III. Definitions; special rules.

"PART I—TAX TREATMENT OF COOPERATIVES

"Sec. 1381. Organizations to which part applies.
"Sec. 1382. Taxable income of cooperatives.
"Sec. 1383. Computation of tax where cooperative redeems nonqualified written notices of allocation.

"SEC. 1381. ORGANIZATIONS TO WHICH PART APPLIES.

"(a) IN GENERAL.—This part shall apply to—

"(1) any organization exempt from tax under section 521 26 USC 521. (relating to exemption of farmers' cooperatives from tax), and

"(2) any corporation operating on a cooperative basis other than an organization—

"(A) which is exempt from tax under this chapter,

"(B) which is subject to the provisions of—

"(i) part II of subchapter H (relating to mutual savings banks, etc.), or 26 USC 591-595.

26 USC 801-843.

"(ii) subchapter L (relating to insurance companies), or

"(C) which is engaged in furnishing electric energy, or providing telephone service, to persons in rural areas.

"(b) TAX ON CERTAIN FARMERS' COOPERATIVES.—An organization described in subsection (a)(1) shall be subject to the taxes imposed by section 11 or 1201.

26 USC 11, 1201.

"SEC. 1382. TAXABLE INCOME OF COOPERATIVES.

"(a) GROSS INCOME.—Except as provided in subsection (b), the gross income of any organization to which this part applies shall be determined without any adjustment (as a reduction in gross receipts, an increase in cost of goods sold, or otherwise) by reason of any allocation or distribution to a patron out of the net earnings of such organization.

"(b) PATRONAGE DIVIDENDS.—In determining the taxable income of an organization to which this part applies, there shall not be taken into account amounts paid during the payment period for the taxable year—

Post, p. 1049.

"(1) as patronage dividends (as defined in section 1388(a)), to the extent paid in money, qualified written notices of allocation (as defined in section 1388(c)), or other property (except nonqualified written notices of allocation (as defined in section 1388(d))) with respect to patronage occurring during such taxable year; or

Post, p. 1051.

"(2) in money or other property (except written notices of allocation) in redemption of a nonqualified written notice of allocation which was paid as a patronage dividend during the payment period for the taxable year during which the patronage occurred.

For purposes of this title, any amount not taken into account under the preceding sentence shall be treated in the same manner as an item of gross income and as a deduction therefrom.

"(c) DEDUCTION FOR NONPATRONAGE DISTRIBUTIONS, ETC.—In determining the taxable income of an organization described in section 1381(a)(1), there shall be allowed as a deduction (in addition to other deductions allowable under this chapter)—

Ante, p. 1045.

"(1) amounts paid during the taxable year as dividends on its capital stock; and

"(2) amounts paid during the payment period for the taxable year—

"(A) in money, qualified written notices of allocation, or other property (except nonqualified written notices of allocation) on a patronage basis to patrons with respect to its earnings during such taxable year which are derived from business done for the United States or any of its agencies or from sources other than patronage, or

"(B) in money or other property (except written notices of allocation) in redemption of a nonqualified written notice of allocation which was paid, during the payment period for the taxable year during which the earnings were derived, on a patronage basis to a patron with respect to earnings derived from business or sources described in subparagraph (A).

"(d) PAYMENT PERIOD FOR EACH TAXABLE YEAR.—For purposes of subsections (b) and (c)(2), the payment period for any taxable year is the period beginning with the first day of such taxable year and ending with the fifteenth day of the ninth month following the close of such year. For purposes of subsections (b)(1) and (c)(2)(A), a

qualified check issued during the payment period shall be treated as an amount paid in money during such period if endorsed and cashed on or before the 90th day after the close of such period.

"(e) PRODUCTS MARKETED UNDER POOLING ARRANGEMENTS.—For purposes of subsection (b), in the case of a pooling arrangement for the marketing of products, the patronage shall (to the extent provided in regulations prescribed by the Secretary or his delegate) be treated as patronage occurring during the taxable year in which the pool closes.

"(f) TREATMENT OF EARNINGS RECEIVED AFTER PATRONAGE OCCURRED.—If any portion of the earnings from business done with or for patrons is includible in the organization's gross income for a taxable year after the taxable year during which the patronage occurred, then for purposes of applying subsection (b) to such portion the patronage shall, to the extent provided in regulations prescribed by the Secretary or his delegate, be considered to have occurred during the taxable year of the organization during which such earnings are includible in gross income.

"SEC. 1383. COMPUTATION OF TAX WHERE COOPERATIVE REDEEMS NONQUALIFIED WRITTEN NOTICES OF ALLOCATION.

"(a) GENERAL RULE.—If, under section 1382(b)(2) or (c)(2)(B), a deduction is allowable to an organization for the taxable year for amounts paid in redemption of nonqualified written notices of allocation, then the tax imposed by this chapter on such organization for the taxable year shall be the lesser of the following: *Ante*, p. 1046.

"(1) the tax for the taxable year computed with such deduction; or

"(2) an amount equal to—

"(A) the tax for the taxable year computed without such deduction, minus

"(B) the decrease in tax under this chapter for any prior taxable year (or years) which would result solely from treating such nonqualified written notices of allocation as qualified written notices of allocation.

"(b) SPECIAL RULES.—

"(1) If the decrease in tax ascertained under subsection (a)(2)(B) exceeds the tax for the taxable year (computed without the deduction described in subsection (a)) such excess shall be considered to be a payment of tax on the last day prescribed by law for the payment of tax for the taxable year, and shall be refunded or credited in the same manner as if it were an overpayment for such taxable year.

"(2) For purposes of determining the decrease in tax under subsection (a)(2)(B), the stated dollar amount of any nonqualified written notice of allocation which is to be treated under such subsection as a qualified written notice of allocation shall be the amount paid in redemption of such written notice of allocation which is allowable as a deduction under section 1382(b)(2) or (c)(2)(B) for the taxable year.

"(3) If the tax imposed by this chapter for the taxable year is the amount determined under subsection (a)(2), then the deduction described in subsection (a) shall not be taken into account for any purpose of this subtitle other than for purposes of this section.

"PART II—TAX TREATMENT BY PATRONS OF PATRONAGE DIVIDENDS

"Sec. 1385. Amounts includible in patron's gross income.

"SEC. 1385. AMOUNTS INCLUDIBLE IN PATRON'S GROSS INCOME.

"(a) GENERAL RULE.—Except as otherwise provided in subsection (b), each person shall include in gross income—

"(1) the amount of any patronage dividend which is paid in money, a qualified written notice of allocation, or other property (except a nonqualified written notice of allocation), and which is received by him during the taxable year from an organization described in section 1381(a), and

Ante, p. 1045.

"(2) any amount, described in section 1382(c)(2)(A) (relating to certain nonpatronage distributions by tax-exempt farmers' cooperatives), which is paid in money, a qualified written notice of allocation, or other property (except a nonqualified written notice of allocation), and which is received by him during the taxable year from an organization described in section 1381(a)(1).

Ante, p. 1046.

"(b) EXCLUSION FROM GROSS INCOME.—Under regulations prescribed by the Secretary or his delegate, the amount of any patronage dividend, and any amount received on the redemption, sale, or other disposition of a nonqualified written notice of allocation which was paid as a patronage dividend, shall not be included in gross income to the extent that such amount—

"(1) is properly taken into account as an adjustment to basis of property, or

"(2) is attributable to personal, living, or family items.

"(c) TREATMENT OF CERTAIN NONQUALIFIED WRITTEN NOTICES OF ALLOCATION.—

"(1) APPLICATION OF SUBSECTION.—This subsection shall apply to any nonqualified written notice of allocation which—

"(A) was paid as a patronage dividend, or

"(B) was paid by an organization described in section 1381(a)(1) on a patronage basis with respect to earnings derived from business or sources described in section 1382(c)(2)(A).

