The original documents are located in Box 69, folder "10/21/76 HR13500 Food Stamp and Supplemental Security Income (SSI) Amendments (2)" of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

Allen Moore

MEMORANDUM OF DISAPPROVAL

I have withheld my signature from H.R. 13500, a bill which would amend the Supplemental Security Income program and the Food Stamp program.

This bill would require the States, under penalty of losing all Federal funding for their Medicaid programs, to maintain in perpetuity the level of payments they voluntarily add to Federal Supplemental Security Income (SSI) benefits. This would require that States and the taxpayers within those States commit to maintaining present funding levels, irrespective of changes in a State's financial circumstances or of competing social needs.

I have compassion for the needy recipients of the SSI program and fully support annual Federal cost-of-living increases. However, I strongly oppose the Federal government tying the hands of selected State and local governments by mandating that they commit their funds for Federally-specified purposes.

Most States already pass on SSI cost-of-living benefits to recipients. Some States augment these increases with State funds. I applaud such actions, and encourage States to continue granting full cost-of-living increases to the needy.

Gerald R. Ford

But ~~I refuse to pursue~~ this desirable end should not be accomplished through coercive legislation which usurps State authority and responsibility.

I ~~do~~ regret the fact that by withholding my signature from this bill, I will delay implementation of a positive amendment which would provide States needed flexibility in administering their food stamp program.

Giving States greater discretion in the operation of their programs is a desirable objective. It is ~~very~~ unfortunate that ~~the Congress continues to be~~ this bill is so inconsistent in its view of Federal intrusion on States' responsibilities.

~~And the States must~~ be permitted a judgment based ~~to meet the needs of their citizens~~ on ~~State~~ greater discretion in determining how best to use their ~~resources~~ to meet the needs of disadvantaged persons.

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Signing Statement for H.R. 13500

I am today signing H.R. 13500, amendments to the Food Stamp and Supplemental Security Income (SSI) programs.

The Food Stamp amendment gives to the States needed flexibility in deciding how to manage their food stamp programs. It makes optional a previous legislative requirement which was often inappropriate because of its complexity, cost, and the occasional unintended hardships it created.

The bill also has a provision which guarantees that the aged, blind, and disabled recipients of Supplemental Security Income benefits will receive annual cost-of-living increases from the Federal government. Under current law, these increases do not always get passed on to the recipients. However, I think it is important that this guarantee be available. SSI recipients are particularly vulnerable to the ravaging effects of inflation. This bill will at least provide this deserving group a minimum level of protection.

STATEMENT BY THE PRESIDENT

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94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 94-1210

INFLUENCING LEGISLATION BY PUBLIC CHARITIES

JUNE 2, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ULLMAN, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H.R. 13500]

The Committee on Ways and Means, to whom was referred the bill (H.R. 13500) to amend the Internal Revenue Code of 1954 with respect to influencing legislation by public charities, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 2, strike out line 10 and all that follows down through line 8 on page 3 and insert:

"(A) makes lobbying expenditures in excess of the lobbying ceiling amount for such organization for each taxable year, or

"(B) makes grass roots expenditures in excess of the grass roots ceiling amount for such organization for each taxable year.

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

"(A) LOBBYING EXPENDITURES.—The term 'lobbying expenditures' means expenditures for the purpose of influencing legislation (as defined in section 4911(d)).

"(B) LOBBYING CEILING AMOUNT.—The lobbying ceiling amount for any organization for any taxable year is 150 percent of the lobbying nontaxable amount for such organization for such taxable year, determined under section 4911.

"(C) GRASS ROOTS EXPENDITURES.—The term 'grass roots expenditures' means expenditures for the purpose of influencing legislation (as defined in section

4911(d) without regard to paragraph (1)(B) thereof).

"(D) GRASS ROOTS CEILING AMOUNT.—The grass roots ceiling amount for any organization for any taxable year is 150 percent of the grass roots nontaxable amount for such organization for such taxable year, determined under section 4911.

Page 3, strike out lines 15 through 19, and insert: which includes the date the election is made, is described in subsection (c)(3) and—

"(A) is described in paragraph (4), and

"(B) is not a disqualified organization under paragraph (5).

Page 5, strike out lines 18 through 21, and insert:

"(B) an election under this subsection is not in effect for such organization,

Page 6, line 7, strike out "chapter 1" and insert in lieu thereof "chapter 1 of such Code".

Page 7, line 5, insert "of an organization" after "assets".

Page 7, after line 20, insert the following:

(d) DISCLOSURE.—Section 6033(b) of such Code (relating to information required to be furnished annually by certain exempt organizations) is amended by striking out "and" at the end of paragraph (6), by striking out the period at the end of paragraph (7) and inserting in lieu thereof ", and", and by adding at the end thereof the following:

"(8) in the case of an organization with respect to which an election under section 501(g) is effective for the taxable year, the following amounts for such organization for such taxable year:

"(A) the lobbying expenditures (as defined in section 4911(c)(1)),

"(B) the lobbying nontaxable amount (as defined in section 4911(c)(2)),

"(C) the grass roots expenditures (as defined in section 4911(c)(3)), and

"(D) the grass roots nontaxable amount (as defined in section 4911(c)(4)).

For purposes of paragraph (8), if section 4911(f) applies to the organization for the taxable year, such organization shall furnish the amounts with respect to the affiliated group as well as with respect to such organization."

Page 7, line 23, strike out "such Code" and insert in lieu thereof "the Internal Revenue Code of 1954".

Page 8, strike out line 4 and all that follows down through line 12 on page 9 and insert:

"(a) TAX IMPOSED.—

"(1) IN GENERAL.—There is hereby imposed on the excess lobbying expenditures of any organization to which this section applies a tax equal to 25 percent of

the amount of the excess lobbying expenditures for the taxable year.

"(2) ORGANIZATIONS TO WHICH THIS SECTION APPLIES.—This section applies to any organization with respect to which an election under section 501(g) (relating to lobbying expenditures by public charities) is in effect for the taxable year.

"(b) EXCESS LOBBYING EXPENDITURES.—For purposes of this section, the term 'excess lobbying expenditures' means, for a taxable year, the greater of—

"(1) the amount by which the lobbying expenditures made by the organization during the taxable year exceed the lobbying nontaxable amount for such organization for such taxable year, or

"(2) the amount by which the grass roots expenditures made by the organization during the taxable year exceed the grass roots nontaxable amount for such organization for such taxable year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) LOBBYING EXPENDITURES.—The term 'lobbying expenditures' means expenditures for the purpose of influencing legislation (as defined in subsection (d)).

"(2) LOBBYING NONTAXABLE AMOUNT.—The lobbying nontaxable amount for any organization for any taxable year is the lesser of (A) $1,000,000 or (B) the amount determined under the following table:

"If the exempt purpose expenditures are—	The lobbying nontaxable amount is—
Not over $500,000	20 percent of the exempt purpose expenditures.
Over $500,000 but not over $1,000,000	$100,000, plus 15 percent of the excess of the exempt purpose expenditures over $500,000.
Over $1,000,000 but not over $1,500,000	$175,000, plus 10 percent of the excess of the exempt purpose expenditures over $1,000,000.
Over $1,500,000	$225,000, plus 5 percent of the excess of the exempt purpose expenditures over $1,500,000.

"(3) GRASS ROOTS EXPENDITURES.—The term 'grass roots expenditures' means expenditures for the purpose of influencing legislation (as defined in subsection (d) without regard to paragraph (1)(B) thereof).

"(4) GRASS ROOTS NONTAXABLE AMOUNT.—The grass roots nontaxable amount for any organization for any taxable year is 25 percent of the lobbying nontaxable amount (determined under paragraph (2)) for such organization for such taxable year.

Page 10, line 4, strike out "influence legislation" and insert in lieu thereof "influence any legislation".

Page 10, strike out line 24 and all that follows down through line 2 on page 11 and insert:

tax-exempt status, or the deductions of contributions to the organization;

Page 11, line 25, strike out "other".

Page 12, line 1, strike out "persons" and insert in lieu thereof "persons other than members".

Page 12, strike out lines 7 through 25 and insert:

"(1) EXEMPT PURPOSE EXPENDITURES.—

"(A) IN GENERAL.—The term 'exempt purpose expenditures' means, with respect to any organization for any taxable year, the total of the amounts paid or incurred by such organization to accomplish purposes described in section 170(c)(2)(B) (relating to religious, charitable, education, etc., purposes).

"(B) CERTAIN AMOUNTS INCLUDED.—The term 'exempt purpose expenditures' includes—

"(i) administrative expenses paid or incurred for purposes described in section 170(c)(2)(B), and

"(ii) amounts paid or incurred for the purpose of influencing legislation (whether or not for purposes described in section 170(c)(2)(B)).

"(C) CERTAIN AMOUNTS EXCLUDED.—The term 'exempt purposes expenditures' does not include amounts paid or incurred to or for—

"(i) a separate fundraising unit of such organization, or

"(ii) one or more other organizations, if such amounts are paid or incurred primarily for fund-raising.

Page 13, line 14, strike out "purposes" and insert in lieu thereof "purpose".

Page 14, line 6, strike out "section 501(g)(3)" and insert in lieu thereof "Except as otherwise provided in paragraph (4), if for a taxable year".

Page 14, beginning in line 4, strike out "within the meaning of" and insert in lieu thereof "as defined in".

Page 14, line 6, strike out "section 501(g)(3)" and insert in lieu thereof "section 501(g)".

Page 14, line 16, strike out "section 501(g)(3)" and insert in lieu thereof "section 501(g)".

Page 14, line 20, strike out "and".

Page 14, line 23, strike out "section 501(g)(3)" and insert in lieu thereof "section 501(g)".

Page 15, strike out line 2 and insert the following:

reason of the application of 501(g), and

"(D) subparagraphs (C) and (D) of subsection (d)(2), paragraph (3) of subsection (d), and clause (i) of subsection (e)(1)(C) shall be applied as if such affiliated group were one organization.

Page 15, line 25, strike out the quotation marks.

Page 15, after line 25, insert the following:

"(4) LIMITED CONTROL.—If two or more organizations are members of an affiliated group of organizations (as defined in paragraph (2) without regard to subparagraph (B) thereof), and the governing instrument of no such organization requires it to be bound by decisions of any of the other such organizations on legislative issues other than as to action with respect to Acts, bills, resolutions, or similar items by the Congress, then—

"(A) in the case of any organization whose decisions bind one or more members of such affiliated group, directly or indirectly, the determination as to whether such organization has paid or incurred excess lobbying expenditures and the determination as to whether such organization has exceeded the expenditure limits of section 501(g)(1) shall be made as though such organization has paid or incurred those amounts paid or incurred by such members of such affiliated group to influence legislation with respect to Acts, bills, resolutions, or similar items by the Congress, and

"(B) in the case of any organization to which subparagraph (A) does not apply, but which is a member of such affiliated group, the determination as to whether such organization has paid or incurred excess lobbying expenditures and the determination as to whether such organization has exceeded the the expenditure limits of section 501(g)(1) shall be made as though such organization is not a member of such affiliated group."

Page 16, line 3, strike out "such Code" and insert in lieu thereof "the Internal Revenue Code of 1954".

Page 16, line 12, strike out "section 4911(d))" and insert in lieu thereof "section 501(c)(3))".

Page 16, line 16, strike out "such Code" and insert in lieu thereof "the Internal Revenue Code of 1954".

Page 18, line 23, immediately after "chapter 43" and before the quotation marks, insert "taxes".

Page 21, line 7, strike out "4912(c)" and insert in lieu thereof "section 4912(c)(2)".

Page 21, line 10, strike out "4912(c)(2)" and insert in lieu thereof "section 4912(c)".

Page 21, line 17, strike out "1974," and insert "1974".
Page 23, after line 5, strike out "Charities" and insert in lieu thereof "charities".
Page 23, after line 8, strike out "qualify under section 501(c)(3) by reason of" and insert in lieu thereof "qualify for exemption under section 501(c)(3) because of".
Page 23, line 22, strike out "(other".
Page 24, line 1, strike out "than the amendment made by section 1(b))".
Page 24, beginning in line 2, strike out ", and before January 1, 1987".
Page 24, line 6, strike out "and before January 1, 1987".
Page 24, line 15, strike out "decendents" and insert "decedents".
Page 24, line 16, strike out ", and before January 1, 1987".
Page 24, line 19, strike out ", and before January 1, 1987".
Page 24, line 22, strike out ", and before January 1, 1987".

H.R. 13500

I. Summary

The bill (H.R. 13500) provides a new elective set of requirements for determining whether a charitable organization (exempt under section 501(c)(3)) has engaged in excessive lobbying activities sufficient to cause it to lose its exemption and qualification for receiving deductible contributions.

Present law provides that loss of tax-exempt charitable status and loss of qualification for receipt of deductible contributions result if an exempt charity's efforts to influence legislation are a "substantial part of the activities" of the organization. The bill sets relatively specific expenditure limits to replace the uncertain standards of present law.

In general, "charitable" organizations (other than churches, or organizations affiliated with churches, and private foundations) are eligible to elect to come under the standards established by the bill. Present law is to continue to apply to non-electing and ineligible organizations.

Under the bill, an organization incurs an excise tax if it spends more on influencing legislation than the permitted amount determined under a formula in which the limits are set on a sliding scale which allows proportionately less expenditures for larger organizations. Within the total permitted expenditure level no more than one-quarter is permitted for so-called "grass roots lobbying". The bill is designed so that the sanctions are related to the amount of excessive lobbying expenditures. If one of the expenditure limits is exceeded, the amount of tax is based upon the amount of that excess. The sanction of loss of exemption is reserved for cases where over a four-consecutive-year period an organization exceeds the permitted levels of lobbying expenditures by more than 50 percent.

II. General Statement

Present law

Present law (sec. 501(c)(3) of the Internal Revenue Code of 1954) imposes upon every organization qualifying for tax-exempt status as an educational, charitable, religious, etc., organization the requirement that "no substantial part of the activities of [the organization] is carrying on propaganda, or otherwise attempting, to influence legislation". This requirement is also a precondition of such an organization's qualification to receive charitable contributions that are deductible for income, estate, or gift tax purposes (secs. 170(c), 2055(a), 2106(a), 2522(a), and 2522(b)).

General reasons for change

The language of the lobbying provision was first enacted in 1934. Since that time neither Treasury regulations nor court decisions have

given enough detailed meaning to the statutory language to permit most charitable organizations to know approximately where the limits are between what is permitted by the statute and what is forbidden by it. This vagueness is, in large part, a function of the uncertainty in the meaning of the terms "substantial part" and "activities".

Many believe that the standards as to the permissible level of activities under present law are too vague and thereby tend to encourage subjective and selective enforcement.

Except in the case of private foundations, the only sanctions available at present with respect to an organization which exceeds the limits on permitted lobbying are loss of exempt status under section 501(c)(3) and loss of qualification to receive deductible charitable contributions. Some organizations (particularly organizations which have already built up substantial endowments) can split up their activities between a lobbying organization and a charitable organization. For such organizations, these sanctions may have little effect, and this lack of effect may tend to discourage enforcement effort.[1]

For other organizations which cannot split up their activities between a lobbying organization and a charitable organization and which must continue to rely upon the receipt of deductible contributions to carry on their exempt purposes, loss of section 501(c)(3) status cannot be so easily compensated for and would constitute a severe blow to the organization.

This bill is designed to set relatively specific expenditure limits to replace the uncertain standards of present law, to provide a more rational relationship between the sanctions and the violations of standards, and to make it more practical to properly enforce the law. However, these new rules replace present law only as to charitable organizations which elect to come under the standards of the bill. The new rules also do not apply to churches and organizations affiliated with churches, nor do they apply to private foundations; present law is to continue to apply to these organizations. The bill provides for a tax of 25 percent of the amount by which the expenditures exceed the permissible level. Revocation of exemption is reserved for those cases where the excess is unreasonably great over a period of time.