"(2) BASIS; AMOUNT OF GAIN.—In the case of any nonqualified written notice of allocation to which this subsection applies, for purposes of this chapter—

"(A) the basis of such written notice of allocation in the hands of the patron to whom such written notice of allocation was paid shall be zero,

"(B) the basis of such written notice of allocation which was acquired from a decedent shall be its basis in the hands of the decedent, and

"(C) gain on the redemption, sale, or other disposition of such written notice of allocation by any person shall, to the extent that the stated dollar amount of such written notice of allocation exceeds its basis, be considered as gain from the sale or exchange of property which is not a capital asset.

"PART III—DEFINITIONS; SPECIAL RULES

"SEC. 1388. DEFINITIONS; SPECIAL RULES.

"(a) PATRONAGE DIVIDEND.—For purposes of this subchapter, the term 'patronage dividend' means an amount paid to a patron by an organization to which part I of this subchapter applies—

"(1) on the basis of quantity or value of business done with or for such patron,

"(2) under an obligation of such organization to pay such amount, which obligation existed before the organization received the amount so paid, and

"(3) which is determined by reference to the net earnings of the organization from business done with or for its patrons.

Such term does not include any amount paid to a patron to the extent that (A) such amount is out of earnings other than from business done with or for patrons, or (B) such amount is out of earnings from business done with or for other patrons to whom no amounts are paid, or to whom smaller amounts are paid, with respect to substantially identical transactions.

"(b) WRITTEN NOTICE OF ALLOCATION.—For purposes of this subchapter, the term 'written notice of allocation' means any capital stock, revolving fund certificate, retain certificate, certificate of indebtedness, letter of advice, or other written notice, which discloses to the recipient the stated dollar amount allocated to him by the organization and the portion thereof, if any, which constitutes a patronage dividend.

"(c) QUALIFIED WRITTEN NOTICE OF ALLOCATION.—

"(1) DEFINED.—For purposes of this subchapter, the term 'qualified written notice of allocation' means—

"(A) a written notice of allocation which may be redeemed in cash at its stated dollar amount at any time within a period beginning on the date such written notice of allocation is paid and ending not earlier than 90 days from such date, but only if the distributee receives written notice of the right of redemption at the time he receives such written notice of allocation; and

"(B) a written notice of allocation which the distributee has consented, in the manner provided in paragraph (2), to take into account at its stated dollar amount as provided in section 1385(a). *Ante*, p. 1048.

Such term does not include any written notice of allocation which is paid as part of a patronage dividend or as part of a payment described in section 1382(c)(2)(A), unless 20 percent or more of the amount of such patronage dividend, or such payment, is paid in money or by qualified check. *Ante*, p. 1046.

"(2) MANNER OF OBTAINING CONSENT.—A distributee shall consent to take a written notice of allocation into account as provided in paragraph (1)(B) only by—

"(A) making such consent in writing,

"(B) obtaining or retaining membership in the organization after—

"(i) such organization has adopted (after the date of the enactment of the Revenue Act of 1962) a bylaw providing that membership in the organization constitutes such consent, and

"(ii) he has received a written notification and copy of such bylaw, or

"(C) if neither subparagraph (A) nor (B) applies, endorsing and cashing a qualified check, paid as a part of the patronage dividend or payment of which such written notice of allocation is also a part, on or before the 90th day after the close of the payment period for the taxable year of the organization for which such patronage dividend or payment is paid.

"(3) PERIOD FOR WHICH CONSENT IS EFFECTIVE.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B)—

"(i) a consent described in paragraph (2)(A) shall be a consent with respect to all patronage of the distributee with the organization occurring (determined with the application of section 1382(e)) during the taxable year of the organization during which such consent is made and all subsequent taxable years of the organization; and

Ante, p. 1047.

"(ii) a consent described in paragraph (2)(B) shall be a consent with respect to all patronage of the distributee with the organization occurring (determined without the application of section 1382(e)) after he received the notification and copy described in paragraph (2)(B)(ii).

"(B) REVOCATION, ETC.—

"(i) Any consent described in paragraph (2)(A) may be revoked (in writing) by the distributee at any time. Any such revocation shall be effective with respect to patronage occurring on or after the first day of the first taxable year of the organization beginning after the revocation is filed with such organization; except that in the case of a pooling arrangement described in section 1382(e), a revocation made by a distributee shall not be effective as to any pool with respect to which the distributee has been a patron before such revocation.

"(ii) Any consent described in paragraph (2)(B) shall not be effective with respect to any patronage occurring (determined without the application of section 1382(e)) after the distributee ceases to be a member of the organization or after the bylaws of the organization cease to contain the provision described in paragraph (2)(B)(i).

"(4) QUALIFIED CHECK.—For purposes of this subchapter, the term 'qualified check' means only a check (or other instrument which is redeemable in money) which is paid as a part of a patronage dividend, or as a part of a payment described in section 1382(c)(2)(A), to a distributee who has not given consent as provided in paragraph (2) (A) or (B) with respect to such patronage dividend or payment, and on which there is clearly imprinted a statement that the endorsement and cashing of the check (or other instrument) constitutes the consent of the payee to include in his gross income, as provided in the Federal income tax laws, the stated dollar amount of the written notice of allocation which is a part of the patronage dividend or payment of which such qualified check is also a part. Such term does not include any check (or other instrument) which is paid as part of a patronage dividend or payment which does not include a written notice of allocation (other than a written notice of allocation described in paragraph (1)(A)).

Ante, p. 1046.

"(d) NONQUALIFIED WRITTEN NOTICE OF ALLOCATION.—For purposes of this subchapter, the term 'nonqualified written notice of allocation' means a written notice of allocation which is not described in subsection (c) or a qualified check which is not cashed on or before the 90th day after the close of the payment period for the taxable year for which the distribution of which it is a part is paid.

"(e) DETERMINATION OF AMOUNT PAID OR RECEIVED.—For purposes of this subchapter, in determining amounts paid or received—

"(1) property (other than a written notice of allocation) shall be taken into account at its fair market value, and

"(2) a qualified written notice of allocation shall be taken into account at its stated dollar amount."

(b) TECHNICAL AMENDMENTS.—

(1) Section 521(a) (relating to exemption of farmers' cooperatives from tax) is amended by striking out "section 522" each place it appears therein and inserting in lieu thereof "part I of subchapter T (sec. 1381 and following)". 26 USC 521. *Ante*, p. 1045.

(2) Section 522 (relating to tax on farmers' cooperatives) is hereby repealed. Repeal. 26 USC 522.

(3) Section 6072(d) (relating to time for filing income tax returns of exempt cooperative associations) is amended to read as follows: 26 USC 6072.

"(d) RETURNS OF COOPERATIVE ASSOCIATIONS.—In the case of an income tax return of—

"(1) an exempt cooperative association described in section 1381(a)(1), or *Ante*, p. 1045.

"(2) an organization described in section 1381(a)(2) which is under an obligation to pay patronage dividends (as defined in section 1388(a)) in an amount equal to at least 50 percent of its net earnings from business done with or for its patrons, or which paid patronage dividends in such an amount out of the net earnings from business done with or for patrons during the most recent taxable year for which it had such net earnings, *Ante*, p. 1049.

a return made on the basis of a calendar year shall be filed on or before the 15th day of September following the close of the calendar year, and a return made on the basis of a fiscal year shall be filed on or before the 15th day of the 9th month following the close of the fiscal year."

(4) The table of subchapters for chapter 1 is amended by adding at the end thereof the following:

"SUBCHAPTER T. Cooperatives and their patrons."

(5) The table of sections for part III of subchapter F of chapter 1 is amended by striking out the last line thereof.

(c) EFFECTIVE DATES.—

(1) FOR THE COOPERATIVES.—Except as provided in paragraph (3), the amendments made by subsections (a) and (b) shall apply to taxable years of organizations described in section 1381(a) of the Internal Revenue Code of 1954 (as added by subsection (a)) beginning after December 31, 1962.

(2) FOR THE PATRONS.—Except as provided in paragraph (3), section 1385 of the Internal Revenue Code of 1954 (as added by subsection (a)) shall apply with respect to any amount received from any organization described in section 1381(a) of such Code, to the extent that such amount is paid by such organization in a taxable year of such organization beginning after December 31, 1962. *Ante*, p. 1048.

(3) APPLICATION OF EXISTING LAW.—In the case of any money, written notice of allocation, or other property paid by any organization described in section 1381(a)—

(A) before the first day of the first taxable year of such organization beginning after December 31, 1962, or

(B) on or after such first day with respect to patronage occurring before such first day,

the tax treatment of such money, written notice of allocation, or other property (including the tax treatment of gain or loss on the redemption, sale, or other disposition of such written notice of allocation) by any person shall be made under the Internal Revenue Code of 1954 without regard to subchapter T of chapter 1 of such Code.

Ante, p. 1045.

SEC. 18. INCLUSION OF FOREIGN REAL PROPERTY IN GROSS ESTATE.

(a) AMENDMENTS TO INCLUDE FOREIGN REAL PROPERTY.—

26 USC 2031. (1) Section 2031(a) (relating to definition of gross estate) is amended by striking out ", except real property situated outside of the United States".

26 USC 2001 *et seq.* (2) The following provisions of chapter 11 (imposing an estate tax) are amended by striking out "(except real property situated outside of the United States)":

(A) section 2033 (relating to property in which the decedent had an interest),

(B) section 2034 (relating to dower or curtesy interests),

(C) section 2035(a) (relating to transactions in contemplation of death),

(D) section 2036(a) (relating to transfers with retained life estate),

(E) section 2037(a) (relating to transfers taking effect at death),

(F) section 2038(a) (relating to revocable transfers),

(G) section 2040 (relating to joint interests), and

(H) section 2041(a) (relating to powers of appointment).

(b) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

(2) In the case of a decedent dying after the date of the enactment of this Act and before July 1, 1964, the value of real property situated outside of the United States shall not be included in the gross estate (as defined in section 2031(a)) of the decedent—

26 USC 2033-2038. (A) under section 2033, 2034, 2035(a), 2036(a), 2037(a), or 2038(a) to the extent the real property, or the decedent's interest in it, was acquired by the decedent before February 1, 1962;

26 USC 2040. (B) under section 2040 to the extent such property or interest was acquired by the decedent before February 1, 1962, or was held by the decedent and the survivor in a joint tenancy or tenancy by the entirety before February 1, 1962; or

26 USC 2041. (C) under section 2041(a) to the extent that before February 1, 1962, such property or interest was subject to a general power of appointment (as defined in section 2041) possessed by the decedent.

In the case of real property, or an interest therein, situated outside of the United States (including a general power of appointment in respect of such property or interest, and including property held by the decedent and the survivor in a joint tenancy or tenancy by the entirety) which was acquired by the decedent after January 31, 1962, by gift within the meaning of section 2511, or from a prior decedent by devise or inheritance, or by reason of death, form of ownership, or other conditions (including the exer-

26 USC 2511.

cise or nonexercise of a power of appointment), for purposes of this paragraph such property or interest therein shall be deemed to have been acquired by the decedent before February 1, 1962, if before that date the donor or prior decedent had acquired the property or his interest therein or had possessed a power of appointment in respect of the property or interest.

SEC. 19. REPORTING OF INTEREST, DIVIDEND, AND PATRONAGE DIVIDEND PAYMENTS OF $10 OR MORE DURING A YEAR.

(a) RETURNS REGARDING PAYMENT OF DIVIDENDS.—Section 6042 (relating to returns regarding corporate dividends, earnings, and profits) is amended to read as follows: 26 USC 6042.

"SEC. 6042. RETURNS REGARDING PAYMENTS OF DIVIDENDS AND CORPORATE EARNINGS AND PROFITS.

"(a) REQUIREMENT OF REPORTING.—

"(1) IN GENERAL.—Every person—

"(A) who makes payments of dividends aggregating $10 or more to any other person during any calendar year, or

"(B) who receives payments of dividends as a nominee and who makes payments aggregating $10 or more during any calendar year to any other person with respect to the dividends so received,

shall make a return according to the forms or regulations prescribed by the Secretary or his delegate, setting forth the aggregate amount of such payments and the name and address of the person to whom paid.

"(2) RETURNS REQUIRED BY THE SECRETARY.—Every person who makes payments of dividends aggregating less than $10 to any other person during any calendar year shall, when required by the Secretary or his delegate, make a return setting forth the aggregate amount of such payments, and the name and address of the person to whom paid.

"(b) DIVIDEND DEFINED.—

"(1) GENERAL RULE.—For purposes of this section, the term 'dividend' means—

"(A) any distribution by a corporation which is a dividend (as defined in section 316); and 26 USC 316.

"(B) any payment made by a stockbroker to any person as a substitute for a dividend (as so defined).

"(2) EXCEPTIONS.—For purposes of this section, the term 'dividend' does not include—

"(A) to the extent provided in regulations prescribed by the Secretary or his delegate, any distribution or payment—

"(i) by a foreign corporation, or

"(ii) to a foreign corporation, a nonresident alien, or a partnership not engaged in trade or business in the United States and composed in whole or in part of nonresident aliens; and

"(B) any amount described in section 1373 (relating to undistributed taxable income of electing small business corporations). 26 USC 1373.

"(3) SPECIAL RULE.—If the person making any payment described in subsection (a)(1)(A) or (B) is unable to determine the portion of such payment which is a dividend or is paid with respect to a dividend, he shall, for purposes of subsection (a)(1), treat the entire amount of such payment as a dividend or as an amount paid with respect to a dividend.

"(c) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Every person making a return under subsection (a)(1) shall furnish to each person whose name is set forth in such return a written statement showing—

"(1) the name and address of the person making such return, and

"(2) the aggregate amount of payments to the person as shown on such return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a)(1) was made. No statement shall be required to be furnished to any person under this subsection if the aggregate amount of payments to such person as shown on the return made under subsection (a)(1) is less than $10.

"(d) STATEMENTS TO BE FURNISHED BY CORPORATIONS TO SECRETARY.—Every corporation shall, when required by the Secretary or his delegate—

"(1) furnish to the Secretary or his delegate a statement stating the name and address of each shareholder, and the number of shares owned by each shareholder;

"(2) furnish to the Secretary or his delegate a statement of such facts as will enable him to determine the portion of the earnings and profits of the corporation (including gains, profits, and income not taxed) accumulated during such periods as the Secretary or his delegate may specify, which have been distributed or ordered to be distributed, respectively, to its shareholders during such taxable years as the Secretary or his delegate may specify; and

"(3) furnish to the Secretary or his delegate a statement of its accumulated earnings and profits and the names and addresses of the individuals or shareholders who would be entitled to such accumulated earnings and profits if divided or distributed, and of the amounts that would be payable to each."

(b) RETURNS REGARDING PAYMENT OF PATRONAGE DIVIDENDS.—Section 6044 (relating to returns regarding patronage dividends) is amended to read as follows:

26 USC 6044.

"SEC. 6044. RETURNS REGARDING PAYMENTS OF PATRONAGE DIVIDENDS.

"(a) REQUIREMENT OF REPORTING.—

"(1) IN GENERAL.—Except as otherwise provided in this section, every cooperative to which part I of subchapter T of chapter 1 applies, which makes payments of amounts described in subsection (b) aggregating $10 or more to any person during any calendar year, shall make a return according to the forms or regulations prescribed by the Secretary or his delegate, setting forth the aggregate amount of such payments and the name and address of the person to whom paid.

Ante, p. 1045.

"(2) RETURNS REQUIRED BY THE SECRETARY.—Every such cooperative which makes payments of amounts described in subsection (b) aggregating less than $10 to any person during any calendar year shall, when required by the Secretary or his delegate, make a return setting forth the aggregate amount of such payments and the name and address of the person to whom paid.