Explanation of provisions

The bill permits public charitable tax-exempt organizations to elect to replace the present "substantial part of activities" test with a limit defined in terms of expenditures for influencing legislation. The basic permitted level of such expenditures ("lobbying nontaxable amount") for a year is 20 percent of the first $500,000 of the organization's exempt purpose expenditures for the year, plus 15

[1] The Treasury Department's regulations (Regs. § 1.501(c)(3)-1(c)(3)(v)) specifically provide that an organization that loses its exempt status under section 501(c)(3) because of excessive lobbying can become exempt on its own income under section 501(c)(4) as a "social welfare" organization. Also, a number of organizations that have in this manner shifted to section 501(c)(4) have created related organizations to carry on their charitable activities, to qualify for exemption under 501(c)(3), and to qualify to receive deductible charitable contributions. If the original organization has built up a substantial endowment during its years of section 501(c)(3) status, it can then carry on its "excessive" lobbying activities financed by the income it receives from its tax-deductible endowment. As a result, although there may have been some inconvenience and administrative confusion during the changeover period, it is possible in such a case for the lobbying rules to be violated without any significant tax consequences.

percent of the second $500,000, plus 10 percent of the third $500,000, plus 5 percent of any additional expenditures. However, in no event is this permitted level to exceed a "cap" of $1,000,000 for any one year.

Within those limits, a separate limitation is placed on so-called "grass roots lobbying"—that is, attempts to influence the general public on legislative matters. This grass roots nontaxable amount is one-fourth of the lobbying nontaxable amount.

Sanctions.—An electing organization that exceeds either the general limitation or the grass roots limitation in a taxable year is to be subject to an excise tax of 25 percent of its excess lobbying expenditures. Furthermore, if an electing organization's lobbying expenditures normally (that is, on the average over a four-year period) exceed 150 percent of the limitations described above,[2] the organization is to lose its exempt status under section 501(c)(3).[3]

If, for a year, the organization's expenditures exceed both the nontaxable lobbying amount and the nontaxable grass roots amount, then the 25-percent tax is to be imposed on whichever one of these excesses is the greater.

These sanctions are to operate automatically. That is, if an organization exceeds the permitted lobbying amounts, then it is subject to the excise tax and may also be subject to the loss of exempt status. Imposition of these sanctions (or, in the case of loss of exemption, the effective date of the sanction) is not to depend on the exercise of discretion by the Internal Revenue Service. However, imposition of these sanctions on the organization is not intended to preclude the Service from continuing its present practice of generally disallowing deductions of contributions to an organization only where the contributions are made on or after the date that the Service announces the organization is no longer exempt.

As in the case of the chapter 42 (private foundation) and chapter 43 (qualified pension, etc., plans) taxes, in order to assess a deficiency of the excise tax imposed under this bill on excess lobbying expenditures, the Internal Revenue Service must send a notice of deficiency to the exempt organization. The exempt organization can obtain judicial review without first paying the tax, by petitioning the Tax Court for a redetermination of the deficiency. Alternatively, the organization can pay the tax, file a claim for refund, and then sue for a refund in the Court of Claims or a Federal district court.

The bill also makes it clear that this excise tax, like the excise taxes imposed with respect to private foundations and qualified pension, etc., plans, is in no event to be deductible.

Influencing legislation.—For purposes of these new rules, the bill defines the term "influencing legislation" as any attempt to influence any legislation through an attempt to affect the opinion of the general public or any segment thereof ("grass roots lobbying") and any attempt to influence any legislation through communication with any

[2] An organization's lobbying expenditures "normally" exceed 150 percent of the permitted amount if (1) the sum of its lobbying expenditures (or grass roots expenditures) for the 4 years immediately preceding the current year is greater than (2) 150 percent of the sum of the "lobbying nontaxable amounts" (or grass roots nontaxable amounts) for these same 4 years.

[3] As is further described below, in such a case the organization is not to be permitted to "shift" to section 501(c)(4) status.

member or employee of a legislative body, or with any other government official or employee who may participate in the formulation of the legislation ("direct lobbying").

Generally, the term "legislation" includes action with respect to Acts, bills, resolutions or similar items by the Congress, any State legislature, any local council, or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure.[4] The term "action" is limited to the introduction, amendment, enactment, defeat, or repeal of Acts, bills, resolutions, or similar items.

The bill excludes from "influencing legislation" three categories of activities which the Congress also excluded from that concept under the private foundation provisions (sec. 4945(e)). These are (1) making available the result of non-partisan analysis, study, or research; (2) providing technical advice or assistance in response to a request by a governmental body; and (3) so-called self-defense direct lobbying—that is, appearances before or communications to a legislative body with respect to a possible decision of that body which might affect the existence of the organization, its powers and duties, its tax exempt status, or the deduction of contributions to the organization.[5]

In addition, the bill excludes communications between the organization and its bona fide members unless the communications directly encourage the members to influence legislation or directly encourage the members to urge nonmembers to influence legislation. For example, where a publication is designed primarily for members but an insubstantial portion of the distribution is to nonmembers and an insubstantial portion of the material in the publication is devoted to legislative issues, the discussion of such legislative issues is to be considered as a communication with bona fide members, not a communication with other persons.

In general, to be a "bona fide member," a person must have more than a nominal connection with the organization. The person should have affirmatively expressed a desire to be a member. In addition, the person must, in the usual case, also fall in one of the following classes:

(1) pay dues of more than a nominal amount;

(2) make a contribution of more than a nominal amount of time to the organization; or

(3) be one of a limited number of "Honorary" or "Life" members chosen for a valid reason.

It is not intended that these rules be exclusive, and an organization with membership rules that do not fall within any of these categories may still be able to treat its members as "bona fide members" if it can demonstrate to the Internal Revenue Service that there was a good reason for its membership requirements not meeting these standards and that such membership requirements do not serve as a subterfuge for grass roots lobbying activities.

[4] As the Internal Revenue Service has noted (Rev. Rul. 73-440, 1973-2 CB 177), the prohibition on substantial lobbying activities includes attempts to influence legislation of a foreign country.

[5] The Internal Revenue Service has ruled that the first of these categories of activities does not affect the exempt charitable status of an organization (Rev. Rul. 64-195, 1964-2 CB 138) under present law. The second of these categories has also been specifically ruled by the Internal Revenue Service as not constituting "influencing legislation" in the case of public charities (Rev. Rul. 70-449, 1970-2 CB 111).

Under the bill, a communication between an electing organization and any bona fide member of the organization to directly encourage that member to engage in direct lobbying is to be treated as direct lobbying. If the communication is to directly encourage the member to urge nonmembers to engage in direct lobbying or grass roots lobbying, then it is to be treated as the organization engaging in grass roots lobbying.

Under the bill, if an organization communicates with a member or employee of a legislative body and one of the purposes is influencing legislation, then the appropriate portion of the costs of that effort are to be treated as lobbying expenditures. If the communication is with a government official or employee who is not in a legislative body, then the costs of the communication are to be taken into account only if the principal purpose of the communication is to influence legislation.

Exempt purpose expenditures.—As indicated above, the determination of whether an electing organization is subject to the excise tax established by the bill is to be made by comparing the amount of the lobbying expenditures with the organization's "exempt purpose expenditures" for the taxable year. The term "exempt purpose expenditures" includes the total of the amounts paid or incurred by the organization for exempt religious, charitable, educational, etc., purposes.

In computing exempt purpose expenditures, amounts properly chargeable to capital account are to be capitalized. However, when the capital item is depreciable, then a reasonable allowance for depreciation, computed on a straight-line basis, is to be treated as an exempt purpose expenditure.

For purposes of these provisions, the term "exempt purpose expenditure" also includes administrative expenses paid or incurred with respect to any charitable, etc., purpose; it also includes all amounts paid or incurred for the purpose of influencing legislation, whether or not for exempt purposes.[6]

Exempt purpose expenditures do not include amounts paid or incurred to or for a separate fund-raising unit of an organization (or an affiliated organization's fund-raising unit); they also do not include amounts paid or incurred to or for any other organization, if those amounts are paid or incurred primarily for fund raising.

Affiliation rules.—In order to forestall the creation of numerous organizations to avoid the effects of the decreasing percentages test used to compute the lobbying and grass roots nontaxable amounts, or efforts to avoid the $1,000,000 "cap" on lobbying expenditures, the bill provides a method of aggregating the expenditures of related organizations.

If two or more organizations are members of an affiliated group, and at least one organization in that group has elected to come under

[6] In this connection, it is appropriate to note that this bill deals only with whether an organization is to be treated as violating the lobbying limits of the law. The bill does not affect the question of whether an expenditure might cause the organization to lose its charitable status because the expenditure violates the requirement that the organization be organized and operated "exclusively" for charitable, etc., purposes. (The Supreme Court has defined "exclusively" in this context to mean that there is no nonexempt purpose that is "substantial in nature." *Better Business Bureau* v. *U.S.*, 326 U.S. 279, 283 (1945).) Also, the bill does not deal with the circumstances under which an expenditure might be treated as electioneering, which constitutes another cause for loss of exempt status.

the new rules of the bill, then the calculations of lobbying expenditures and exempt purpose expenditures are to be met by taking into account the expenditures of the entire group. If the group as a whole does not exceed the permitted limits, then the members of the group that elected the new standards are treated as not exceeding the permitted limits. On the other hand, if the expenditures of the group as a whole do exceed the permitted limits, then each of the organizations that elected to have the new rules apply is treated as having exceeded the permitted limits. Each of those electing organizations is to pay the tax on its proportionate share of the group's excess lobbying expenditures.

Only those members of the affiliated group that have elected are to be subject to this tax. The nonelecting members of the group are to remain under existing law with regard to their expenditures and other activities.

Generally, two organizations are affiliated if (1) one organization is bound by decisions of the other organization on legislative issues, or (2) the governing board of one organization includes enough representatives of the other organization to cause or prevent action on legislative issues by the first organization. Where organizations are affiliated, as described above, in a chain or similar fashion, all organizations in the chain are to be treated as one group of affiliated organizations. Thus, for instance, if organization Y is bound by the decisions of organization X on legislative issues and organization Z is bound by the decisions of organization Y on such issues, then X, Y, and Z are all members of one affiliated group of organizations.

There is affiliation if either of the two conditions is satisfied, that is, if there is either control through the operation of the governing instrument or voting control through "interlocking directorates." In general, any degree of control by operation of governing instruments is enough to satisfy this affiliation test. The existence of the power is sufficient, whether or not the "controlling" organization is exercising the power. However, your committee has added a special rule to apply in certain limited control situations. Where the affiliation in the group exists solely because of the control provisions of governing instruments (i.e., there are no interlocking directorates) and where those control provisions operate only with respect to national legislation, then the expenditure standards are to be applied in the following manner:

(1) The controlling organization is to be charged with all of its lobbying expenditures and also with the national legislation lobbying expenditures of all of the other affiliated organizations. The controlling organization is not to be charged with any other lobbying expenditures (or other exempt purpose expenditures) made by the other organizations with respect to issues other than national legislation issues.

(2) Each local organization is to be treated as though it were not a member of an affiliated group; that is, the local organization is to take account of its own expenditures only.

For these purposes, an issue that has both national and local ramifications is to be categorized on the basis of whether or not the contemplated legislation is Congressional legislation. For example, lobbying with respect to a U.S. constitutional amendment is to be treated as Congressional lobbying up to the time the proposed amendment is approved by the Congress. Lobbying campaigns with respect to State ratification are to be treated as lobbying with respect to State legislatures.

The "interlocking directorates" rule is to be applied by taking into account whether the governing board of the potentially controlled organization includes enough representatives of the controlling organization so as to cause or prevent action on legislative issues by the controlled organization. The representatives are to include persons who are specifically designated representatives of the controlled organization, members of the governing board of the controlling organization, officers of the controlling organization, and paid executive staff members of the controlling organization. Although titles are significant in determining whether a person is a member of the "executive staff" of an organization, in general the test will be the extent to which the employee exercises executive-type powers in that organization.

Where there is an affiliated group, a number of the provisions discussed above are to be applied as though the affiliated group constitutes one organization. In the case of the "self-defense" exclusion from the definition of influencing legislation, for example, the effort by a national organization to deal with matters which might affect the existence of the local members of its affiliated group are to be treated as self-defense expenditures by the national organization. Similarly, communications by the national organization to members of the local organizations in its affiliated group are to be treated the same as communications by the national organization to its own members. Also, where the national organization pays or incurs expenditures for fund-raising by its local affiliates, those expenditures are to be treated as though they had been paid or incurred for the national organization's fund-raising purposes.

Because the question of whether an affiliated group exists may be critical in determining whether an organization has violated the standards under the bill, your committee intends that the Internal Revenue Service make provision for issuing opinion letters at the request of electing organizations to determine whether those organizations are members of affiliated groups and to determine which other organizations are members of such groups. Of course, if conditions change, then the conclusion stated in any such opinion letter would change. However, a willingness by the Service to rule on such questions would go far to further reduce the uncertainty that at present prevails in this part of the law.

Disallowance of deduction for out-of-pocket expenses to influence legislation.—Under present law, a deduction is available for certain out-of-pocket expenditures incurred by a person on behalf of a charitable organization. Since, for purposes of the new expenditures test, it is necessary to have relevant expenditures appear in the books and records of the organizations, an expenditure test could readily be evaded if the lobbying could be conducted on behalf of the organization by individuals with deductible out-of-pocket contributions. Accordingly, the bill provides that a person may not deduct out-of-pocket expenditures on behalf of a charitable organization if the expenditure is made for the purpose of influencing legislation.[7]

[7] Treasury Regulations § 1.170A–1(h)(6) provide that "No deduction shall be allowed under section 170 for expenditures for lobbying purposes, promotion or defeat of legislation, etc." However, it is not clear that this provision of the Regulations has been applied to disallow deductions for such expenditures.

Status of organization after loss of charitable status.—Under present law, an organization which loses its exempt status under section 501(c)(3) generally can nevertheless remain exempt on its own income (although generally ineligible to receive deductible charitable contributions) as a "social welfare" organization under section 501(c)(4). The availability of this continued exemption permits an organization to build up an endowment out of deductible contributions as a charitable organization and then use that tax-favored fund to support substantial amounts of lobbying as a section 501(c)(4) social welfare organization.[8]

In order to stop such a transfer of charitable endowment, the bill provides that an organization which is eligible to elect under the bill cannot become a social welfare organization exempt under section 501(c)(4) if it has lost its status as a charity because of excessive lobbying. The bill also gives the Treasury Department the authority to prescribe regulations to prevent avoidance of this rule (for example, by direct or indirect transfers of all or part of the assets of an organization to an organization controlled by the same person or persons who control the transferor organization).

This new provision does not apply to churches (or organizations related to churches), which are ineligible to make an election of the new rules relating to lobbying (see discussion below, under *Eligible organizations*).

This rule forbidding an organization that loses its charitable, etc., status to become a tax-exempt social welfare organization applies only if the loss of charitable, etc., status is because of excessive lobbying. As under present law, such an organization could ultimately reestablish its status as a charitable organization. (See, for example, John Danz *Charitable Trust*, 32 T.C. 469 (1969), *aff'd.* 284 F.2d 726 (C.A. 9, 1960).) However, the organization could never establish exempt status under section 501(c)(4).

This rule is to apply only in the case of organizations that have lost their charitable, etc., status as a result of activities occurring after the date of this bill's enactment.

Disclosure of lobbying expenditures.—Existing law (sec. 6033(b)) requires most charitable, etc., organizations (specific exemptions are made for churches and certain other organizations) to include on their information returns certain specified categories of information related generally to types of expenditures made by the organization. Another provision of existing law (sec. 6104(b)) provides that the information required to be furnished on those information returns is to be made available to the public.

In order to permit the public to obtain information as to lobbying expenditures by organizations that have elected to come under the standards of the bill, your committee's bill amends section 6033 to specifically require that any organization that has elected under these rules must disclose on its information return the amount of its lobbying expenditures (total and grass roots), together with the amount

[8] State law would in the usual case require the funds originally dedicated to charitable purposes to remain so dedicated, even though the organization may have lost its Internal Revenue Code charitable status. However, it is not clear whether State law would prevent such an organization from carrying on substantial lobbying activities.

that it could have spent for these purposes without being subject to the new excise tax provided by the bill. If an electing organization is a member of an affiliated group, then it must provide this information with respect to the entire group, as well as with respect to itself.

This amendment is not intended to restrict any authority that the Treasury Department may have under existing law to require exempt organizations to provide information for the purpose of carrying out the internal revenue laws.