"(b) AMOUNTS SUBJECT TO REPORTING.—

"(1) GENERAL RULE.—Except as otherwise provided in this section, the amounts subject to reporting under subsection (a) are—

"(A) the amount of any patronage dividend (as defined in section 1388(a)) which is paid in money, qualified written notices of allocation (as defined in section 1388(c)), or other property (except nonqualified written notices of allocation as defined in section 1388(d)),

Ante, p. 1049.

"(B) any amount described in section 1382(c)(2)(A) (relating to certain nonpatronage distributions) which is paid in money, qualified written notices of allocation, or other property (except nonqualified written notices of allocation) by an organization exempt from tax under section 521 (relating to exemption of farmers' cooperatives from tax), and

Ante, p. 1046.

26 USC 521.

"(C) any amount described in section 1382(b)(2) (relating to redemption of nonqualified written notices of allocation) and, in the case of an organization described in section 1381(a)(1), any amount described in section 1382(c)(2)(B) (relating to redemption of nonqualified written notices of allocation paid with respect to earnings derived from sources other than patronage).

Ante, p. 1045.

"(2) EXCEPTIONS.—The provisions of subsection (a) shall not apply, to the extent provided in regulations prescribed by the Secretary or his delegate, to any payment—

"(A) by a foreign corporation, or

"(B) to a foreign corporation, a nonresident alien, or a partnership not engaged in trade or business in the United States and composed in whole or in part of nonresident aliens.

"(c) EXEMPTION FOR CERTAIN CONSUMER COOPERATIVES.—A cooperative which the Secretary or his delegate determines is primarily engaged in selling at retail goods or services of a type that are generally for personal, living, or family use shall, upon application to the Secretary or his delegate, be granted exemption from the reporting requirements imposed by subsection (a). Application for exemption under this subsection shall be made in accordance with regulations prescribed by the Secretary or his delegate.

"(d) DETERMINATION OF AMOUNT PAID.—For purposes of this section, in determining the amount of any payment—

"(1) property (other than a qualified written notice of allocation) shall be taken into account at its fair market value, and

"(2) a qualified written notice of allocation shall be taken into account at its stated dollar amount.

"(e) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Every cooperative making a return under subsection (a)(1) shall furnish to each person whose name is set forth in such return a written statement showing—

"(1) the name and address of the cooperative making such return, and

"(2) the aggregate amount of payments to the person as shown on such return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a)(1) was made. No statement shall be required to be furnished to any person under this subsection if the aggregate amount of payments to such person as shown on the return made under subsection (a)(1) is less than $10."

(c) RETURNS REGARDING PAYMENT OF INTEREST.—Subpart B of part III of subchapter A of chapter 61 (relating to information returns) is amended by adding after section 6048 (as added by section 7(f) of this Act) the following new section:

Ante, p. 988.

"SEC. 6049. RETURNS REGARDING PAYMENTS OF INTEREST.

"(a) REQUIREMENT OF REPORTING.—

"(1) IN GENERAL.—Every person—

"(A) who makes payments of interest (as defined in subsection (b)) aggregating $10 or more to any other person during any calendar year, or

"(B) who receives payments of interest as a nominee and who makes payments aggregating $10 or more during any calendar year to any other person with respect to the interest so received,

shall make a return according to the forms or regulations prescribed by the Secretary or his delegate, setting forth the aggregate amount of such payments and the name and address of the person to whom paid.

"(2) RETURNS REQUIRED BY THE SECRETARY.—Every person who makes payments of interest (as defined in subsection (b)) aggregating less than $10 to any other person during any calendar year shall, when required by the Secretary or his delegate, make a return setting forth the aggregate amount of such payments and the name and address of the person to whom paid.

"(3) OTHER RETURNS REQUIRED BY SECRETARY.—Every corporation making payments, regardless of amounts, of interest other than interest as defined in subsection (b) shall, when required by regulations prescribed by the Secretary or his delegate, make a return according to the forms or regulations prescribed by the Secretary or his delegate, setting forth the amount paid and the name and address of the recipient of each such payment.

"(b) INTEREST DEFINED.—

"(1) GENERAL RULE.—For purposes of subsections (a) (1) and (2), the term 'interest' means—

"(A) interest on evidences of indebtedness (including bonds, debentures, notes, and certificates) issued by a corporation in registered form, and, to the extent provided in regulations prescribed by the Secretary or his delegate, interest on other evidences of indebtedness issued by a corporation of a type offered by corporations to the public;

"(B) interest on deposits with persons carrying on the banking business;

"(C) amounts (whether or not designated as interest) paid by a mutual savings bank, savings and loan association, building and loan association, cooperative bank, homestead association, credit union, or similar organization, in respect of deposits, investment certificates, or withdrawable or repurchasable shares;

"(D) interest on amounts held by an insurance company under an agreement to pay interest thereon; and

"(E) interest on deposits with stockbrokers and dealers in securities.

"(2) EXCEPTIONS.—For purposes of subsections (a) (1) and (2), the term 'interest' does not include—

26 USC 103.

"(A) interest on obligations described in section 103(a) (1) or (3) (relating to interest on certain governmental obligations);

"(B) to the extent provided in regulations prescribed by the Secretary or his delegate, any amount paid by or to a foreign corporation, a nonresident alien, or a partnership not engaged in trade or business in the United States and composed in whole or in part of nonresident aliens; and

"(C) any amount on which the person making payment is required to deduct and withhold a tax under section 1451 (relating to tax-free convenant bonds), or would be so required but for section 1451(d) (relating to benefit of personal exemptions). 26 USC 1451.

"(c) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Every person making a return under subsection (a)(1) shall furnish to each person whose name is set forth in such return a written statement showing—

"(1) the name and address of the person making such return, and

"(2) the aggregate amount of payments to the person as shown on such return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a)(1) was made. No statement shall be required to be furnished to any person under this subsection if the aggregate amount of payments to such person as shown on the return made under subsection (a)(1) is less than $10."

(d) PENALTIES FOR FAILURE TO FILE INFORMATION RETURNS.—Section 6652 (relating to failure to file certain information returns) is amended to read as follows: 26 USC 6652.

"SEC. 6652. FAILURE TO FILE CERTAIN INFORMATION RETURNS.

"(a) RETURNS RELATING TO PAYMENTS OF DIVIDENDS, INTEREST, AND PATRONAGE DIVIDENDS.—In the case of each failure to file a statement of the aggregate amount of payments to another person required by section 6042(a)(1) (relating to payments of dividends aggregating $10 or more), section 6044(a)(1) (relating to payments of patronage dividends aggregating $10 or more), or section 6049(a)(1) (relating to payments of interest aggregating $10 or more), on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary or his delegate and in the same manner as tax), by the person failing to so file the statement, $10 for each such statement not so filed, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed $25,000. *Ante*, p. 1053. *Ante*, p. 1054. *Ante*, p. 1056.

"(b) OTHER RETURNS.—In the case of each failure to file a statement of a payment to another person required under authority of section 6041 (relating to certain information at source), section 6042(a)(2) (relating to payments of dividends aggregating less than $10), section 6044(a)(2) (relating to payments of patronage dividends aggregating less than $10), section 6049(a)(2) (relating to payments of interest aggregating less than $10), section 6049(a)(3) (relating to other payments of interest by corporations), or section 6051(d) (relating to information returns with respect to income tax withheld), on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary or his delegate and in the same manner as tax) by the person failing to so file the statement, $1 for each such statement not so filed, but the total amount imposed on the delinquent person for all such failures during the calendar year shall not exceed $1,000. 26 USC 6051.

"(c) ALCOHOL AND TOBACCO TAXES.—

"For penalties for failure to file certain information returns with respect to alcohol and tobacco taxes, see, generally, subtitle E."

(e) PENALTIES FOR FAILURE TO FURNISH STATEMENTS TO PERSONS WITH RESPECT TO WHOM RETURNS ARE FILED.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6677 (as added by section 7(g) of this Act) the following new section:

Ante, p. 988.

"SEC. 6678. FAILURE TO FURNISH CERTAIN STATEMENTS.

"In the case of each failure to furnish a statement under section 6042(c), 6044(e), or 6049(c) on the date prescribed therefor to a person with respect to whom a return has been made under section 6042(a)(1), 6044(a)(1), or 6049(a)(1), respectively, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary or his delegate and in the same manner as tax), by the person failing to so furnish the statement, $10 for each such statement not so furnished, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed $25,000."

Ante, pp. 1054-1056.

26 USC 6041.

(f) TECHNICAL AMENDMENTS.—Section 6041 (relating to information at source) is amended—

(1) by striking out, in subsection (a) thereof, "(other than payments described in section 6042(1) or section 6045)" and inserting in lieu thereof "(other than payments to which section 6042(a)(1), 6044(a)(1), or 6049(a)(1) applies, and other than payments with respect to which a statement is required under the authority of section 6042(a)(2), 6044(a)(2), 6045, 6049(a)(2), or 6049(a)(3))"; and

(2) by striking out subsection (c) thereof.

(g) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended—

(A) by striking out

"Sec. 6042. Returns regarding corporate dividends, earnings, and profits."

and inserting in lieu thereof

"Sec. 6042. Returns regarding payments of dividends and corporate earnings and profits.";

(B) by striking out

"Sec. 6044. Returns regarding patronage dividends."

and inserting in lieu thereof

"Sec. 6044. Returns regarding payments of patronage dividends.";

and

(C) by adding at the end of such table the following:

"Sec. 6049. Returns regarding payments of interest.".

(2) The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following:

"Sec. 6678. Failure to furnish certain statements."

(h) EFFECTIVE DATES.—

(1) DIVIDENDS AND INTEREST.—The amendments made by this section shall apply to payments of dividends and interest made on or after January 1, 1963.

(2) PATRONAGE DIVIDENDS.—The amendments made by this section shall apply to payments of amounts described in section 6044(b) of the Internal Revenue Code of 1954 made on or after January 1, 1963, with respect to patronage occurring on or after the first day of the first taxable year of the cooperative beginning on or after January 1, 1963.

SEC. 20. INFORMATION WITH RESPECT TO CERTAIN FOREIGN ENTITIES.

(a) INFORMATION TO BE FURNISHED BY INDIVIDUALS, DOMESTIC CORPORATIONS, ETC., WITH RESPECT TO CERTAIN FOREIGN CORPORATIONS.—Section 6038 is amended to read as follows:

74 Stat. 1014.
26 USC 6038.

"SEC. 6038. INFORMATION WITH RESPECT TO CERTAIN FOREIGN CORPORATIONS.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Every United States person shall furnish, with respect to any foreign corporation which such person controls (within the meaning of subsection (d)(1)), such information as the Secretary or his delegate may prescribe by regulations relating to—

"(A) the name, the principal place of business, and the nature of business of such foreign corporation, and the country under whose laws incorporated;

"(B) the accumulated profits (as defined in section 902(c)) of such foreign corporation, including the items of income (whether or not included in gross income under chapter 1), deductions (whether or not allowed in computing taxable income under chapter 1), and any other items taken into account in computing such accumulated profits;

Ante, p. 1000.

"(C) a balance sheet for such foreign corporation listing assets, liabilities, and capital;

"(D) transactions between such foreign corporation and—

"(i) such person,

"(ii) any other corporation which such person controls, and

"(iii) any United States person owning, at the time the transaction takes place, 10 percent or more of the value of any class of stock outstanding of such foreign corporation; and

"(E) a description of the various classes of stock outstanding, and a list showing the name and address of, and number of shares held by, each United States person who is a shareholder of record owning at any time during the annual accounting period 5 percent or more in value of any class of stock outstanding of such foreign corporation.

The Secretary or his delegate may also require the furnishing of any other information which is similar or related in nature to that specified in the preceding sentence.

"(2) PERIOD FOR WHICH INFORMATION IS TO BE FURNISHED, ETC.—The information required under paragraph (1) shall be furnished for the annual accounting period of the foreign corporation ending with or within the United States person's taxable year. The information so required shall be furnished at such time and in such manner as the Secretary or his delegate shall by regulations prescribe.

"(3) LIMITATION.—No information shall be required to be furnished under this subsection with respect to any foreign corporation for any annual accounting period unless such information was required to be furnished under regulations in effect on the first day of such annual accounting period.

"(b) EFFECT OF FAILURE TO FURNISH INFORMATION.—

"(1) IN GENERAL.—If a United States person fails to furnish, within the time prescribed under paragraph (2) of subsection (a), any information with respect to any foreign corporation required under paragraph (1) of subsection (a), then—

26 USC 901; Ante, pp. 1001, 1031.

"(A) in applying section 901 (relating to taxes of foreign countries and possessions of the United States) to such United States person for the taxable year, the amount of taxes (other than taxes reduced under subparagraph (B)) paid or deemed paid (other than those deemed paid under section 904(d)) to any foreign country or possession of the United States for the taxable year shall be reduced by 10 percent, and

26 USC 904.

Ante, p. 999.

"(B) in applying sections 902 (relating to foreign tax credit for corporate stockholder in foreign corporation) and 960 (relating to special rules for foreign tax credit) to any such United States person which is a corporation (or to any person who acquires from any other person any portion of the interest of such other person in any such foreign corporation, but only to the extent of such portion) for any taxable year, the amount of taxes paid or deemed paid by each foreign corporation with respect to which such person is required to furnish information during the annual accounting period or periods with respect to which such information is required under paragraph (2) of subsection (a) shall be reduced by 10 percent.

Ante, p. 1020.

If such failure continues 90 days or more after notice by the Secretary or his delegate to the United States person, then the amount of the reduction under this paragraph shall be 10 percent plus an additional 5 percent for each 3-month period, or fraction thereof, during which such failure to furnish information continues after the expiration of such 90-day period.

"(2) LIMITATION.—The amount of the reduction under paragraph (1) for each failure to furnish information with respect to a foreign corporation required under subsection (a)(1) shall not exceed whichever of the following amounts is the greater:

"(A) $10,000, or

"(B) the income of the foreign corporation for its annual accounting period with respect to which the failure occurs.

"(3) SPECIAL RULES.—

"(A) No taxes shall be reduced under this subsection more than once for the same failure.

"(B) For purposes of this subsection, the time prescribed under paragraph (2) of subsection (a) to furnish information (and the beginning of the 90-day period after notice by the Secretary) shall be treated as being not earlier than the last day on which (as shown to the satisfaction of the Secretary or his delegate) reasonable cause existed for failure to furnish such information.

"(C) In applying subsections (a) and (b) of section 902, and in applying subsection (a) of section 960, the reduction provided by this subsection shall not apply for purposes of determining the amount of accumulated profits in excess of income, war profits, and excess profits taxes.

"(c) TWO OR MORE PERSONS REQUIRED TO FURNISH INFORMATION WITH RESPECT TO SAME FOREIGN CORPORATION.—Where, but for this subsection, two or more United States persons would be required to furnish information under subsection (a) with respect to the same foreign corporation for the same period, the Secretary or his delegate may by regulations provide that such information shall be required only from one person. To the extent practicable, the determination of which person shall furnish the information shall be made on the basis of actual ownership of stock.

"(d) DEFINITIONS.—For purposes of this section—

"(1) CONTROL.—A person is in control of a corporation if such person owns stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote, or more than 50 percent of the total value of shares of all classes of stock, of a corporation. If a person is in control (within the meaning of the preceding sentence) of a corporation which in turn owns more than 50 percent of the total combined voting power of all classes of stock entitled to vote of another corporation, or owns more than 50 percent of the total value of the shares of all classes of stock of another corporation, then such person shall be treated as in control of such other corporation. For purposes of this paragraph, the rules prescribed by section 318(a) for determining ownership of stock shall apply; except that— 26 USC 318.