In addition, the bill requires the Internal Revenue Service to notify the appropriate State officer of the mailing of a notice of deficiency of the tax imposed on excess lobbying expenditures. The appropriate State officer is the State official charged with overseeing charitable, etc., organizations. Existing law (sec. 6104(c)) already requires the Service to notify the appropriate State official if the Service believes that the organization has been operated in such a way as to no longer meet the requirements of its exemption.

Elections.—Notwithstanding the concerns which have caused many organizations to urge your committee to change present law, some organizations appear to prefer to continue under the rules of present law. In recognition of the fact that the bill would require some change in present practices, especially as to the keeping of records of expenditures and the disclosure of such information on the annual return, the bill permits organizations to elect the new rules or to remain under present law.

An election by an organization to have its legislative activities measured by the new expenditures test is to be effective for all taxable years of the organization which end after the date the election is made, and begin before the date the election is revoked by the organization. Thus, an organization can, at any time before the end of the taxable year, elect the new rules for that taxable year. Once such an election is made, it can be revoked only prospectively—that is, it cannot be revoked for a taxable year after that year has begun.

Eligible organizations.—Concerns have been expressed by a number of church groups that both existing law and the rules proposed in the bill might violate their constitutional rights under the First Amendment. Such groups have indicated a concern that if a church were permitted to elect the new rules, then the Internal Revenue Service might be influenced by this legislation even though the church in fact did not elect.

As a result of the concerns expressed by a number of churches and in response to their specific request, the bill does not permit a church or a convention or association of churches (or an integrated auxiliary or a member of an affiliated group which includes a church, etc.), to elect to come under these provisions.[9]

Your committee's bill excludes from the new rules not only churches and conventions or associations of churches, but also integrated auxiliaries of churches or of conventions or associations of churches. Because

[9] Since private foundations are already subject to excise taxes on activities involving influencing legislation under section 4945, they are ineligible for these new rules. Also, organizations which are public charities because they are support organizations (under section 509 (a)(3)) of certain types of social welfare organizations (sec. 501(c)(4)), labor unions, etc. (sec. 501(c)(5)), or trade associations (sec. 501(c)(6)) are ineligible to make this election.

proposed regulations have recently been published regarding the meaning of the term "integrated auxiliary" and because that term is used in this bill, your committee wishes to make it clear—in agreement with the conclusions of the proposed regulations—that theological seminaries, religious youth organizations, and men's fellowship associations which are associated with churches would generally constitute integrated auxiliaries. Your committee also intends (in agreement with the conclusions in the proposed regulations) that hospitals, elementary grade schools, orphanages, and old-age homes are organizations which frequently are established without regard to church relationships and are to be treated for these purposes the same as corresponding secular charitable, etc., organizations that is, such entities are not to be regarded as "integrated auxiliaries." (See H. Rept. 91–782, p. 286, the conference report on H.R. 13270, the Tax Reform Act of 1969.) However, in a given case, a hospital, school, orphanage, or home may nevertheless be excluded from election under this bill because it is a member organization of an affiliated group which includes a church. Members of affiliated groups which include churches, et cetera, are treated the same as churches, et cetera, for purposes of this bill.

The bill also specifically provides that the new rules under the bill are not to have any effect on the way section 501(c)(3) is to be applied to organizations which do not elect (or are ineligible to elect) to come under these rules.

Effect of court decision.—Your committee is aware of the recent tax litigation involving Christian Echoes National Ministry, Inc. In this case, the Internal Revenue Service revoked a prior favorable section 501(c)(3) exemption ruling and assessed Social Security (FICA) tax deficiencies. The organization paid the FICA taxes and sued for refund in Federal district court. The district court held for the organization (28 AFTR 2d 71–5934 (N.D. Okla. 1971),). The Government appealed directly to the United States Supreme Court, which held that it had no jurisdiction to entertain the direct appeal (404 U.S. 561 (1972)). The Government then appealed to the Court of Appeals for the Tenth Circuit, which reversed the district court decision and upheld the Government's position, that the organization was not exempt because of excessive lobbying activities (470 F.2d 849 (1972)). The organization then petitioned the Supreme Court for a writ of certiorari, which was denied (414 U.S. 864 (1973)).

In the course of their opinions, the various courts stated conclusions regarding a number of legal issues or issues of mixed law and fact. If the bill and its committee report are silent with regard to this case, then some might argue that Congressional enactment of the bill implies Congressional ratfiication of the decision and of one or all of the statements in the opinions in this case. Others might say that Congressional action on this bill constitutes the sort of revision that amounts to a rejection of the decision or opinions in this case.

Your committee has proceeded on this bill without evaluating that litigation. So that unwarranted inferences may not be drawn from the reporting of this bill, your committee states that its actions are not to be regarded in any way as an approval or disapproval of the decision

of the Court of Appeals for the Tenth Circuit in *Christian Echoes National Ministry, Inc.* v. *U.S.*, 470 F.2d 849 (1972), or of the reasoning in any of the opinions leading to that decision.

Effective dates

In order to provide time for the Treasury Department to promulgate the necessary regulations interpreting the bill and providing for making elections under the new rules, the bill's provisions, with certain limited exceptions, become effective only for taxable years beginning after December 31, 1976. However, the rules providing that a section 501(c)(3) organization which loses its charitable, etc., status because of excess lobbying status cannot thereafter be exempt under section 501(c)(4) applies to activities occurring after the date of enactment. Also, the repeal of section 170(f)(6) is effective with respect to taxable years beginning after December 31, 1974, since this repealed provision (which relates to the partial reduction of the unlimited charitable deduction) has no application to taxable years beginning after that date. The amendments conforming the estate tax charitable deduction provisions applies to the estates of decedents dying after December 31, 1976, and the amendments conforming the gift tax charitable deduction requirements apply to gifts in calendar years beginning after December 31, 1976.[10]

III. Effect of the Bill on the Revenues and Vote of the Committee in Reporting the Bill

In compliance with clause 7 of Rule XIII of the Rules of the House of Representatives, the following statement is made relative to the effect of this bill on the revenues. Your committee estimates that this bill will not have any direct revenue effect. The Treasury Department agrees with this statement.

In compliance with clause 2(l)(2)(B) of Rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote of the Committee on reporting the bill. This bill, as amended, was ordered reported by voice vote.

IV. Other Matters Required To Be Discussed Under House Rules

In compliance with clause 2(l)(3) of Rule XI of the Rules of the House of Representatives, the following statements are made:

With respect to subdivision (A), relating to oversight findings, it was a result of your committee's oversight activity concerning the effect of section 501(c)(3) of the Internal Revenue Code of 1954 that it concluded that the provisions of this bill are appropriate to modify the unnecessarily vague standards of present law with respect to the influencing of legislation by public charities.

With respect to subdivision (B), your committees states that the changes made to existing law by this bill involve no new budget authority or new or increased tax expenditures.

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[10] The bill also contains technical and conforming amendments repealing or removing from the Code provisions of law relating to the interest equalization tax, which, in general, expired July 1, 1974. In general, the effective dates with respect to the repeal of these provisions reflect this July 1, 1974 date. All of these provisions are "deadwood" and the House of Representatives has already approved their repeal in H.R. 10612.

With respect to subdivisions (C) and (D), your committee advises that no estimate or comparison has been submitted to your committee by the Director of the Congressional Budget Office relative to any of the provisions of H.R. 13500, nor have any oversight findings or recommendations been submitted to your committee by the Committee on Government Operations with respect to the subject matter of H.R. 13500.

In compliance with clause 2(l)(4) of Rule XI of the Rules of the House of Representatives, your committee states that the enactment of this bill is not expected to have an inflationary impact on prices and costs in the operation of the national economy.

V. Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

Subtitle A—Income Taxes

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CHAPTER 1—NORMAL TAXES AND SURTAXES

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Subchapter B—Computation of Taxable Income

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PART VI—ITEMIZED DEDUCTIONS FOR INDIVIDUALS AND CORPORATIONS

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SEC. 170. CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS.

(a) Allowance of Deduction.—* * *

* * * * * * *

(c) Charitable Contribution Defined.—For purposes of this section, the term "charitable contribution" means a contribution or gift to or for the use of—

(1) A State, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

(2) A corporation, trust, or community chest, fund, or foundation—

(A) created or organized in the United States or in any possession thereof, or under the law of the United States, any State, the District of Columbia, or any possession of the United States;

(B) organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children or animals;

(C) no part of the net earnings of which inures to the benefit of any private shareholder or individual; and

(D) [no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation] *which is not disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation*, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

A contribution or gift by a corporation to a trust, chest, fund, or foundation shall be deductible by reason of this paragraph only if it is to be used within the United States or any of its possessions exclusively for purposes specified in subparagraph (B).

(3) A post or organization of war veterans, or an auxiliary unit or society of, or trust or foundation for, any such post or organization—

(A) organized in the United States or any of its possessions, and

(B) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(4) in the case of a contribution or gift by an individual, a domestic fraternal society, order, or association, operating under the lodge system, but only if such contribution or gift is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

(5) A cemetery company owned and operated exclusively for the benefit of its members, or any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, if such company or corporation is not operated for profit and no part of the net earnings of such company or corporation inures to the benefit of any private shareholder or individual.

For purposes of this section, the term "charitable contribution" also means an amount treated under subsection (h) as paid for the use of an organization described in paragraph (2), (3), or (4).

* * * * * * *

(f) Disallowance of Deduction in Certain Cases and Special Rules.—

(1) In general.—No deduction shall be allowed under this section for contribution to or for the use of an organization or trust described in section 508(d) or 4948(c)(4) subject to the conditions specified in such sections.

(2) Contributions of property placed in trust.—

(A) Remainder interest.—In the case of property transferred in trust, no deduction shall be allowed under this section for the value of a contribution of a remainder interest unless the trust is a charitable remainder annuity trust of a

charitable remainder unitrust (described in section 664), or a pooled income fund (described in section 642(c)(5)).

(B) INCOME INTERESTS, ETC.—No deduction shall be allowed under this section for the value of any interest in property (other than a remainder interest) transferred in trust unless the interest is in the form of a guaranteed annuity or the trust instrument specifies that the interest is a fixed percentage distributed yearly of the fair market value of the trust property (to be determined yearly) and the grantor is treated as the owned of such interest for purposes of applying section 671. If the donor ceases to be treated as the owner of such an interest for purposes of applying section 671, at the time the donor ceases to be so treated, the donor shall for purposes of this chapter be considered as having received an amount of income equal to the amount of any deduction he received under this section for the contribution reduced by the discounted value of all amounts of income earned by the trust and taxable to him before the time at which he ceases to be treated as the owner of the interest. Such amounts of income shall be discounted to the date of the contribution. The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this subparagraph.

(C) DENIAL OF DEDUCTION IN CASE OF PAYMENTS BY CERTAIN TRUSTS.—In any case in which a deduction is allowed under this section for the value of an interest in property described in subparagraph (B), transferred in trust, no deduction shall be allowed under this section to the grantor or any other person for the amount of any contribution made by the trust with respect to such interest.

(D) EXCEPTION.—This paragraph shall not apply in a case in which the value of all interests in property transferred in trust are deductible under subsection (a).

(3) DENIAL OF DEDUCTION IN CASE OF CERTAIN CONTRIBUTIONS OF PARTIAL INTERESTS IN PROPERTY.—

(A) IN GENERAL.—In the case of a contribution, not made by a transfer in trust) of an interest in property which consists of less than the taxpayer's entire interest in such property, a deduction shall be allowed under this section only to the extent that the value of the interest contributed would be allowable as a deduction under this section if such interest had been transferred in trust. For purposes of this subparagraph, a contribution by a taxpayer of the right to use property shall be treated as a contribution of less than the taxpayer's entire interest in such property.

(B) EXCEPTIONS.—Subparagraph (A) shall not apply to a contribution of—

(i) a remainder interest in a personal residence or farm, or

(ii) an undivided portion of the taxpayer's entire interest in property.

(4) VALUATION OF REMAINDER INTEREST IN REAL PROPERTY.—For purposes of this section, in determining the value of a remainder interest in real property, depreciation (computed on the straight line method) and depletion of such property shall be taken into account, and such value shall be discounted at a rate of 6 percent per annum, except that the Secretary or his delegate may prescribe a different rate.

(5) REDUCTION FOR CERTAIN INTEREST.—If, in connection with any charitable contribution, a liability is assumed by the recipient or by any other person, or if a charitable contribution is of property which is subject to a liability, then, to the extent necessary to avoid the duplication of amounts, the amount taken into account for purposes of this section as the amount of the charitable contribution—

[(6) PARTIAL REDUCTION OF UNLIMITED DEDUCTION.—

[(A) IN GENERAL.—If the limitations in subsections (b)(1)(A) and (B) do not apply because of the application of subsection (b)(1)(C), the amount otherwise allowable as a deduction under subsection (a) shall be reduced by the amount by which the taxpayer's taxable income computed without regard to this subparagraph is less than the transitional income percentage (determined under subparagraph (C)) of the taxpayer's adjusted gross income. However, in no case shall a taxpayer's deduction under this section be reduced below the amount allowable as a deduction under this section without the applicability of subsection (b)(1)(C).

[(B) TRANSITIONAL DEDUCTION PERCENTAGE.—For purposes of applying subsection (b)(1)(C), the term "transitional deduction percentage" means—

[(i) in the case of a taxable year beginning before 1970, 90 percent, and

[(ii) in the case of a taxable year beginning in—

	Percent
1970	80
1971	74
1972	68
1973	62
1974	56

[(C) TRANSITIONAL INCOME PERCENTAGE.—For purposes of applying subparagraph (A), the term "transitional income percentage" means, in the case of a taxable year beginning in—

	Percent
1970	20
1971	26
1972	32
1973	38
1974	44]

(6) DEDUCTIONS FOR OUT-OF-POCKET EXPENDITURES.—No deduction shall be allowed under this section for an out-of-pocket expenditure made by any person on behalf of an organization described in subsection (c) if the expenditure is made for the purpose of influencing legislation (within the meaning of section 501 (c)(3)).

(A) shall be reduced for interest (i) which has been paid (or is to be paid) by the taxpayer, (ii) which is attributable to the liability, and (iii) which is attributable to any period after the making of the contribution, and

(B) in the case of a bond, shall be further reduced for interest (i) which has been paid (or is to be paid) by the taxpayer on indebtedness incurred or continued to purchase or carry such bond, and (ii) which is attributable to any period before the making of the contribution.

The reduction pursuant to subparagraph (B) shall not exceed the interest (including interest equivalent) on the bond which is attributable to any period before the making of the contribution and which is not (under the taxpayer's method of accounting) includable in the gross income of the taxpayer for any taxable year. For purposes of this paragraph, the term "bond" means any bond, debenture, note, or certificate or other evidence of indebtedness.

PART IX—ITEMS NOT DEDUCTIBLE

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SEC. 263. CAPITAL EXPENDITURES.

(a) GENERAL RULE.—No deduction shall be allowed for—

(1) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate. This paragraph shall not apply to—

(A) expenditures for the development of mines or deposits deductible under section 616.

(B) research and experimental expenditures deductible under section 174.

(C) soil and water conservation expenditures deductible under section 175.

(D) expenditures by farmers for fertilizer, etc., deductible under section 180, or

(E) expenditures by farmers for clearing land deductible under section 182.

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

[(3) Except as provided in subsection (d), any amount paid as tax under section 4911 (relating to imposition of interest equalization tax).]

(b) EXPENDITURES FOR ADVERTISING AND GOOD WILL.—If a corporation has, for the purpose of computing its excess profits tax credit under chapter 2E or subchapter D of chapter 1 of the Internal Revenue Code of 1939 claimed the benefits of the election provided in section 733 or section 451 of such code, as the case may be, no deduction shall be allowable under section 162 to such corporation for expenditures for advertising or the promotion of good will which, under the rules and regulations prescribed under section 733 or section 451 of such code, as the case may be, may be regarded as capital investments.

(c) INTANGIBLE DRILLING AND DEVELOPMENT COSTS IN THE CASE OF OIL AND GAS WELLS.—Notwithstanding subsection (a), regulations

shall be prescribed by the Secretary or his delegate under this subtitle corresponding to the regulations which granted the option to deduct as expenses intangible drilling and development costs in the case of oil and gas wells and which were recognized and approved by the Congress in House Concurrent Resolution 50, Seventy-ninth Congress.

[(d) REIMBURSEMENT OF INTEREST EQUALIZATION TAX.—The deduction allowed by section 162(a) or 212 (whichever is appropriate) shall include any amount paid or accrued in the taxable year or a preceding taxable year as tax under section 4911 (relating to imposition of interest equalization tax) to the extent that any amount attributable to the amount paid or accrued as tax is included in gross income for the taxable year. Under regulations prescribed by the Secretary or his delegate, the preceding sentence shall not apply with respect to any amount attributable to that part of the tax so paid or accrued which is attributable to an amount for which a deduction has been claimed for the taxable year or a preceding taxable year under section 171 (relating to amortization of bond premium).]

[(e)] *(d)* EXPENDITURES IN CONNECTION WITH CERTAIN RAILROAD ROLLING STOCK.—In the case of expenditures in connection with the rehabilitation of a unit of railroad rolling stock (except a locomotive) used by a domestic common carrier by railroad which would, but for this subsection, be properly chargeable to capital account, such expenditures, if during any 12-month period they do not exceed an amount equal to 20 percent of the basis of such unit in the hands of the taxpayer, shall, at the election of the taxpayer, be treated (notwithstanding subsection (a)) as deductible repairs under section 162 or 212. An election under this subsection shall be made for any taxable year at such time and in such manner as the Secretary or his delegate prescribes by regulations. An election may not be made under this subsection for any taxable year to which an election under subsection [(f)] *(e)* applies to railroad rolling stock (other than locomotives).

[(f)] *(e)* REASONABLE REPAIR ALLOWANCE.—The Secretary or his delegate may by regulations provide that the taxpayer may make an election under which amounts representing either repair expenses or specified repair, rehabilitation, or improvement expenditures for any class of depreciable property—

(1) are allowable as a deduction under section 162(a) or 212 (whichever is appropriate) to the extent of the repair allowance for that class, and

(2) to the extent such amounts exceed for the taxable year such repair allowance, are chargeable to capital account.

Any allowance prescribed under this subsection shall reasonably reflect the anticipated repair experience of the class of property in the industry or other group.

* * * * * * *

SEC. 275. CERTAIN TAXES.

(a) GENERAL RULE.—No deduction shall be allowed for the following taxes:

(1) Federal income taxes, including—

(A) the tax imposed by section 3101 (relating to the tax on employees under the Federal Insurance Contributions Act);

(B) the taxes imposed by sections 3201 and 3211 (relating to the taxes on railroad employees and railroad employee representatives); and

(C) the tax withheld at source on wages under section 3402, and corresponding provisions of prior revenue laws.

(2) Federal war profits and excess profits taxes.

(3) Estate, inheritance, legacy, succession, and gift taxes.

(4) Income, war profits, and excess profits taxes imposed by the authority of any foreign country or possession of the United States, if the taxpayer chooses to take to any extent the benefits of section 901 (relating to the foreign tax credit).

(5) Taxes on real property, to the extent that section 164(d) requires such taxes to be treated as imposed on another taxpayer.

(6) Taxes imposed by [chapter 42 and chapter 43] *chapters 41, 42, and 43.*

(b) CROSS REFERENCE.—

For disallowance of certain other taxes, see section 164(c).

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Subchapter F—Exempt Organizations

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PART 1—GENERAL RULE

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SEC. 501. EXEMPTION FROM TAX ON CORPORATIONS, CERTAIN TRUSTS, ETC.

(a) EXEMPTION FROM TAXATION.—An organization described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502 or 503.

(b) TAX ON UNRELATED BUSINESS INCOME AND CERTAIN OTHER ACTIVITIES.—An organization exempt from taxation under subsection (a) shall be subject to tax to the extent provided in parts II, III, and VI of this subchapter, but (notwithstanding parts II, III and VI of this subchapter) shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

(c) LIST OF EXEMPT ORGANIZATIONS.—The following organizations are referred to in subsection (a):

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

(2) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt under this section.

(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (*except as otherwise provided in subsection (g)*), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

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

(5) Labor, agricultural, or horticultural organizations.

(6) Business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

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

(8) Fraternal beneficiary societies, orders, or associations—

(A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and

(B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

(9) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or designated beneficiaries, if no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual.

(10) Domestic fraternal societies, orders, or associations, operating under the lodge system—

(A) the net earnings of which are devoted exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes, and

(B) which do not provide for the payment of life, sick, accident, or other benefits.

(11) Teachers' retirement fund associations of a purely local character, if—

(A) no part of their net earnings inures (other than through payment of retirement benefits) to the benefit of any private shareholder or individual, and

(B) the income consists solely of amounts received from public taxation, amounts received from assessments on the

teaching salaries of members, and income in respect of investments.

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

(13) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for the purpose of the disposal of bodies by burial or cremation which is not permitted by its charter to engage in any business not necessarily incident to that purpose, no part of the net earnings of which insures to the benefit of any private shareholder or individual.

(14) (A) Credit unions without capital stock organized and operated for mutual purposes and without profit.

(B) Corporations or associations without capital stock organized before September 1, 1957, and operated for mutual purposes and without profit for the purpose of providing reserve funds for, and insurance of, shares or deposits in—

(i) domestic building and loan associations,

(ii) cooperative banks without capital stock organized and operated for mutual purposes and without profit, or

(iii) mutual savings banks not having capital stock represented by shares.

(C) Corporations or associations organized before September 1, 1957, and operated for mutual purposes and without profit for the purpose of providing reserve funds for associations or banks described in clause (i), (ii), or (iii) of subparagraph (B); but only if 85 percent or more of the income is attributable to providing such reserve funds and to investments. This subparagraph shall not apply to any corporation or association entitled to exemption under subparagraph (B).

(15) Mutual insurance companies or associations other than life or marine (including interinsurers and reciprocal underwriters) 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) does not exced $150,000.

(16) Corporations organized by an association subject to part IV of this subchapter or members thereof, for the purpose of financing the ordinary crop operations of such members or other producers, and operated in conjunction with such association. Exemption shall not be denied any such corporation because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 percent per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, on dissolution or otherwise,

beyond the fixed dividends) is owned by such association, or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose.

(17) (A) A trust or trusts forming part of a plan providing for the payment of supplemental unemployment compensation benefits, if—

(i) under the plan, it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees under the plan, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of supplemental unemployment compensation benefits,

(ii) such benefits are payable to employees under a classification which is set forth in the plan and which is found by the Secretary or his delegate not to be discriminatory in favor of employees who are officers, shareholders, persons whose principal duties consist of supervising the work of other employees, or highly compensated employees, and

(iii) such benefits do not discriminate in favor of employees who are officers, shareholders, persons whose principal duties consist of supervising the work of other employees, or highly compensated employees. A plan shall not be considered discriminatory within the meaning of this clause merely because the benefits received under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees covered by the plan.

(B) In determining whether a plan meets the requirements of subparagraph (A), any benefits provided under any other plan shall not be taken into consideration, except that a plan shall not be considered discriminatory—

(i) merely because the benefits under the plan which are first determined in a nondiscriminatory manner within the meaning of subparagraph (A) are then reduced by any sick, accident, or unemployment compensation benefits received under State or Federal law (or reduced by a portion of such benefits if determined in a nondiscriminatory manner), or

(ii) merely because the plan provides only for employees who are not eligible to receive sick, accident, or unemployment compensation benefits under State or Federal law the same benefits (or a portion of such benefits if determined in a nondiscriminatory manner) which such employees would receive under such laws if such employees were eligible for such benefits, or

(iii) merely because the plan provides only for employees who are not eligible under another plan (which meets the requirements of subparagraph (A)) of supplemental unemployment compensation benefits provided wholly by the employer the same benefits (or a portion of such benefits if determined in a nondiscriminatory manner) which such employees would receive under such other plan if such employees

were eligible under such other plan, but only if the employees eligible under both plans would make a classification which would be nondiscriminatory within the meaning of subparagraph (A).

(C) A plan shall be considered to meet the requirements of subparagraph (A) during the whole of any year of the plan if on one day in each quarter it satisfies such requirements.

(D) The term "supplemental unemployment compensation benefits" means only—

(i) benefits which are paid to an employee because of his involuntary separation from the employment of the employer (whether or not such separation is temporary) resulting directly from a reduction in force, the discontinuance of a plant or operation, or other similar conditions, and

(ii) sick and accident benefits subordinate to the benefits described in clause (i).

(E) Exemption shall not be denied under subsection (a) to any organization entitled to such exemption as an association described in paragraph (9) of this subsection merely because such organization provides for the payment of supplemental unemployment benefits (as defined in subparagraph (D)(i)).

(18) A trust or trusts created before June 25, 1959, forming part of a plan providing for the payment of benefits under a pension plan funded only by contributions of employees, if—

(A) under the plan, it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees under the plan, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of benefits under the plan,

(B) such benefits are payable to employees under a classification which is set forth in the plan and which is found by the Secretary or his delegate not to be discriminatory in favor of employees who are officers, shareholders, persons whose principal duties consist of supervising the work of other employees, or highly compensated employees, and

(C) such benefits do not discriminate in favor of employees who are officers, shareholders, persons whose principal duties consist of supervising the work of other employees, or highly compensated employees.

A plan shall not be considered discriminatory within the meaning of this subparagraph merely because the benefits received under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees covered by the plan.

(19) A post or organization of war veterans, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization—

(A) organized in the United States or any of its possessions,

(B) at least 75 percent of the members of which are war veterans and substantially all of the other members of which are individuals who are veterans (but not war veterans), or

are cadets, or are spouses, widows, or widowers of war veterans or such individuals, and

(C) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(d) RELIGIOUS AND APOSTOLIC ORGANIZATIONS.—The following organizations are referred to in subsection (a): Religious or apostolic associations or corporations, if such associations or corporations have a common treasury or community treasury, even if such associations or corporations engage in business for the common benefit of the members, but only if the members thereof include (at the time of filing their returns) in their gross income their entire pro rata shares, whether distributed or not, of the taxable income of the association or corporation for such year. Any amount so included in the gross income of a member shall be treated as a dividend received.

(e) COOPERATIVE HOSPITAL SERVICE ORGANIZATIONS.—For purposes of this title, an organization shall be treated as an organization organized and operated exclusively for charitable purposes, if—

(1) such organization is organized and operated solely—

(A) to perform, on a centralized basis, one or more of the following services which, if performed on its own behalf by a hospital which is an organization described in subsection (c)(3) and exempt from taxation under subsection (a), would constitute activities in exercising or performing the purpose or function constituting the basis for its exemption: data processing, purchasing, warehousing, billing and collection, food, industrial engineering, laboratory, printing, communications, record center, and personnel (including selection, testing, training, and education of personnel) services; and

(B) to perform such services solely for two or more hospitals each of which is—

(i) an organization described in subsection (c)(3) which is exempt from taxation under subsection (a),

(ii) a constituent part of an organization described in subsection (c)(3) which is exempt from taxation under subsection (a) and which, if organized and operated as a separate entity, would constitute an organization described in subsection (c)(3), or

(iii) owned and operated by the United States, a State, the District of Columbia, or a possession of the United States, or a political subdivision or an agency or instrumentality of any of the foregoing;

(2) such organization is organized and operated on a cooperative basis and allocates or pays, within 8½ months after the close of its taxable year, all net earnings to patrons on the basis of services performed for them; and

(3) if such organization has capital stock, all of such stock outstanding is owned by its patrons.

For purposes of this title, any organization which, by reason of the preceding sentence, is an organization described in subsection (c)(3) and exempt from taxation under subsection (a), shall be treated as a hospital and as an organization referred to in section 170(b)(1)(A)(iii).

(f) COOPERATIVE SERVICE ORGANIZATIONS OF OPERATING EDUCATIONAL ORGANIZATIONS.—For purposes of this title, if an organization is—

(1) organized and operated solely to hold, commingle, and collectively invest and reinvest (including arranging for and supervising the performance by independent contractors of investment services related thereto) in stocks and securities, the moneys contributed thereto by each of the members of such organization, and to collect income therefrom and turn over the entire amount thereof, less expenses, to such members,

(2) organized and controlled by one or more such members, and

(3) comprised solely of members that are organizations described in clause (ii) or (iv) of section 170(b)(1)(A)—

(A) which are exempt from taxation under subsection (a), or

(B) the income of which is excluded from taxation under section 115(a),

then such organization shall be treated as an organization organized and operated exclusively for charitable purposes.

(g) EXPENDITURES BY PUBLIC CHARITIES TO INFLUENCE LEGISLATION.—

(1) GENERAL RULE.—In the case of an organization to which this subsection applies, exemption from taxation under subsection (a) shall be denied because a substantial part of the activities of such organization consists of carrying on propaganda, or otherwise attempting to influence legislation, but only if such organization normally—

(A) makes lobbying expenditures in excess of the lobbying ceiling amount for such organization for each taxable year, or

(B) makes grass roots expenditures in excess of the grass roots ceiling amount for such organization for each taxable year.

(2) DEFINITIONS.—For purposes of this subsection.—

(A) LOBBYING EXPENDITURES.—The term "lobbying expenditures" means expenditures for the purpose of influencing legislation (as defined in section 4911(d)).

(B) LOBBYING CEILING AMOUNT.—The lobbying ceiling amount for any organization for any taxable year is 150 percent of the lobbying nontaxable amount for such organization for such taxable year, determined under section 4911.

(C) GRASS ROOTS EXPENDITURES.—The term "grass roots expenditures" means expenditures for the purpose of influencing legislation (as defined in section 4911(d) without regard to paragraph (1)(B) thereof).

(D) GRASS ROOTS CEILING AMOUNT.—The grass roots ceiling amount for any organization for any taxable year is 150 percent of the grass roots nontaxable amount for such organization for such taxable year, determined under section 4911.

(3) ORGANIZATIONS TO WHICH THIS SUBSECTION APPLIES.—This subsection shall apply to any organization which has elected (in such manner and at such time as the Secretary or his delegate may prescribe) to have the provisions of this subsection apply to such

organization and which, for the taxable year which includes the date the election is made, is described in subsection (c)(3) and—

(A) is described in paragraph (4), and

(B) is not a disqualified organization under paragraph (5).

(4) ORGANIZATIONS PERMITTED TO ELECT TO HAVE THIS SUBSECTION APPLY.—An organization is described in this paragraph if it is described in—

(A) section 170(b)(1)(A)(ii) (relating to educational institutions),

(B) section 170(b)(1)(A)(iii) (relating to hospitals and medical research organizations),

(C) section 170(b)(1)(A)(iv) (relating to organizations supporting government schools),

(D) section 170(b)(1)(A)(vi) (relating to organizations publicly supported by charitable contributions),

(E) section 509(a)(2) (relating to organizations publicly supported by admissions, sales, etc.), or

(F) section 509(a)(3) (relating to organizations supporting certain types of public charities), except that for purposes of this subparagraph, section 509(a)(3) shall be applied without regard to the last sentence of section 509(a).

(5) DISQUALIFIED ORGANIZATIONS.—For purposes of paragraph (3), an organization is a disqualified organization if it is—

(A) described in section 170(b)(1)(A)(i) (relating to churches and conventions or associations of churches),

(B) an integrated auxiliary of a church or of a convention or association of churches, or

(C) a member of an affiliated group of organizations (within the meaning of section 4911(f)(2)) if one or more members of such group is described in subparagraph (A) or (B).

(6) YEARS FOR WHICH ELECTION IS EFFECTIVE.—An election by an organization under this subsection shall be effective for all taxable years of such organization which—

(A) end after the date the election is made, and

(B) begin before the date the election is revoked by such organization (under regulations prescribed by the Secretary or his delegate).

(7) NO EFFECT ON CERTAIN ORGANIZATIONS.—With respect to any organization for a taxable year for which—

(A) such organization is a disqualified organization (within the meaning of paragraph (5)), or

(B) an election under this subsection is not in effect for such organization,

nothing in this subsection or in section 4911 shall be construed to affect the interpretation of the phrase, "no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation," under subsection (c)(3).

(8) AFFILIATED ORGANIZATIONS.—

"For rules regarding affiliated organizations, see section 4911(f).

[g] (h) CROSS REFERENCE—

For nonexemption of Communist-controlled organizations, see section 11(b) of the Internal Security Act of 1950 (64 Stat. 997; 50 U.S.C. 790(b)).

SEC. 504. STATUS AFTER ORGANIZATION CEASES TO QUALIFY FOR EXEMPTION UNDER SECTION 501(c)(3) BECAUSE OF SUBSTANTIAL LOBBYING.