"(A) the second sentence of subparagraphs (A) and (B), and clause (ii) of subparagraph (C), of section 318(a)(2) shall not be applied so as to consider a United States person as owning stock which is owned by a person who is not a United States person, and

"(B) in applying clause (i) of subparagraph (C) of section 318(a)(2), the phrase '10 percent' shall be substituted for the phrase '50 percent' used in subparagraph (C).

"(2) ANNUAL ACCOUNTING PERIOD.—The annual accounting period of a foreign corporation is the annual period on the basis of which such corporation regularly computes its income in keeping its books.

"(e) CROSS REFERENCES.—

"(1) For provisions relating to penalties for violations of this section, see section 7203.

"(2) For definition of the term 'United States person', see section 7701(a)(30)."

(b) INFORMATION AS TO ORGANIZATION OR REORGANIZATION OF FOREIGN CORPORATIONS AND AS TO ACQUISITIONS OF THEIR STOCK.—Section 6046 (relating to returns as to creation or organization, or reorganization, of foreign corporations) is amended to read as follows: 74 Stat. 1016. 26 USC 6046.

"SEC. 6046. RETURNS AS TO ORGANIZATION OR REORGANIZATION OF FOREIGN CORPORATIONS AND AS TO ACQUISITIONS OF THEIR STOCK.

"(a) REQUIREMENT OF RETURN.—A return complying with the requirements of subsection (b) shall be made by—

"(1) each United States citizen or resident who is on January 1, 1963, an officer or director of a foreign corporation, 5 percent or more in value of the stock of which is owned by a United States person (as defined in section 7701(a)(30)), or who becomes such an officer or director at any time after such date, *Ante*, p. 988.

"(2) each United States person who on January 1, 1963, owns 5 percent or more in value of the stock of a foreign corporation, or who, at any time after such date—

"(A) acquires stock which, when added to any stock owned on January 1, 1963, has a value equal to 5 percent or more of the value of the stock of a foreign corporation, or

"(B) acquires an additional 5 percent or more in value of the stock of a foreign corporation, and

"(3) each person who at any time after January 1, 1963, becomes a United States person while owning 5 percent or more in value of the stock of a foreign corporation.

"(b) FORM AND CONTENTS OF RETURNS.—The returns required by subsection (a) shall be in such form and shall set forth, in respect of

the foreign corporation, such information as the Secretary or his delegate prescribes by forms or regulations as necessary for carrying out the provisions of the income tax laws, except that in the case of persons described only in subsection (a)(1) the information required shall be limited to the names and addresses of persons described in subsection (a)(2).

"(c) OWNERSHIP OF STOCK.—For purposes of subsection (a), stock owned directly or indirectly by a person (including, in the case of an individual, stock owned by members of his family) shall be taken into account. For purposes of the preceding sentence, the family of an individual shall be considered as including only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

"(d) TIME FOR FILING.—Any return required by subsection (a) shall be filed on or before the 90th day after the day on which, under any provision of subsection (a), the United States citizen, resident, or person becomes liable to file such return.

"(e) LIMITATION.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), no information shall be required to be furnished under this section with respect to any foreign corporation unless such information was required to be furnished under regulations which have been in effect for at least 90 days before the date on which the United States citizen, resident, or person becomes liable to file a return required under subsection (a).

"(2) EXCEPTION.—In the case of liability to file a return under subsection (a) arising on or after January 1, 1963, and before June 1, 1963—

"(A) no information shall be required to be furnished under this section with respect to any foreign corporation unless such information was required to be furnished under regulations in effect on or before March 1, 1963, and

"(B) if the date on which such regulations become effective is later than the day on which such liability arose, any return required by subsection (a) shall (in lieu of the time prescribed by subsection (d)) be filed on or before the 90th day after such date.

"(f) CROSS REFERENCE.—

"For provisions relating to penalties for violations of this section, see sections 6679 and 7203."

(c) CIVIL PENALTY FOR FAILURE TO FILE RETURN.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6678 (as added by section 19(e) of this Act) the following new section:

Ante, p. 1058.

"SEC. 6679. FAILURE TO FILE RETURNS AS TO ORGANIZATION OR REORGANIZATION OF FOREIGN CORPORATIONS AND AS TO ACQUISITIONS OF THEIR STOCK.

"(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, any person required to file a return under section 6046 who fails to file such return at the time provided in such section, or who files a return which does not show the information required pursuant to such section, shall pay a penalty of $1,000, unless it is shown that such failure is due to reasonable cause.

Ante, p. 1061.

"(b) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedure for income, estate, and gift taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a)."

26 USC 6211-6216.

(d) TECHNICAL AMENDMENTS.—

(1) Section 318(b) (relating to cross references) is amended by striking out "and" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and by adding at the end thereof the following: 26 USC 318.

"(7) section 6038(d)(1) (relating to information with respect to certain foreign corporations)."

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking out

"Sec. 6046. Returns as to creation or organization, or reorganization, of foreign corporations."

and inserting in lieu thereof

"Sec. 6046. Returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock."

(3) The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following:

"Sec. 6679. Failure to file returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock."

(e) EFFECTIVE DATE.—

(1) The amendments made by subsection (a) shall apply with respect to annual accounting periods of foreign corporations beginning after December 31, 1962.

(2) The amendments made by subsection (b) shall take effect on January 1, 1963.

SEC. 21. EXPENDITURES BY FARMERS FOR CLEARING LAND.

(a) ALLOWANCE OF DEDUCTION.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding after section 181 (as added by section 2(c) of this Act) the following new section: *Ante*, p. 971.

"SEC. 182. EXPENDITURES BY FARMERS FOR CLEARING LAND.

"(a) IN GENERAL.—A taxpayer engaged in the business of farming may elect to treat expenditures which are paid or incurred by him during the taxable year in the clearing of land for the purpose of making such land suitable for use in farming as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction.

"(b) LIMITATION.—The amount deductible under subsection (a) for any taxable year shall not exceed whichever of the following amounts is the lesser:

"(1) $5,000, or

"(2) 25 percent of the taxable income derived from farming during the taxable year.

For purposes of paragraph (2), the term 'taxable income derived from farming' means the gross income derived from farming reduced by the deductions allowed by this chapter (other than by this section) which are attributable to the business of farming.

"(c) DEFINITIONS.—For purposes of subsection (a)—

"(1) The term 'clearing of land' includes (but is not limited to) the eradication of trees, stumps, and brush, the treatment or moving of earth, and the diversion of streams and watercourses.

"(2) The term 'land suitable for use in farming' means land which as a result of the activities described in paragraph (1) is suitable for use by the taxpayer or his tenant for the production of crops, fruits, or other agricultural products or for the sustenance of livestock.

"(d) EXCEPTIONS, ETC.—

"(1) EXCEPTIONS.—The expenditures to which subsection (a) applies shall not include—

"(A) the purchase, construction, installation, or improvement of structures, appliances, or facilities which are of a character which is subject to the allowance for depreciation provided in section 167, or

26 USC 167.

"(B) any amount paid or incurred which is allowable as a deduction without regard to this section.

"(2) CERTAIN PROPERTY USED IN THE CLEARING OF LAND.—

"(A) ALLOWANCE FOR DEPRECIATION.—The expenditures to which subsection (a) applies shall include a reasonable allowance for depreciation with respect to property of the taxpayer which is used in the clearing of land for the purpose of making such land suitable for use in farming and which, if used in a trade or business, would be property subject to the allowance for depreciation provided by section 167.

"(B) TREATMENT AS DEPRECIATION DEDUCTION.—For purposes of this chapter, any expenditure described in subparagraph (A) shall, to the extent allowed as a deduction under subsection (a), be treated as an amount allowed under section 167 for exhaustion, wear and tear, or obsolescence of the property which is used in the clearing of land.