(a) GENERAL RULE.—An organization which—

(1) was exempt (or was determined by the Secretary or his delegate to be exempt) from taxation under section 501(a) by reason of being an organization described in section 501(c)(3), and

(2) is not an organization described in section 501(c)(3) by reason of carrying on propaganda or otherwise attempting to influence legislation,

shall not at any time thereafter be treated as an organization described in section 501(c)(4).

(b) REGULATIONS TO PREVENT AVOIDANCE.—The Secretary or his delegate shall prescribe such regulations as may be necessary or appropriate to prevent the avoidance of subsection (a), including regulations relating to a direct or indirect transfer of all or part of the assets of an organization to an organization controlled (directly or indirectly) by the same person or persons who control the transferor organization.

(c) CHURCHES, ETC.—Subsection (a) shall not apply to any organization which is a disqualified organization within the meaning of section 501(g)(5) (relating to churches, etc.) for the taxable year immediately preceding the first taxable year for which such organization is described in paragraph (2) of subsection (a).

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Subchapter N—Tax Based on Income From Sources Within or Without the United States

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PART I—DETERMINATION OF SOURCES OF INCOME

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SEC. 861. INCOME FROM SOURCES WITHIN THE UNITED STATES.

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

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

(A) * * *

* * * * * * *

(G) interest on a debt obligation which was part of an issue with respect to which an election has been made under [section 4912(c)] *subsection (c) of section 4912 (as in effect before July 1, 1974)* and which, when issued (or treated as issued under [section 4912(c)(2)] *subsection (c)(2) of such section*), had a maturity not exceeding 15 years and, when issued, was purchased by one or more underwriters with a view to distribution through resale, but only with respect to interest attributable to periods after the date of such election, and

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Subchapter P—Capital Gains and Losses

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PART IV—SPECIAL RULES FOR DETERMINING CAPITAL GAINS AND LOSSES

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SEC. 1232. BONDS AND OTHER EVIDENCES OF INDEBTEDNESS.

(a) GENERAL RULE.—For purposes of this subtitle, in the case of bonds, debentures, notes, or certificates or other evidences of indebtedness, which are capital assets in the hands of the taxpayer, and which are issued by any corporation, or by any government or political subdivision thereof—

(1) RETIREMENT.—Amounts received by the holder on retirement of such bonds or other evidences of indebtedness shall be considered as amounts received in exchange therefor (except that in the case of bonds or other evidences of indebtedness issued before January 1, 1955, this paragraph shall apply only to those issued with interest coupons or in registered form, or to those in such form on March 1, 1954).

(2) SALE OR EXCHANGE.—

(A) CORPORATE BONDS ISSUED AFTER MAY 27, 1969.—Except as provided in subparagraph (C), on the sale or exchange of bonds or other evidences of indebtedness issued by a corporation after May 27, 1969, held by the taxpayer more than 6 months, any gain realized shall (except as provided in the following sentence) be considered gain from the sale or exchange of a capital asset held for more than 6 months. If at the time of original issue there was an intention to call the bond or other evidence of indebtedness before maturity, any gain realized on the sale or exchange thereof which does not exceed an amount equal to the original issue discount (as defined in subsection (b)) reduced by the portion of original issue discount previously includible in the gross income of any holder (as provided in paragraph (3)(B)) shall be considered as gain from the sale or exchange of property which is not a capital asset.

(B) CORPORATE BONDS ISSUED ON OR BEFORE MAY 27, 1969, AND GOVERNMENT BONDS.—Except as provided in subparagraph (C), on the sale or exchange of bonds or other evidences of indebtedness issued by a government or political subdivision thereof after December 31, 1954, or by a corporation after December 31, 1954, and on or before May 27, 1969,

held by the taxpayer more than 6 months, any gain realized which does not exceed—

(i) an amount equal to the original issue discount (as defined in subsection (b)), or

(ii) if at the time of original issue there was no intention to call the bond or other evidence of indebtedness before maturity, an amount which bears the same ratio to the original issue discount (as defined in subsection (b)) as the number of complete months that the bond or other evidence of indebtedness was held by the taxpayer bears to the number of complete months from the date of original issue to the date of maturity,

shall be considered as gain from the sale or exchange of property which is not a capital asset. Gain in excess of such amount shall be considered gain from the sale or exchange of a capital asset held more than 6 months.

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(b) DEFINITIONS.—

(1) ORIGINAL ISSUE DISCOUNT.—For purposes of subsection (a), the term "original issue discount" means the difference between the issue price and the stated redemption price at maturity. If the original issue discount is less than one-fourth of 1 percent of the redemption price at maturity multiplied by the number of complete years to maturity, then the issue discount shall be considered to be zero. For purposes of this paragraph, the term "stated redemption price at maturity" means the amount fixed by the last modification of the purchase agreement and includes dividends payable at that time.

(2) ISSUE PRICE.—In the case of issues of bonds or other evidences of indebtedness registered with the Securities and Exchange Commission, the term "issue price" means the initial offering price to the public (excluding bond houses and brokers) at which price a substantial amount of such bonds or other evidences of indebtedness were sold. In the case of privately placed issues of bonds or other evidence of indebtedness, the issue price of each such bond or other evidence of indebtedness is the price paid by the first buyer of such bond increased by the amount, if any, of tax paid under section 4911, *as in effect before July 1, 1974* (and not credited, refunded, or reimbursed) on the acquisition of such bond or evidence of indebtedness by the first buyer. For purposes of this paragraph, the terms "initial offering price" and "price paid by the first buyer" include the aggregate payments made by the purchaser under the purchase agreement, including modifications thereof. In the case of a bond or other evidence of indebtedness and an option or other security issued together as an investment unit, the issue price for such investment unit shall be determined in accordance with the rules stated in this paragraph. Such issue price attributable to each element of the investment unit shall be that portion thereof which the fair market value of such element bears to the total fair market value of all the elements in the investment unit. The issue price of the bond or other evidence of

indebtedness included in such investment unit shall be the portion so allocated to it. In the case of a bond or other evidence of indebtedness, or an investment unit as described in this paragraph (other than a bond or other evidence of indebtedness or an investment unit issued pursuant to a plan of reorganization within the meaning of section 368(a)(1) or an insolvency reorganization within the meaning of section 371, 373, or 374), which is issued for property and which—

(A) is part of an issue a portion of which is traded on an established securities market, or

(B) is issued for stock or securities which are traded on an established securities market,

the issue price of such bond or other evidence of indebtedness or investment unit, as the case may be, shall be the fair market value of such property. Except in cases to which the preceding sentence applies, the issue price of a bond or other evidence of indebtedness (whether or not issued as a part of an investment unit) which is issued for property (other than money) shall be the stated redemption price at maturity.

(3) ISSUE DATE.—In the case of issues of bonds or other evidences of indebtedness registered with the Securities and Exchange Commission, the term "date of original issue" means the date on which the issue was first sold to the public at the issue price. In the case of privately placed issues of bonds or other evidences of indebtedness, the term "date of original issue" means the date on which each such bond or other evidence of indebtedness was sold by the issuer.

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Subtitle B—Estate and Gift Taxes

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CHAPTER 11—ESTATE TAX

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Subchapter A—Estates of Citizens or Residents

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PART IV—TAXABLE ESTATE

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SEC. 2055. TRANSFERS FOR PUBLIC, CHARITABLE, AND RELIGIOUS USES.

(a) IN GENERAL.—For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate the amount of all bequests, legacies, devices, or transfers (including the interest which falls into any such bequest, legacy, devise, or transfer as a result of an irrevocable disclaimer of a bequest, legacy, devise, transfer, or power, if the disclaimer is made before the date prescribed for the filing of the estate tax return)—

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

(2) to or for the use of any corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, [no substantial part of the activities of which is carrying on propaganda, or otherwise attempting,] *which is not disqualified for tax exemption under section 501(c)(3) by reason of attempting* to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office;

(3) to a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, but only if such contributions or gifts are to be used by such trustee or trustees, or by such fraternal society, order, or association, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, [no substantial part of the activities of such trustee or trustees, or of such fraternal society, order, or association, is carrying on propaganda, or otherwise attempting, to influence legislation,] *such trust, fraternal society, order, or association would not be disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation*, and such trustee or trustees, or such fraternal society, order, or association, does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office; or

(4) to or for the use of any veterans' organization incorporated by Act of Congress, or of its departments or local chapters or posts, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

For purposes of this subsection, the complete termination before the date prescribed for the filing of the estate tax return of a power to consume, invade, or appropriate property for the benefit of an individual before such power has been exercised by reason of the death of such individual or for any other reason shall be considered and deemed to be an irrevocable disclaimer with the same full force and effect as though he had filed such irrevocable disclaimer.

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Subchapter B—Estates of Nonresidents Not Citizens

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SEC. 2106. TAXABLE ESTATE.

(a) DEFINITION OF TAXABLE ESTATE.—For purposes of the tax imposed by section 2101, the value of the taxable estate of every decedent nonresident not a citizen of the United States shall be determined by deducting from the value of that part of his gross estate which at the time of his death is situated in the United States—

(1) EXPENSES, LOSSES, INDEBTEDNESS, AND TAXES.—That proportion of the deductions specified in sections 2053 and 2054 (other than the deductions described in the following sentence) which the value of such part bears to the value of his entire gross estate, wherever situated. Any deduction allowable under section 2053 in the case of a claim against the estate which was founded on a promise or agreement but was not contracted for an adequate and full consideration in money or money's worth shall be allowable under this paragraph to the extent that it would be allowable as a deduction under paragraph (2) if such promise or agreement constituted a bequest.

(2) TRANSFERS FOR PUBLIC, CHARITABLE, AND RELIGIOUS USES.—

(A) IN GENERAL.—The amount of all bequests, legacies, devises, or transfers (including the interest which falls into any such bequest, legacy, devise, or transfer as a result of an irrevocable disclaimer of a bequest, legacy, devise, transfer, or power, if the disclaimer is made before the date prescribed for the filing of the estate tax return)—

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

(ii) to or for the use of any domestic corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, [no substantial part of the activities of which is carrying on propaganda, or otherwise attempting,] *which is not disqualified for tax exemption under section 501(c)(3) by reason of attempting* to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office; or

(iii) to a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, but only if such contributions or gifts are to be used within the United States by such trustee or trustees, or by such fraternal society, order, or association, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, [no substantial part of the activities of such trustee or trustees, or of such fraternal society, order, or association, is carrying on propaganda, or otherwise attempting,] *such trust, fraternal society, order, or association would not be disqualified for tax exemption under section 501(c)(3) by reason of attempting* to influence legislation, and such trustee or trustees, or such fraternal society, order, or association, does not not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

CHAPTER 12—GIFT TAX

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Subchapter C—Deductions

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SEC. 2522. CHARITABLE AND SIMILAR GIFTS.

(a) CITIZENS OR RESIDENTS.—In computing taxable gifts for the calendar quarter, there shall be allowed as a deduction in the case of a citizen or resident the amount of all gifts made during such quarter to or for the use of—

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

(2) a corporation, or trust, or community chest, fund, or foundation, organized and operated exclusively for religious charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, [no substantial part of the activities of which is carrying on propaganda, or otherwise attempting,] *which is not disqualified for tax exemption under section 501(c)(3) by reason of attempting* to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office;

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

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

(b) NONRESIDENTS.—In the case of a nonresident not a citizen of the United States, there shall be allowed as a deduction the amount of all gifts made during such quarter to or for the use of—

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

(2) a domestic corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, [no substantial part of the activities of which is carrying on propaganda, or otherwise attempting,] *which is not disqualified for tax exemption under section 501(c)(3) by reason of attempting* to influence, legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office;

(3) a trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office; but only if such gifts are to be used within the United States exclusively for such purposes;

(4) a fraternal society, order, or association, operating under the lodge system, but only if such gifts are to be used within the United States exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals;

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

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Subtitle D—Miscellaneous Excise Taxes

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[CHAPTER 41—INTEREST EQUALIZATION TAX

[Subchapter A—Acquisitions of Foreign Stock and Debt Obligations

[SEC. 4911. IMPOSITION OF TAX.

[(a) IN GENERAL.—There is hereby imposed, on each acquisition by a United States person (as defined in section 4920(a)(4)) of stock of a foreign issuer, or of a debt obligation of a foreign obligor (if such obligation has a period remaining to maturity of 1 year or more), a tax determined under subsection (b).

[(b) AMOUNT OF TAX.—

[(1) RATES OF TAX.—Except as provided in paragraphs (2) and (3)—

[(A) STOCK.—The tax imposed by subsection (a) on the acquisition of stock shall be equal to 15 percent of the actual value of the stock.

[(B) DEBT OBLIGATIONS.—The tax imposed by subsection (a) on the acquisition of a debt obligation shall be equal to a percentage of the actual value of the debt obligation measured by the period remaining to its maturity and determined under column II(A) of the following table:

I	II	
If the period remaining to maturity is—	The tax, as a percentage of actual value, is—	
	(A)	(B)
At least 1 year, but less than 1¼ years	1.05	1.58
At least 1¼ years, but less than 1½ years	1.30	1.95
At least 1½ years, but less than 1¾ years	1.50	2.25
At least 1¾ years, but less than 2¼	1.85	2.78
At least 2¼ years, but less than 2¾ years	2.30	3.45
At least 2¾ years, but less than 3½ years	2.75	4.13
At least 3½ years, but less than 4½ years	3.55	5.33
At least 4½ years, but less than 5½ years	4.35	6.53
At least 5½ years, but less than 6½ years	5.10	7.65
At least 6½ years, but less than 7½ years	5.80	8.70
At least 7½ years, but less than 8½ years	6.50	9.75
At least 8½ years, but less than 9½ years	7.10	10.65
At least 9½ years, but less than 10½ years	7.70	11.55
At least 10½ years, but less than 11½ years	8.30	12.45
At least 11½ years, but less than 13½ years	9.10	13.65
At least 13½ years, but less than 16½ years	10.30	15.45
At least 16½ years, but less than 18½ years	11.35	17.03
At least 18½ years, but less than 21½ years	12.25	18.38
At least 21½ years, but less than 23½ years	13.05	19.58
At least 23½ years, but less than 26½ years	13.75	20.63
At least 26½ years, but less than 28½ years	14.35	21.53
28½ years or more	15.00	22.50

[(2) MODIFICATION OF TAX RATES BY EXECUTIVE ORDER.

[(A) IN GENERAL.—If the President of the United States determines that the rates of tax imposed by paragraph (1),

or provided in any prior Executive order issued pursuant to this pararaph, are lower or higher than the rates of tax necessary to limit the total acquisitions by United States persons of stock of foreign issuers and debt obligations of foreign obligors within a range consistent with the balance-of-payments objectives of the United States (including achieving a minimum reliance on the tax), he may by Executive order (effective as provided in subparagraph (C)(ii)) increase or decrease such rates of tax. To the extent specified in such Executive order, the rates applicable to acquisitions of stock or debt obligations which are part of an original or new issue may be lower than the rates applicable to acquisition of stock or debt obligations which are not part of an original or new issue. An Executive order which has the effect of establishing lower rates for original or new issues may be applicable to all original or new issues or to any aggregate amount or classification thereof and to acquisitions occuring during such period of time as may be stated therein, and may provide for other limitations and implementing procedures. In determining whether stock or a debt obligation shall be treated as part of an "original or new issue" for purposes of this subparagraph, the provisions of section 4917(c) shall apply.

[(B) MAXIMUM RATE.—No increase in the rates of tax which is prescribed in an Executive order issued under subparagh (A) shall—

[(i) cause the rate applicable to the acquisition of stock to be higher than 22.5 percent, or

[(ii) cause the rates applicable to the acquisition of debt obligations to be higher than the rates set forth in column II(B) of the table in paragraph (1)(B) of this subsection.

[(C) APPLICATION OF EXECUTIVE ORDERS.—

[(i) Subject to the authorization to establish lower rates with respect to acquisitions of stock or debt obligations which are part of an original or new issue, each increase and each decrease in the rates of tax which is prescribed in an Executive order issued under subparagraph (A) shall provide for the same proportionate increase or decrease in each rate of tax, except that any such rate may be rounded to the nearest 0.01 percent.

[(ii) Any Executive order issued under subparagraph (A) shall apply with respect to acquisitions made after the date on which such order is issued (or, if later, after the 29th day following the date of the enactment of this paragraph); except that in the case of any such order which increases the rates of tax (as in effect without regard to such order), to the extent specified in such order, rules similar to the rules prescribed by paragraphs (2), (3), and (4) of section 3(c) of the Interest Equalization Tax Extension Act of 1967 shall apply.

[(iii) If, by reason of an Executive order issued under subparagraph (A), the rates of tax in effect on the date

of an acquisition described in paragraph (2) or (4) of section 3(c) of the Interest Equalization Tax Extension Act of 1967 are lower than the rates of tax in effect on January 25, 1967, the applicable rate of tax prescribed in such Executive order shall apply to such acquisition.

[(3) RATES DURING INTERIM PERIOD.—In the case of acquisitions of stock and debt obligations made after January 25, 1967, and before the thirtieth day after the date of the enactment of this paragraph, the tax imposed by subsection (a) shall be 22.5 percent in the case of acquisition of stock, and shall be determined under column II(B) (rather than column II(A)) of the table in paragraph (1)(B) in the case of acquisition of a debt obligation.

[(4) REGULATIONS.—The Secretary or his delegate may prescribe such regulations (not inconsistent with the provisions of this section or of any Executive order issued and in effect under this section) as may be necessary to carry out the provisions of this section.

[(c) PERSONS LIABLE FOR TAX.—

[(1) IN GENERAL.—The tax imposed by subsection (a) shall be paid by the person acquiring the stock or debt obligation involved.

[(2) CROSS REFERENCE.—

[For imposition of penalty on maker of false certificate in lieu of or in addition to tax on acquisition in certain cases, see section 6681.

[(d) TERMINATION OF TAX.—The tax imposed by subsection (a) shall not apply to any acquisition made after June 30, 1974.

[SEC. 4912. ACQUISITIONS.

[(a) IN GENERAL.—For purposes of this chapter, the term "acquisition" means any purchase, transfer, distribution, exchange, or other transaction by virtue of which ownership is obtained either directly or through a nominee, custodian, or agent. A United States person acting as a fiscal agent in connection with the redemption or purchase for retirement of stock or debt obligations (whether or not acting under a trust arrangement) shall not be considered to obtain ownership of such stock or debt obligations. The exercise of a right to convert a debt obligation (as defined in section 4920(a)(1)) into stock shall be deemed an acquisition of stock from the foreign issuer by the person exercising such right. Any extension or renewal of an existing debt obligation requiring affirmative action of the obligee shall be considered the acquisition of a new debt obligation.

[(b) SPECIAL RULES.—For purposes of this chapter—

[(1) CERTAIN TRANSFERS TO FOREIGN TRUSTS.—

[(A) EXTENT OF TAX LIABILITY.—Any transfer (other than in a sale or exchange for full and adequate consideration) of money or other property to a foreign trust shall, if such trust acquires stock or debt obligations (of one or more foreign issuers or obligors) the direct acquisition of which by the transferor would be subject to the tax imposed by section 4911, be deemed an acquisition by the transferor (as of the time of such transfer) of stock of a foreign issuer in an amount equal to the actual value of the money or property transfered or, if less, the actual value of the stock or debt obligations

so acquired by such trust. Contributions made by an employer to a foreign pension or profit-sharing trust established by such employer for the exclusive benefit of employees (who are not owner-employees as defined in section 401(c)(3)) who perform personal servies for such employer on a full-time basis in a foreign country, and contributions to a foreign pension or profit-sharing trust established by an employer, made by an employee who performs personal services for such employer on a full-time basis in a foreign country (and is not an owner-employee as defined in section 401(c)(3)), shall not be considered under the preceding sentence as transfers which may be deemed acquisitions of stock of a foreign issuer.

[(B) PRESUMPTION OF ACQUISITION OF FOREIGN SECURITIES.—Whenever money or other property is transferred to a foreign trust in the manner described in the first sentence of subparagraph (A), it shall be presumed, with respect to the calendar quarter in which the transfer took place and each succeeding calendar quarter beginning prior to the termination date specified in section 4911(d), that such trust subsequently acquired stock or debt obligations the direct acquisition of which by the transferor would be subject to the tax imposed by section 4911, in an amount equal to the actual value of the money or other property transferred. The transferor may rebut this presumption with respect to each such calendar quarter by submitting, on or before the 30th day following the close of such quarter, documents or other proof which will establish to the satisfaction of the Secretary or his delegate that, during such quarter, liability for such tax has not been incurred or any liability which has been incurred has been paid.

[(2) CERTAIN TRANSFERS.—

[(A) TRANSFERS TO FOREIGN CORPORATIONS AND PARTNERSHIPS.—Any transfer of money or other property to a foreign corporation or a foreign partnership—

[(i) as a contribution to the capital of such corporation or partnership, or

[(ii) in exchange for one or more debt obligations of such corporation or partnership, if it is a foreign corporation or partnership which is formed or availed of by the transferor for the principal purpose of acquiring (in the manner described in section 4915(c)(1)) an interest in stock or debt obligations the direct acquisition of which by the transferor would be subject to the tax imposed by section 4911,

shall be deemed an acquisition by the transferor of stock of a foreign corporation or partnership in an amount equal to the actual value of the money or property transferred.

[(B) TRANSFERS TO FOREIGN BRANCHES.—If a domestic corporation or partnership transfers money or other property (including, in the case of a transfer to a branch office described in section 4920(a)(5A), a transfer made for consideration) to, or applies money or other property for the benefit of, a

branch office of such corporation or partnership with respect to which there is in effect an election under paragraph (5) or (5A) of section 4920(a), or if funds are borrowed by such branch office from a bank (as defined in section 581), other than from a branch of such a bank located outside the United States lending such funds in the ordinary course of its business, such domestic corporation or partnership shall be deemed to have acquired stock of a foreign corporation or partnership in an amount equal to the actual value of the money or property transferred or applied, or the funds borrowed. The preceding sentence shall not apply to a transfer of money or other property by a domestic corporation or partnership to a branch office with respect to which there is an election in effect under paragraph (5) of section 4920(a), to the extent that such transfer is in payment of a commission on a transaction initiated by such branch office and such commission is not in excess of the commission which such domestic corporation or partnership would pay to another domestic corporation or partnership in a similar transaction entered into at arm's length.

[(3) ACQUISITIONS FROM DOMESTIC CORPORATION OR PARTNERSHIP FORMED OR AVAILED OF TO OBTAIN FUNDS FOR FOREIGN ISSUER OR OBLIGOR.—The acquisition of stock or a debt obligation of a domestic corporation (other than a domestic corporation described in section 4920(a)(3)(B)), or a domestic partnership, formed or availed of for the principal purpose of obtaining funds (directly or indirectly) for a foreign issuer or obligor, shall be deemed an acquisition (from such foreign issuer or obligor) of stock or a debt obligation of such foreign issuer or obligor. The preceding sentence shall not apply to the acquisition of stock or a debt obligation of a domestic corporation all of whose acquisitions of stock or debt obilgations of foreign issuers or obligors are either subject to the tax imposed by section 4911 or without liability for payment of such tax under section 4916, 4917, 4918, or 4920(b). An acquisition to which section 4914(c) applies shall not be taken into consideration in determining whether a domestic corporation or partnership is formed or availed of for the purpose of obtaining funds (directly or indirectly) for a foreign issuer or obligor.

[(4) REORGANIZATION EXCHANGES.—Any acquisition of stock or debt obligations of a foreign issuer or obligor in an exchange to which section 354, 355, or 356 applies (or would, but for section 367, apply) shall be deemed an acquisition from the foreign issuer or obligor in exchange for its stock or for its debt obligations. For purposes of this paragraph, in determining whether section 354, 355, or 356 applies, or would apply, to any transaction—

[(A) such transaction shall, if it took place before the date of the enactment of this chapter, be treated as taking place on such date, and

[(B) section 368(a)(1)(B) shall be treated as permitting the receipt by a United States person of money or other property in addition to voting stock.

[(c) ELECTION TO SUBJECT CERTAIN DEBT OBLIGATIONS TO TAX.—

[(1) IN GENERAL.—A domestic corporation or domestic partnership may elect to have its debt obligations—

[(A) which are part of a new or original issue, or

[(B) which are part of an issue outstanding on the date of the enactment of the Interest Equalization Tax Extension Act of 1971 and are treated under subsection (b)(3) as debt obligations of a foreign obligor.

treated as debt obligations of a foreign obligor the acquisition of which by a United States person (other than the issuer) will, notwithstanding any other provision of this chapter, be subject to the tax imposed by section 4911 at the rate applicable on acquisitions of stock under section 4911(b).

[(2) ASSUMPTION OF OBLIGATIONS.—For purposes of paragraph (1), the assumption by a domestic corporation of debt obligations of an affiliated corporation shall be treated as the issuance of a new or original issue of debt obligations by such domestic corporation. For purposes of this paragraph, a domestic corporation shall be treated as affiliated with another corporation if both corporations are members (or would be members if they were both domestic corporations) of the same controlled group (within the meaning of section 48(c)(3)(C)).

[(3) ELECTION.—An election under paragraph (1) with respect to any issue of debt obligations shall be made at such time and in such manner as the Secretary or his delegate may prescribe by regulations, and such election may not be revoked. In the case of a new original issue, such election shall be made prior to the issuance (or, in the case of an issue treated as a new or original issue under paragraph (2), prior to the assumption) of any debt obligations of such issue.

[(4) INDICATION OR ENDORSEMENT OF TAXABILITY.—In the case a debt obligation which is part of a new or original issue (other than an issue treated as a new or original issue under paragraph (2)), an election under paragraph (1) shall apply to such debt obligation only if the document evidencing such debt obligation indicates that its acquisition by a United States person is subject to the tax imposed by section 4911 as provided in paragraph (1). In the case of any other debt obligation, an election under paragraph (1) shall apply to such debt obligation only if the document evidencing such debt obligation is marked or endorsed, subject to such regulations as the Secretary or his delegate may prescribe, so as to indicate that its acquisition by a United States person is subject to such tax.

[SEC. 4913. LIMITATION ON TAX ON CERTAIN ACQUISITIONS

[(a) CERTAIN SURRENDERS, EXTENSIONS, RENEWALS, AND EXERCISES.—

[(1) GENERAL RULE.—If stock or a debt obligation of a foreign issuer or obligor is acquired by a United States person as the result of—

[(A) the surrender to the foreign obligor, for cancellation, of a debt obligation of such obligor;

[(B) the extension or renewal of an existing debt obligation requiring affirmative action of the obligee; or

[(C) the exercise of an option or similar right to acquire such stock or debt obligation (or of a right to convert a debt obligation into stock),

then the tax imposed on such acquisition shall not exceed the amount determined under paragraph (2) or (3).

[(2) GENERAL LIMITATION.—Except in cases to which paragraph (3) applies, the tax imposed upon an acquisition described in paragraph (1) shall be limited to—

[(A) the amount of tax imposed by section 4911, less

[(B) the amount of tax which would have been imposed under section 4911 if the debt obligation which was surrendered, extended, or renewed, or the option or right which was exercised, had been acquired in a transaction subject to such tax immediately before such surrender, extension, renewal, or exercise.

For purposes of this paragraph, a defaulted debt obligation of the government of a foreign country or a political subdivision thereof (or an agency or instrumentality of such a government) which has been in default as to principal for at least 10 years and which is surrendered in exchange for another debt obligation of that government (or agency or instrumentality) shall be deemed to have an actual value and period remaining to maturity equal to that of the debt obligation acquired.

[(3) SPECIAL LIMITATIONS.—

[(A) CONVERSIONS OF DEBT OBLIGATIONS INTO STOCK.—The tax imposed upon an acquisition of stock pursuant to the exercise of a right to convert a debt obligation (as defined in section 4920(a)(1)) into stock shall be limited to—

[(i) the amount of tax which would have been imposed by section 4911 if the debt obligation had been treated as stock at the time of its acquisition by the person exercising the right (or by a decedent from whom such person acquired the right by bequest or inheritance or by reason of such decedent's death), less

[(ii) the amount of tax paid by the person exercising the right (or by such decedent) as a result of the acquisition of the convertible debt obligation or, if such acquisition was not subject to the tax imposed by section 4911 the amount of tax which would have been imposed as a result of such acquisition if such acquisition had been subject to such tax.

[(B) EXERCISE OF CERTAIN SHAREHOLDERS' RIGHTS.—The tax imposed upon an acquisition of stock or a debt obligation of a foreign corporation by a United States person, where—

[(i) the stock or debt obligation is acquired pursuant to the exercise of an option or similar right to acquire such stock or debt obligation which was acquired by a shareholder of such corporation in a distribution with respect to its stock, and

[(ii) such option or right is exercised within 90 days from the date of its distribution by such corporation,

shall be limited to the amount of tax which would have been imposed by section 4911 if the price paid under such option or right were the actual value of the stock or debt obligation acquired.

[(C) CERTAIN EMPLOYEE STOCK OPTIONS.—The tax imposed upon an acquisition of stock of a foreign issuer by a United States person pursuant to the exercise of an option or similar right described in section 4914(a)(8) shall be limited to the amount of tax which would have been imposed under section 4911 if the price paid under such option or right were the actual value of the stock acquired.

[(b) CERTAIN TRANSFERS WHICH ARE DEEMED ACQUISITIONS.—The tax imposed upon an acquisition which is deemed to have been made by reason of a transfer of money or other property to a foreign trust, or a foreign corporation or partnership, as described in section 4912(b)(1) or (2)(A), shall be limited to—

[(1) the amount of tax imposed by section 4911, less

[(2) the amount of tax paid by the transferor as the result of the transfer being otherwise taxable as an acquisition under this chapter.

[(c) ACQUISITIONS BY CERTAIN DOMESTIC CORPORATIONS AND PARTNERSHIPS.—If stock for a debt obligation of a foreign issuer or obligor is acquired by a domestic corporation or a domestic partnership with funds obtained as the result of an acquisition by a United States person of stock or a debt obligation of such corporation or partnership which under section 4912(b)(3) is deemed an acquisition by such person of stock or a debt obligation of a foreign issuer or obligor, the tax imposed upon the acquisition by the domestic corporation or the domestic partnership shall be limited to—

[(1) the amount of tax imposed by section 4911, less

[(2) the amount of tax paid by the United States person from whom the funds were obtained on the acquisition by such person which under section 4912(b)(3) is deemed an acquisition of stock or a debt obligation of a foreign issuer or obligor.

[SEC. 4914. EXCLUSION FOR CERTAIN ACQUISITIONS.

[(a) TRANSACTIONS NOT CONSIDERED ACQUISITIONS.—The term "acquisition" shall not include—

[(1) any transfer between a person and his nominee, custodian, or agent;

[(2) any transfer described in section 4343(a) (relating to certain transfers by operation of law from decedents, minors, incompetents, financial institutions, bankrupts, successors, foreign governments and aliens, trustees, and survivors) as in effect on January 1, 1965;

[(3) any transfer by legacy, bequest, or inheritance to a United States person, or by gift to a United States person who is an individual;

[(4) any distribution by a corporation of its stock or debt obligations to a shareholder with respect to or in exchange for its stock;

[(5) any distribution to a shareholder by a corporation of stock or debt obligations owned by such corporation on July 18, 1963, in complete or partial liquidation of such corporation, to the extent such shareholder acquired his stock ownership in such corporation in a transaction other than in an acquisition excluded from tax under subsection (b) of this section, or under section 4915, 4916, or 4917;

[(6) any exchange to which section 361 applies (or would, but for section 367, apply), where the transferor corporation was a domestic corporation and was engaged in the active conduct of a trade or business, other than as a dealer in securities, immediately before the date on which the assets involved are transferred to the acquiring corporation;

[(7) any exercise of a right to convert indebtedness, pursuant to its terms, into stock, if such indebtedness is treated as stock pursuant to section 4920(a)(2)(D); or

[(8) the grant of a stock option or similar right to a United States person who is an individual, for any reason connected with his employment by a corporation, if such option or right (A) is granted by the employer corporation, or its parent or subsidiary corporation, to purchase stock of any such corporations, and (B) by its terms is not transferable by such United States person otherwise than by will or the laws of descent and distribution, and is exercisable, during his lifetime, only by him.