"(e) ELECTION.—The election under subsection (a) for any taxable year shall be made within the time prescribed by law (including extensions thereof) for filing the return for such taxable year. Such election shall be made in such manner as the Secretary or his delegate may by regulations prescribe. Such election may not be revoked except with the consent of the Secretary or his delegate."

26 USC 263.

(b) CONFORMING AMENDMENT.—Section 263(a)(1) (relating to disallowance of deductions for capital expenditures) is amended by striking out "or" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting ", or", and by adding at the end thereof the following new subparagraph:

"(E) expenditures by farmers for clearing land deductible under section 182."

(c) CLERICAL AMENDMENT.—The table of sections for such part VI is amended by adding at the end thereof the following:

"Sec. 182. Expenditures by farmers for clearing land."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1962.

SEC. 22. CHARITABLE CONTRIBUTIONS MADE FROM INCOME ATTRIBUTABLE TO SEVERAL TAXABLE YEARS.

26 USC 1307.

(a) TREATMENT FOR PURPOSES OF PART I OF SUBCHAPTER Q.—Section 1307 (relating to rules applicable to part I of subchapter Q) is amended by adding at the end thereof the following new subsection:

"(e) ELECTION WITH RESPECT TO CHARITABLE CONTRIBUTIONS.—In the case of an individual who elects (in such manner and at such time as the Secretary or his delegate prescribes by regulations) to have the provisions of this subsection apply, an amount received or accrued to which this part applies shall be reduced, for purposes of computing the tax liability of the taxpayer under this part with respect to the amount so received or accrued, by an amount equal to that portion of (1) the amount of charitable contributions made by the taxpayer during the taxable year in which the amount is so received or accrued

which are allowable as a deduction for such year under section 170 (determined without regard to this part), as (2) the amount received or accrued to which this part applies is of the adjusted gross income for the taxable year (determined without regard to this part). In any case in which the taxpayer elects to have the provisions of the preceding sentence apply, for purposes of computing the limitation on tax under this part— 26 USC 170.

"(1) only the same proportion of the amount to which this part applies shall be taken into account for purposes of computing the limitations under section 170(b)(1) (A) and (B) for taxable years before the taxable year in which such amount is received or accrued as (A) the excess of the maximum amount which could, if the taxpayer had made additional contributions described in clause (i), (ii), or (iii) of section 170(b)(1)(A), have been described in clause (1) of the preceding sentence over the amount described in such clause (1), bears to (B) such maximum amount, and

"(2) the portion of the amount of charitable contributions described in the preceding sentence shall not be taken into account in computing the tax for the taxable year in which the amount to which this part applies is received or accrued."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to amounts received or accrued in taxable years beginning after December 31, 1961.

SEC. 23. EFFECTIVE DATE OF SECTION 1371(c) OF THE INTERNAL REVENUE CODE OF 1954.

(a) IN GENERAL.—Subject to the provisions of subsection (b), section 1371(c) of the Internal Revenue Code of 1954 (as added by section 2(a) of the Act entitled "An Act to amend the Internal Revenue Code of 1954 to provide a personal exemption for children placed for adoption and to clarify certain provisions relating to the election of small business corporations as to taxable status", approved September 23, 1959 (Public Law 86-376)), shall (notwithstanding the provisions of the first sentence of section 2(d) of such Act) also apply to taxable years beginning after December 31, 1957, and before January 1, 1960. 26 USC 1371.

(b) ELECTION AND CONSENT BY CORPORATIONS; CONSENTS BY SHAREHOLDERS.—Subsection (a) shall apply with respect to any corporation and its shareholders only if, within one year after the date of the enactment of this Act—

(1) such corporation (in such manner as the Secretary of the Treasury or his delegate prescribes by regulations) elects to have the provisions of subsection (a) apply and consents to the application of subsection (c); and

(2) each person who is a shareholder of such corporation on the date on which such corporation makes such election, and each person who was a shareholder of such corporation during any taxable year of such corporation beginning after December 31, 1957, and ending before the date of such election, consents (in such manner and at such time as the Secretary of the Treasury or his delegate prescribes by regulations) to such election and to the application of subsection (c).

(c) TOLLING OF STATUTES OF LIMITATIONS.—In any case in which a corporation makes an election under subsection (b)—

(1) if the assessment of any deficiency against the corporation making such election, or any shareholder of such corporation

who consents to such election, for any taxable year is prevented, at any time on or before the expiration of one year after the date of such election, by the operation of any law or rule of law, assessment of such deficiency may, nevertheless, be made, to the extent such deficiency is attributable to the application of subsection (a), at any time on or before the expiration of such one-year period; and

(2) if credit or refund of any overpayment of tax by the corporation making such election, or any shareholder of such corporation who consents to such election, for any taxable year is prevented, at any time on or before the expiration of one year after the date of such election, by the operation of any law or rule of law, credit or refund of such overpayment may, nevertheless, be allowed or made, to the extent such overpayment is attributable to the application of subsection (a), if claim therefor is filed on or before the expiration of such one-year period.

SEC. 24. CERTAIN LOSSES SUSTAINED IN CONVERTING FROM STREET RAILWAY TO BUS OPERATIONS.

(a) IN GENERAL.—If a corporation has a net operating loss for the taxable year ending December 31, 1953, or the taxable year ending December 31, 1954, principally as the result of conversion from street railways to bus operations with respect to part or all of the company's operations, then its unused conversion loss will be subject to the treatment provided in subsection (c).

(b) UNUSED CONVERSION LOSS DEFINED.—The amount of the unused conversion loss shall be the sum of the part of the net operating loss for each year described in subsection (a) which (without regard to this section) would be carried over to the sixth taxable year following the loss year if section 172(b) of the Internal Revenue Code of 1954 (or, where applicable, section 122(b)(2)(B) of the Internal Revenue Code of 1939) permitted such a carryover.

26 USC 172.

64 Stat. 938.

(c) TREATMENT OF UNUSED CONVERSION LOSS.—If a taxpayer has an unused conversion loss, then in determining the amount of the net operating loss carryover from the taxable year ending December 31, 1959, to each of the 5 taxable years following such taxable year for purposes of section 172 of the Internal Revenue Code of 1954, such unused conversion loss shall be treated as a net operating loss for the taxable year ending December 31, 1959. This subsection shall apply only for years in which the taxpayer is engaged in the furnishing or sale of transportation (as defined in section 1503(c)(1)(A) of the Internal Revenue Code of 1954).

26 USC 1503.

(d) REGULATIONS.—The Secretary of the Treasury, or his delegate, may prescribe by regulation such rules as may be necessary to carry out the purposes of this section.

SEC. 25. PENSION PLAN OF LOCAL UNION NUMBERED 435, INTERNATIONAL HOD CARRIERS' BUILDING AND COMMON LABORERS' UNION OF AMERICA.

The pension plan of Local Union Numbered 435 of the International Hod Carriers' Building and Common Laborers' Union of America, which was negotiated to take effect May 1, 1960, pursuant to an agreement between such union and the Building Trades Employers Association of Rochester, New York, Incorporated, and which has been held by the Internal Revenue Service to constitute a qualified trust under section 401(a) of the Internal Revenue Code of 1954, and to be exempt from taxation under section 501(a) of such Code, shall be held and considered to have been a qualified trust under such sec-

26 USC 401.

26 USC 501.

tion 401(a), and to have been exempt from taxation under such section 501(a), for the period beginning May 1, 1960, and ending April 20, 1961, but only if it is shown to the satisfaction of the Secretary of the Treasury or his delegate that the trust has not in this period been operated in a manner which would jeopardize the interests of its beneficiaries.

26 USC 401.
26 USC 501.

SEC. 26. CONTINUATION OF A PARTNERSHIP YEAR FOR SURVIVING PARTNER IN A TWO-MAN PARTNERSHIP WHERE ONE DIES.