[(b) EXCLUDED ACQUISITIONS.—The tax imposed by section 4911 shall not apply to the acquisition—

[(1) THE UNITED STATES.—Of stock or debt obligations by an agency or wholly owned instrumentality of the United States.

[(2) COMMERCIAL BANK LOANS.—

[(A) Of debt obligations by a commercial bank in making loans in the ordinary course of its commercial banking business.

[(B) Of stock or debt obligations by a commercial bank through foreclosure, where such stock or debt obligations were held as security for loans made in the ordinary course of its commercial banking business. Stock or debt obligations acquired by a foreign branch of a corporation, in connection with its banking business, shall be considered debt obligations described in subparagraph (A) of the preceding sentence if—

[(i) such branch is engaged in the commercial banking business and is also a member of a foreign stock exchange all the members of which on June 29, 1965, were banks,

[(ii) on July 18, 1963, such branch was so engaged and was such a member,

[(iii) such stock or debt obligations would not (but for this sentence be excludable under the preceding sentence, and

[(iv) at the time of such acquisition, such branch does not hold stock and debt obligations described in clause (iii) which have an adjusted basis in excess of 3 percent of the deposits of the customers (other than deposits of

United States persons engaged in the commercial banking business and members of an affiliated group (determined under section 48(c)(3)(C) of which such a United States person is a member) of such branch payable in the currency of the country in which such branch is located.

[(3) ACQUISITIONS REQUIRED UNDER FOREIGN LAW.—Of stock or debt obligations by a United States person doing business in a foreign country to the extent that such acquisitions are reasonably necessary to satisfy minimum requirements relating to holdings of stock or debt obligations of foreign issuers or obligors imposed by the laws of such foreign country; except that if any of such requirements relate to the holding of insurance reserves, the exclusion otherwise allowable under this paragraph with respect to acquisitions made by such United States person during any calendar year shall be reduced by the maximum amount of the exclusion which could be allowed under subsection (e) with respect to acquisitions made by such person during that year, or by the amount of the insurance reserves which must be held in order to satisfy such requirements, whichever is less.

[(4) ACQUISITIONS IN LIEU OF PAYMENT OF FOREIGN TAX.—Of stock or debt obligations by a United States person doing business in a foreign country, to the extent such acquisition is made, in conformity with the laws of such foreign country, as a substitute for the payment of tax to such foreign country.

[(5) ACQUISITIONS OF STOCK IN COOPERATIVE HOUSING CORPORATIONS.—Of stock of a foreign corporation which entitles the holder, solely by reason of his ownership of such stock, to occupy for dwelling purposes a house, or an apartment in a building, owned or leased by such corporation.

[(6) EXPORT CREDIT, ETC., TRANSACTIONS.—Of stock or debt obligations arising from the sale or lease of property or services by United States persons, to the extent provided in subsection (c).

[(7) LOANS TO ASSURE RAW MATERIALS SOURCES.—Of debt obligations by United States persons in connection with loans made to foreign corporations to assure raw materials sources, to the extent provided in subsection (d).

[(8) ACQUISITION BY INSURANCE COMPANIES DOING BUSINESS IN FOREIGN COUNTRIES.—Of stock or debt obligations by insurance companies doing business in foreign countries, to the extent provided in subsection (e).

[(9) ACQUISITIONS BY CERTAIN TAX-EXEMPT LABOR, FRATERNAL, AND SIMILAR ORGANIZATIONS HAVING FOREIGN BRANCHES OR CHAPTERS.—Of stock or debt obligations by certain tax-exempt United States persons operating in foreign countries through local organizations, to the extent provided in subsection (f).

[(10) ACQUISITIONS OF DEBT OBLIGATIONS ON SALE OR LIQUIDATION OF FOREIGN SUBSIDIARIES OR SALE OF FOREIGN BRANCHES.—Of debt obligations acquired in connection with the sale or liquidation of a foreign corporation or the sale of a foreign branch, to the extent provided in subsection (g).

[(11) ACQUISITIONS OF CERTAIN DEBT OBLIGATIONS SECURED BY REAL PROPERTY IN THE UNITED STATES.—Of debt obligations secured

by real property in the United States, to the extent provided in subsection (h).

[(12) ACQUISITIONS BY UNITED STATES PERSONS RESIDING IN FOREIGN COUNTRIES OF STOCK OF CERTAIN FOREIGN ISSUERS INVESTING EXCLUSIVELY IN THE UNITED STATES.—Of stock of foreign issuers investing exclusively in the United States by United States persons residing in foreign countries, to the extent provided in subsection (i).

[(13) STUDENT LOANS.—Of debt obligations which arise out of loans to a foreign obligor registered as a full-time student at an educational institution (as defined in section 151(e)(4)) in the United States, to the extent that the acquisition by the acquiring person of such debt obligations with a period remaining to maturity of 1 year or more from such obligor in any calendar year does not exceed $2,500.

[(14) FOREIGN PROPERTY.—Of debt obligations arising out of the sale of—

[(A) tangible property located outside the United States which was held by the person acquiring such obligation for his personal use, or

[(B) real property (other than real property to which subparagraph (A) applies) located outside the United States and owned, on July 18, 1963, by—

[(i) the person acquiring such obligation,

[(ii) a decedent who was a United States person on the date of his death, if such real property was transferred to the person acquiring such obligation by reason of the death of the decedent, or

[(iii) a United States person who after July 18, 1963, transferred such property (whether or not for consideration) to a trust created by him for the benefit of the members of his family (within the meaning of section 318(a)(1)), if such trust is the person acquiring such obligation.

[(15) CERTAIN ACQUISITIONS BY RESIDENTS NOT CITIZENS.—Of stock or debt obligations by an individual who is a resident but not a citizen of the United States, during the 90-day period beginning on the date such individual first became a resident of the United States.

[(16) ACQUISITIONS OF STOCK OR DEBT OBLIGATIONS IN CONNECTION WITH NATIONALIZATION, EXPROPRIATION, ETC.—Of stock or debt obligations of a foreign issuer or obligor, where such acquisition is required as a reinvestment in connection with an actual or threatened nationalization, expropriation, or seizure of property, to the extent provided in subsection (k).

[(c) EXPORT CREDIT, ETC., TRANSACTIONS.—

[(1) IN GENERAL.—The tax imposed by section 4911 shall not apply to the acquisition of a debt obligation arising out of the sale or lease of tangible personal property or services, or both, if—

[(A) payments of such debt obligation (or of any related debt obligation arising out of such sale or lease) is guaranteed or insured, in whole or in part, by an agency or wholly owned instrumentality of the United States; or

[(B) (i) not less than 85 percent of the amount of the loan or the amount paid or other consideration given to acquire such debt obligation is attributable to the sale or lease of property manufactured, produced, grown, or extracted in the United States, or to the performance of services by United States persons, or to both, and

[(ii) the extension of credit and the acquisition of the debt obligation related thereto are reasonably necessary to accomplish the sale or lease of property or services out of which the debt obligation arises, and the terms of the debt obligation are not unreasonable in light of credit practices in the business in which the person selling or leasing such property or services is engaged.

The term "services", as used in this paragraph and paragraph (2), shall not be construed to include functions performed as an underwriter.

[(2) ALTERNATE RULE FOR PRODUCING EXPORTERS.—The tax imposed by section 4911 shall not apply to the acquisition by a United States person from a foreign issuer or obligor of its stock in payment for, or of a debt obligation arising out of, the sale of tangible personal property or services (or both) to such issuer or obligor, if

[(A) at least 30 percent of the purchase price, or 60 percent of the actual value of the stock or debt obligation acquired, is attributable to the sale of property manufactured, produced, grown, or extracted in the United States by such United States person (or by one or more includible corporations in an affiliated group, as defined in section 1504, of which such person is a member), or to the performance of services by such United States person (or by one or more such corporations), or to both, and

[(B) at least 50 percent of the purchase price, or 100 percent of the actual value of the stock or debt obligation acquired, is attributable to the sale of property manufactured, produced, grown, or extracted in the United States, or to the performance of services by United States persons, or to both.

[(3) CERTAIN INTERESTS IN INTANGIBLE PERSONAL PROPERTY.—The tax imposed by section 4911 shall not apply to the acquisition by a United States person from a foreign issuer or obligor of its stock in payment for, or of a debt obligation arising out of, the sale or license to such issuer or obligor of—

[(A) any interest in patents, inventions, models or designs (whether or not patented), copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, or other like property (or any combination thereof), or

[(B) any such interest together with services to be performed in connection with any such interest sold or licensed by such United States person (or by one or more includible corporations in an affiliated group, as defined in section 1504, of which such person is a member),

if not less than 85 percent of the purchase price, or license fee, is attributable to the sale or license of any interest in property described in subparagraph (A) which was produced, created, or

developed in the United States by such United States person (or by one or more such includible corporations), or is attributable to the sale or license of any interest in such property so produced, created, or developed and to the performance of services described in subparagraph (B).

[(4) EXPORT-RELATED LOANS.—The tax imposed by section 4911 shall not apply to the acquisition from a foreign obligor by a United States person of a debt obligation arising out of a loan made to the obligor to increase or maintain sales of tangible personal property produced, grown, or extracted in the United States by such United States person (or by one or more includible corporations in an affiliated group, as defined in section 1504, of which such person is a member), but only if the proceeds of the loan will be used by the obligor for the installation, maintenance, or improvement of facilities outside the United States which (during the period the loan is outstanding) will be used for the storage, handling, transportation, processing, packaging, or servicing of property a substantial portion of which is tangible personal property produced, grown, or extracted in the United States by such person (or one or more such corporations).

[(5) OTHER LOANS RELATED TO CERTAIN SALES BY UNITED STATES PERSONS.—The tax imposed by section 4911 shall not apply to the acquisition from a foreign obligor by a United States person of a debt obligation of such obligor if such debt obligation—

[(A) was received by such United States person as all or part of the purchase price provided in a contract under which the foreign obligor agrees to purchase for a period of 3 years or more ores or minerals (or derivatives thereof)—

[(i) extracted outside the United States by such United States person or by one or more includible corporations in an affiliated group (as defined in section 48(c)(3)(C)) of which such United States person is a member,

[(ii) extracted outside the United States by a corporation at least 10 percent of the total combined voting power of all classes of stock of which is owned, directly or indirectly, by such United States person, by one or more such includible corporations, or by domestic corporations which own, directly or indirectly, at least 50 percent of the total combined voting power of all classes of stock of such United States person,

[(iii) obtained under a contract entered into on or before July 18, 1963, by such United States person, by one or more such includible corporations, or by such domestic corporations, or

[(iv) extracted outside the United States and obtained by such United States person, by one or more such includible corporations, or by such domestic corporations in exchange for similar ores or minerals (or derivatives thereof) described in clause (i), (ii), or (iii); or

[(B) arises out of a loan (made by such United States person to such foreign obligor) the proceeds of which will be used by such obligor (or by a person controlled by, or controlling, such obligor) for the installation, maintenance, or improvement of facilities outside the United States which (during the period the loan is outstanding) will be used for the storage, handling, transportation, processing, or servicing of ores or minerals (or derivatives thereof) a substantial portion of which is extracted outside the United States by such United States person or by a corporation referred to in clause (i) or (ii) of subparagraph (A), is obtained under a contract described in clause (iii) of subparagraph (A), or is obtained in an exchange described in clause (iv) of subparagraph (A). If the proceeds of the loan by such United States person constitute only a part of the cost of the installation, maintenance, or improvement of such facilities, the substantial portion requirement in the preceding sentence shall be satisfied if the percentage of the total capacity of such facilities which will be used in connection with ores or minerals (or derivatives thereof) extracted or obtained in the specified manner is more than one-half of the percentage of the cost of such facilities represented by the amount of such loan and in no event is less than 10 percent of such total capacity.

For purposes of clause (iii) of subparagraph (A) (and for purposes of determining whether a debt obligation arises out of a loan described in subparagraph (B) in a case where the ores, minerals, or derivatives involved are obtained under a contract described in such clause), a contract shall be deemed to have been entered into on or before July 18, 1963, if it is entered into after such date and before January 26, 1967, and is a substitute for a contract, which has been canceled or terminated, between the same parties which was entered into on or before July 18, 1963; except that the total amount of the acquisitions excluded by this paragraph on the basis of a contract entered into after July 18, 1963, which is deemed by this sentence to have been entered into on or before such date shall not exceed the total amount of the acquisitions which could have been excluded by this paragraph on the basis of the earlier contract for which such contract was substituted. For purposes of subparagraph (B), if the proceeds of the loan are to be used by the foreign obligor (or by a person controlled by, or controlling, the foreign obligor) for additional facilities, the substantial portion requirement contained in such subparagraph, and the one-half of the percentage of cost requirement contained in the last sentence of such subparagraph, shall be treated as satisfied with respect to such loan if it is established that an additional amount of ores or minerals (or derivatives thereof) extracted outside the United States by the United States person, or otherwise taken into account for purposes of such subparagraph, will be stored, handled, transported, processed, or serviced in the existing and additional facilities of such foreign obligor or person, and that, with respect to such additional facilities, such additional amount fulfills such substantial portion requirement or such one-half of the percentage of cost requirement, as the case may be.

[(6) CERTAIN EXPORT LEASES.—The tax imposed by section 4911 shall not apply to the acquisition from a foreign obligor by a United States person of a debt obligation of such obligor arising out a lease of tangible personal property to such obligor by such United States person if—

[(A) (i) at least 30 percent of the value of the property subject to the lease, or 60 percent of the actual value of the debt obligation arising out of such lease, is attributable to the use of tangible personal property which was manufactured, produced, grown, or extracted in the United States by such United States person (or by one or more includible corporations in an affiliated group, as defined in section 1504, of which such person is a member), or to the performance of services pursuant to the terms of the lease by such United States person (or by one or more such corporations) with respect to such personal property, or to both, and

[(ii) at least 50 percent of the value of the property subject to lease, or 100 percent of the actual value of the debt obligation arising out of such lease, is attributable to the use of tangible personal property which was manufactured, produced, grown, or extracted in the United States, or to the performance of services pursuant to the terms of the lease by United States persons, or to both; or

[(B) (i) payment of such debt obligation (or of any related debt obligation arising out of such lease) is guaranteed or insured, in whole or in part, by an agency or wholly owned instrumentality of the United States, or

[(ii) the lease is entered into with such foreign obligor and the United States person acquiring such debt obligation enters into the lease in the ordinary course of his trade or business and not less than 85 percent of the value of the property subject to the lease is attributable to the use of tangible personal property which was manufactured, produced, grown, or extracted in the United States, or to the performance of services pursuant to the terms of the lease by such United States person (or by one or more includible corporations in an affiliated group, as defined in section 1504, of which such person is a member) with respect to such personal property, or to both.

[(7) REACQUISITION OF CERTAIN EXPORT DEBT OBLIGATIONS.—If paragraph (1), (2), or (6) of this subsection applied to the acquisition of a debt obligation by a United States person and such debt obligation is transferred by such United States person to a person other than a United States person (and subsection (j) (1) (A) (iv) would have applied if such transfer had been to a United States person), the tax imposed by section 4911 shall not apply to the reacquisition of such debt obligation by such United States person from such person.

[(8) REFUNDING OR REFINANCING CERTAIN DEBT OBLIGATIONS.—The tax imposed by section 4911 shall not apply to the acquisition of a debt obligation issued for the purpose of refunding or refinancing a new or original debt obligation if—

[(A) the purpose for which and circumstances under which the new or original debt obligation was issued are such that,

were such debt obligation issued on the date on which the refunding or refinancing debt obligation is issued, the acquisition of that new or original debt obligation would not be subject to tax under section 4911, and

[(B) the terms of the refunding or refinancing debt obligation are not unreasonable in light of credit practices in the business in which the person acquiring the debt obligation is engaged and the refunding or refinancing of the new or original debt obligation is customary in transactions of the type out of which it arose.

[(9) CROSS REFERENCE.—

[For loss of exclusion otherwise allowable under this subsection in case of certain subsequent transfers, see subsection (j).