(a) CLOSE OF TAXABLE YEAR OF TWO-MAN PARTNERSHIP WHEN ONE PARTNER DIES.—Section 188 of the Internal Revenue Code of 1939 (relating to different taxable years of partner and partnership) is amended—

53 Stat. 71.

(1) by striking out "If" and inserting in lieu thereof "(a) GENERAL RULE.—If"; and

(2) by adding at the end of such section 188 the following new subsection:

"(b) TWO-MAN PARTNERSHIP.—For the purpose of this chapter, the death of one of the partners of a partnership consisting of two members shall not, if the surviving partner so elects within one year after the date of enactment of this subsection, result in the termination of the partnership or in the closing of the taxable year of the partnership with respect to the surviving partner prior to the time the partnership year would have closed if neither partner had died or disposed of his interest."

(b) EFFECTIVE DATE, ETC.—The amendments made by subsection (a) shall apply with respect to taxable years of a partnership beginning after December 31, 1946, to which the Internal Revenue Code of 1939 applies. If refund or credit of any overpayment resulting from the application of the amendments made by subsection (a) of this section (including interest, additions to the tax, and additional amounts), is prevented on the date of enactment of this Act, or within one year from such date, by the operation of any law or rule of law (other than section 3760 of the Internal Revenue Code of 1939 or section 7121 of the Internal Revenue Code of 1954, relating to closing agreements, and other than section 3761 of the Internal Revenue Code of 1939 or section 7122 of the Internal Revenue Code of 1954, relating to compromises), such refund or credit of such overpayment, may, nevertheless, be made or allowed if claim therefor is filed within one year after the date of the enactment of this Act. No interest shall be allowed or paid on any overpayment resulting from the enactment of this section.

53 Stat. 462.
26 USC 7121.
53 Stat. 462.
26 USC 7122.

SEC. 27. EXCLUSION FROM GROSS INCOME OF CERTAIN AWARDS MADE PURSUANT TO EVACUATION CLAIMS OF JAPANESE-AMERICAN PERSONS.

(a) IN GENERAL.—No amount received as an award under the Act entitled "An Act to authorize the Attorney General to adjudicate certain claims resulting from evacuation of certain persons of Japanese ancestry under military orders", approved July 2, 1948, as amended by Public Law 116, Eighty-second Congress, and Public Law 673, Eighty-fourth Congress (50 U.S.C. App., secs. 1981–1987), shall be included in gross income for purposes of chapter 1 of the Internal Revenue Code of 1939 or chapter 1 of the Internal Revenue Code of 1954.

53 Stat. 4.
26 USC 1 et seq.

(b) EFFECTIVE DATE, ETC.—Subsection (a) shall apply with respect to taxable years ending after July 2, 1948. If refund or credit of any overpayment of Federal income tax resulting from the application

of subsection (a) (including interest, additions to the tax, additional amounts, and penalties) is prevented on the date of the enactment of this Act, or within one year from such date, by the operation of any law or rule of law, the refund or credit of such overpayment may nevertheless be made or allowed if claim therefor is filed within one year after the date of enactment of this Act. In the case of a claim to which the preceding sentence applies, the amount to be refunded or credited as an overpayment shall not be diminished by any credit or setoff based upon any item other than the amount of the award referred to in subsection (a). No interest shall be allowed or paid on any overpayment resulting from the application of this section.

SEC. 28. DEDUCTION FOR DEPRECIATION BY TENANT-STOCKHOLDER OF COOPERATIVE HOUSING CORPORATION.

26 USC 216.

(a) ALLOWANCE OF DEDUCTION.—Section 216 (relating to deductions by tenant-stockholders of a cooperative housing corporation) is amended by—

(1) amending the heading thereof to read as follows:

"SEC. 216. DEDUCTION OF TAXES, INTEREST, AND BUSINESS DEPRECIATION BY COOPERATIVE HOUSING CORPORATION TENANT-STOCKHOLDER."; and

(2) adding at the end of section 216 the following new subsection:

"(c) TREATMENT AS PROPERTY SUBJECT TO DEPRECIATION.—So much of the stock of a tenant-stockholder in a cooperative housing corporation as is allocable, under regulations prescribed by the Secretary or his delegate, to a proprietary lease or right of tenancy in property subject to the allowance for depreciation under section 167(a) shall, to the extent such proprietary lease or right of tenancy is used by such tenant-stockholder in a trade or business or for the production of income, be treated as property subject to the allowance for depreciation under section 167(a)."

26 USC 167.

(b) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 216 and inserting in lieu thereof the following:

"Sec. 216. Deduction of taxes, interest, and business depreciation by cooperative housing corporation tenant-stockholder."

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to taxable years beginning after December 31, 1961.

SEC. 29. DEDUCTION FOR INCOME TAX PURPOSES OF CONTRIBUTIONS TO CERTAIN ORGANIZATIONS FOR JUDICIAL REFORM.

26 USC 170.

For purposes of section 170 of the Internal Revenue Code of 1954 (relating to deduction for charitable, etc., contributions and gifts), a contribution or gift made after December 31, 1961, with respect to a referendum occurring during the calendar year 1962 to or for the use of any nonprofit organization created and operated exclusively—

(1) to consider proposals for the reorganization of the judicial branch of the government of any State of the United States or political subdivision of such State, and

(2) to provide information, make recommendations, and seek public support or opposition as to such proposals,

shall be treated as a charitable contribution if no part of the net earnings of such organization inures to the benefit of any private shareholder or individual. The provisions of the preceding sentence shall not apply to any organization which participates in, or intervenes in, any political campaign on behalf of any candidate for public office.

SEC. 30. EFFECTIVE DATE OF AMENDMENT TO SECTION 1374(b).

The amendment made by section 2(b) of Public Law 86-376 (73 Stat. 699) shall take effect on September 2, 1958.

SEC. 31. TREATIES.

Section 7852(d) of the Internal Revenue Code of 1954 (relating to treaty obligations) shall not apply in respect of any amendment made by this Act. 26 USC 7852.

Approved October 16, 1962, 10:30 a.m.

Public Law 87-835

AN ACT

October 16, 1962
[H. R. 8556]

To amend the National Science Foundation Act of 1950 to require certain additional information to be filed by an applicant for a scholarship or fellowship, and to amend the National Defense Education Act of 1958 with respect to certain requirements for payments or loans under the provisions of such Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 16(d) of the National Science Foundation Act of 1950 is amended to read as follows: National Science Foundation. Scholarships. 64 Stat. 156; 72 Stat. 353. 42 USC 1874.

"(d)(1) No part of any funds appropriated or otherwise made available for expenditure by the Foundation under authority of this Act shall be used to make payments under any scholarship or fellowship awarded to any individual under section 10, unless such individual—

"(A) has taken and subscribed to an oath or affirmation in the following form: 'I do solemnly swear (or affirm) that I bear true faith and allegiance to the United States of America and will support and defend the Constitution and laws of the United States against all its enemies, foreign and domestic'; and Oath.

"(B) has provided the Foundation (in the case of applications made on or after October 1, 1962) with a full statement regarding any crimes of which he has ever been convicted (other than crimes committed before attaining sixteen years of age and minor traffic violations for which a fine of $25 or less was imposed) and regarding any criminal charges punishable by confinement of thirty days or more which may be pending against him at the time of his application for such scholarship or fellowship. Criminal record, statement.

The provisions of section 1001 of title 18, United States Code, shall be applicable with respect to the oath or affirmation and statement herein required. 62 Stat. 749.

"(2)(A) When any Communist organization, as defined in paragraph (5) of section 3 of the Subversive Activities Control Act of 1950, is registered or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, it shall be unlawful for any member of such organization with knowledge or notice that such organization is so registered or that such order has become final (i) to make application for any scholarship or fellowship which is to be awarded from funds part or all of which are appropriated or otherwise made available for expenditure under 68 Stat. 777. 50 USC 782.