[(d) LOANS TO ASSURE RAW MATERIALS SOURCES.—

[(1) GENERAL RULE.—The tax imposed by section 4911 shall not apply to the acquisition by a United States person of a debt obligation arising out of a loan made by such person to a foreign corporation, if—

[(A) such foreign corporation extracts or processes ores or minerals the available deposits of which in the United States are inadequate to satisfy the needs of domestic producers;

[(B) United States persons own at the time of such acquisition at least 50 percent of the total combined voting power of all classes of stock of such foreign corporation; and

[(C) such loan will be amortized under a contract or contracts in which persons owning stock of such corporation (including at least one of the United States persons referred to in subparagraph (B)) agree to pay during the period remaining to maturity of such obligation, by purchasing a part of the production of such corporation or otherwise, a portion of such corporation's costs of operation and costs of amortizing outstanding loans.

[(2) LIMITATION.—The exclusion from tax provided by paragraph (1) shall apply to the acquisition of any debt obligation of a foreign corporation only to the extent that—

[(A) the applicable percentage of (i) the actual value of the debt obligation acquired, plus (ii) the actual value (determined as of the time of such acquisition) of all other debt obligations representing loans which were theretofore made to the foreign corporation during the same calendar year and which are amortizable under contracts of the type described in paragraph (1) (C), exceeds

[(B) the actual value of the debt obligations described in subparagraph (A) (ii) representing loans made by United States persons, to the extent that the acquisition of such obligations was excluded from tax under this subsection.

As used in this paragraph with respect to the acquisition of a debt obligation, the term "applicable percentage" means the lesser of (i) the percentage of the total combined voting power of all classes of stock of the foreign corporation which is owned by United States persons at the time of such acquisition, or (ii) the

percentage of the corporation's operating and amortization costs for the calendar year which all such United States persons have agreed to pay (as of the time of such acquisition) under contracts of the type described in paragraph (1)(C).

[(3) EXCEPTION.—The exclusion from tax provided by paragraph (1) shall not apply in any case where the acquisition of the debt obligation of the foreign corporation is made with an intent to sell, or to offer to sell, any part of such debt obligation to United States persons.

[(e) ACQUISITIONS BY INSURANCE COMPANIES DOING BUSINESS IN FOREIGN COUNTRIES.—

[(1) IN GENERAL.—The tax imposed by section 4911 shall not apply to the acquisition of stock or a debt obligation by a United States person which is an insurance company subject to taxation under section 802, 821, or 831, if such stock or debt obligation is designated (in accordance with paragraph (3)) as part of a fund of assets established and maintained by such insurance company (in accordance with paragraph (2)) with respect to foreign risks insured or reinsured by such company under contracts (including annuity contracts) the proceeds of which are payable only in the currency of a foreign country. As used in this subsection, the term "foreign risks" means risks in connection with property outside, or liability arising out of activity outside, or in connection with the lives or health of residents of countries other than, the United States.

[(2) ESTABLISHMENT AND MAINTENANCE OF FUND OF ASSETS.—Each insurance company which desires to obtain the benefit of exclusions under this subsection shall (as a condition of entitlement to any such exclusion) establish and maintain a fund (or funds) of assets in accordance with this paragraph and paragraph (3). A life insurance company (as defined in section 801(a)) shall establish such a fund of assets separately for each foreign currency (other than the currency of a country which qualifies as a less developed country) in which the proceeds of its insurance contracts are payable and for which insurance reserves are maintained by such company, and with respect to which it desires to obtain the benefits of exclusions under this subsection; and the preceding sentence shall be applied separately to each such fund in determining the company's entitlement to exclude acquisitions of stock and debt obligations designated as a part thereof. An insurance company other than a life insurance company (as so defined) shall establish a single fund of assets for all foreign currencies (other than currencies of countries which qualify as less developed countries) in which the proceeds of its insurance contracts are payable and for which insurance reserves are maintained by such company.

[(3) DESIGNATION OF ASSETS.—

[(A) INITIAL DESIGNATION.—

[(i) REQUIREMENT OF INITIAL DESIGNATION.—Except as provided in clause (iii), an insurance company desiring to establish a fund (or funds) of assets under paragraph (2) shall initially designate, as part or all of such fund (or funds), stock and debt obligations owned by

it on July 18, 1963, as follows: First, stock of foreign issuers, and debt obligations of foreign obligors having a period remaining to maturity (on July 18, 1963) of 3 years or more and payable in foreign currency; second, if the company so elects, debt obligations of foreign obligors having a period remaining to maturity (on July 18, 1963) of less than 3 years and payable in foreign currency; and third, debt obligations of foreign obligors having a period remaining to maturity (on July 18, 1963) of 3 years or more and payable solely in United States currency. The designation under the preceding sentence with respect to any fund shall be made, in the order set forth, to the extent that the adjusted basis (within the meaning of section 1011) of the designated stock and debt obligations was (on July 18, 1963) not in excess of 110 percent of the allowable reserve applicable to such fund (determined in accordance with paragraph (4)(B)(ii)), and shall in no case include any stock or debt obligation described in section 4916(a).

[(ii) TIME AND MANNER OF INITIAL DESIGNATION.—Any initial designation which an insurance company is required to make under clause (i) shall be made on or before the 30th day after the date of the enactment of this chapter (or at such later time as the Secretary or his delegate may by regulations prescribe) by the segregation on the books of such company of the stock or debt obligations (or both) designated.

[(iii) INITIAL DESIGNATION AFTER OCTOBER 2, 1964.—An insurance company which was not in existence on October 2, 1964, or was otherwise ineligible to establish a fund (or funds) of assets described in paragraph (2) by making an initial designation under clause (i) on or before such date, may establish (and thereafter currently maintain) such fund (or funds) of assets at any time after the enactment of this clause by designating stock of a foreign issuer or a debt obligation of a foreign obligor as a part of such fund in accordance with the provisions of clause (iv) (if applicable) and subparagraph (B)(i).

[(iv) FUNDS INVOLVING CURRENCIES OF FORMER LESS DEVELOPED COUNTRIES.—An insurance company desiring to establish a fund under clause (iii) with respect to insurance contracts payable in the currency of a country designated as a less developed country on October 2, 1964, which thereafter has such designation terminated by an Executive order issued under section 4916(b), shall designate as assets of such fund, to the extent permitted by subparagraph (E), the stock of foreign issuers or debt obligations of foreign obligors as follows: First, stock and debt obligations having a period remaining to maturity of at least 1 year (other than stock or a debt obligation described in section 4916(a)) acquired before

July 19, 1963, and owned by the company on the date which the President, in accordance with section 4916(b), communicates to Congress his intention to terminate the status of such country as a less developed country; second, stock and debt obligations having a period remaining to maturity of at least 1 year described in section 4916(a) (and owned by the company on the date of such termination) which, at the time of acquisition, qualified for the exclusion provided in such section because of the status of such country as a less developed country; and third, such stock or debt obligations as the company may elect to designate under subparagraph (B)(i). The period remaining to maturity referred to in the preceding sentence shall be determined as of the date of the President's communication to Congress.

[(B) CURRENT DESIGNATIONS.—

[(i) IN GENERAL.—To the extent permitted by subparagraph (E), stock of a foreign issuer or a debt obligation of a foreign obligor acquired by an insurance company after July 18, 1963, may be designated as a part of a fund of assets described in paragraph (2), if such designation is made before the expiration of 30 days after the date of such acquisition and the company continues to own the stock or debt obligation until the time the designation is made; except that any such stock or debt obligation acquired before the initial designation of assets to the fund is actually made under subparagraphs (A)(i) and (ii) may be designated under this clause at the time of such initial designation without regard to such 30-day and continued ownership requirements.

[(ii) CERTAIN DEBT OBLIGATIONS HAVING MATURITY OF LESS THAN 3 YEARS.—A debt obligation having a period remaining to maturity (on the date of acquisition) of at least 1 year but less than 3 years, which is acquired during the period beginning February 11, 1965, and ending on the date of the enactment of the Interest Equalization Tax Extension Act of 1965, may be designated as part of a fund of assets described in paragraph (2) on or before the 30th day after the date of such enactment (or at such later time as the Secretary or his delegate may by regulations prescribe) without regard to the 30-day and continued ownership requirements provided in clause (i).

[(C) ADDITIONAL DESIGNATIONS AFTER CLOSE OF YEAR.—If the adjusted basis of the assets held in a fund of assets described in paragraph (2) at the close of a calendar year after 1963 is less than 110 percent of the allowable reserve applicable to such fund at the close of such year, the insurance company may, to the extent permitted by subparagraph (E), designate additional stock or debt obligations (or both) which were acquired during such calendar year as part of such fund, so long as the company still owns such stock or

debt obligations at the time of designation; except that, with respect to a fund established under subparagraph (A)(iii), stock or debt obligations acquired before the establishment of such fund may not be designated as part of such fund under this subparagraph. Any designation under this subparagraph shall be made on or before January 31 following the close of the calendar year. Any tax paid by such company under section 4911 on the acquisition of the additional stock or debt obligations so designated shall constitute an overpayment of tax; and, under regulations prescribed by the Secretary or his delegate, credit or refund (without interest) shall be allowed or made with respect to such overpayment.

[(D) SUPPLEMENTAL REQUIRED DESIGNATIONS AFTER CLOSE OF YEAR.—If during any calendar year an insurance company acquires stock or debt obligations which are excluded from the tax imposed by section 4911 under an Executive order described in section 4917, and if at the close of the calendar year (and after the designation of additional assets under subparagraph (C)) the adjusted basis of all assets in a fund described in paragraph (2) is less than 110 percent of the allowable reserve applicable to such fund, such company shall, to the extent permitted by subparagraph (E), designate as part of such fund stock and debt obligations acquired by it during the calendar year and owned by it at the close of the calendar year, as follows: First, stock, and debt obligations having a period remaining to maturity (on the date of acquisition) of 1 year or more and payable in foreign currency, which were excluded from the tax imposed by section 4911 under such Executive order; second, if the company so elects, debt obligations of foreign obligors having a period remaining to maturity (on the date of acquisition) of less than 1 year and payable in foreign currency; and third, debt obligations having a period remaining to maturity (on the date of acquisition) of 1 year or more and payable solely in United States currency, which were excluded from the tax imposed by section 4911 under such Executive order. The designations under this subparagraph shall be made on or before January 31 following the close of the calendar year.

[(E) LIMITATIONS.—

[(i) IN GENERAL.—Stock or a debt obligation may be designated under subparagraph (A)(iv), (B), (C), or (D) as part of a fund of assets described in paragraph (2) only to the extent that, immediately after such designation, the adjusted basis of all the assets held in such fund does not exceed 110 percent of the applicable allowable reserve (determined in accordance with paragraph (4)(B)(i)). To the extent any designation of stock or a debt obligation exceeds the amount permitted by the preceding sentence, such designation shall be ineffective and the provisions of this chapter shall apply with respect to the acquisition of such stock or debt obligation as if such designation had not been made.

[(ii) SHORT-TERM OBLIGATIONS.—No designation may be made under subparagraph (B) or (C) of any debt obligation which has a period remaining to maturity (on the date of acquisition) of less than 1 year.

[(4) DETERMINATION OF RESERVES.—

[(A) GENERAL RULE.—For purposes of this subsection, the term "allowable reserve" means—

[(i) in the case of a life insurance company (as defined in section 801(a)), the items taken into account under section 810(c) arising out of contracts of insurance and reinsurance (including annuity contracts) which relate to foreign risks and the proceeds of which are payable in a single foreign currency (other than the currency of a less developed country); and

[(ii) in the case of an insurance company other than a life insurance company (as so defined), the amount of its unearned premiums (under section 832(b)(4)) and unpaid losses (under section 832(b)(5)) which relate to foreign risks insured or reinsured under contracts providing for payment in foreign currencies (other than currencies of less developed countries) and which are taken into account in computing taxable income under section 832 (for such purpose treating underwriting income of an insurance company subject to taxation under section 821 as taxable income under section 832).

[(B) TIME OF DETERMINATION.—

[(i) IN GENERAL.—For purposes of paragraph (3) (other than subparagraph (A)(i) of such paragraph), the determination of an allowable reserve for any calendar year shall be made as of the close of such year.

[(ii) INITIAL DESIGNATION.—For purposes of paragraph (3)(A)(i), the determination of an allowable reserve shall be made as of July 18, 1963. If the insurance company so elects, the determination under this clause may be made by computing the mean of the allowable reserve at the beginning and at the close of the calendar year 1963.

[(C) SPECIAL RULE.—For purposes of subparagraph (A), if a country designated as a less developed country on September 2, 1964, thereafter has such designation terminated by an Executive order issued under section 4916(b), all insurance contracts payable in the currency of such country which were entered into before such designation was terminated shall be treated as insurance contracts payable in the currency of a country other than a less developed country.

[(5) NONRECOGNITION OF ARTIFICIAL INCREASES IN ALLOWABLE RESERVE.—An insurance or reinsurance contract which is entered into or acquired by an insurance company for the principal purpose of artificially increasing the amount determined as an allowable reserve as provided in paragraph (4) shall not be recognized in computing whether an acquisition of stock or a debt obligation of a foreign issuer or obligor can be excluded under this subsection.

[(f) ACQUISITIONS BY CERTAIN TAX-EXEMPT LABOR, FRATERNAL, AND SIMILAR ORGANIZATIONS HAVING FOREIGN BRANCHES OR CHAPTERS.—The tax imposed by section 4911 shall not apply to the acquisition of stock or debt obligations by a United States person which is described in section 501(c) and exempt from taxation under subtitle A, and which operates in a foreign country through a local organization or organizations, to the extent that—

[(1) such acquisition results from the investment or reinvestment of contributions or membership fees paid in the currency of such country by individuals who are members of the local organization or organizations, and

[(2) the stock or debt obligations acquired are held exclusively for the benefit of the members of any of such local organizations.

For purposes of this subsection, stock or debt obligations acquired as a result of the investment or reinvestment of such contributions or fees which consist of insurance premiums (other than premiums paid to a mutual insurance company or association described in section 501(c)(15)) paid by the members of such local organizations shall be treated as held exclusively for the benefit of such members if primarily so held, notwithstanding that such stock or debt obligations may, under certain contingencies, be used for the benefit of other members of such United States person.

[(g) SALE OR LIQUIDATION OF FOREIGN SUBSIDIARY OR SALE OF FOREIGN BRANCH.—

[(1) IN GENERAL.—The tax imposed by section 4911 shall not apply to the acquisition by a United States person of a debt obligation of a foreign obligor if the debt obligation is acquired—

[(A) in connection with the sale by such United States person (or by one or more includible corporations in an affiliated group, as defined in section 48(c)(3)(C), of which such United States person is a member) of all of the outstanding stock of a foreign corporation held by such United States person (and such includible corporations);

[(B) in connection with the liquidation by such United States person (or by one or more such includible corporations) of a foreign corporation but only if such debt obligation had been received by such foreign corporation as part or all of the purchase price in a sale of substantially all of its assets; or

[(C) as part or all of the purchase price in a sale by such United States person of substantially all of the assets of a branch of such United States person located outside the United States.

Subparagraph (A) or (B) shall apply only if, immediately prior to the sale or liquidation involved, the United States person (or one or more includible corporations in an affiliated group, as defined in section 1504, of which such person is a member) owns (directly or indirectly) 10 percent or more of the total combined voting power of all classes of stock of the foreign corporation; and, for purposes of this sentence, stock owned (directly or indirectly) by or for a foreign corporation shall be considered as being owned proportionately by its shareholders.

[(2) LIMITATIONS.—Subparagraphs (A) and (B) of paragraph (1) shall not apply to the acquisition of a debt obligation if any of the stock sold or surrendered in connection with its acquisition was originally acquired with the intent to sell or surrender. Subparagraph (C) of paragraph (1) shall not apply to the acquisition of a debt obligation if any of the assets sold had been transferred to the branch for the purpose of sale (other than sale in the ordinary course of its trade or business).

[(h) CERTAIN DEBT OBLIGATIONS SECURED BY UNITED STATES MORTGAGES, ETC.—

[(1) IN GENERAL.—The tax imposed by section 4911 shall not apply to the acquisition from a foreign obligor by a United States person of—

[(A) a debt obligation of such foreign obligor which is secured by real property located in the United States, to the extent that such debt obligation—

[(i) is a part of the purchase price of such real property (or of such real property and related personal property), or

[(ii) arises out of a loan made by such United States person to the foreign obligor the proceeds of which are concurrently used as part of the purchase price of such real property (or of such real property and related personal property); or

[(B) a debt obligation of such foreign obligor which is secured by real property located in the United States on which improvements are under construction by the obligor, if such debt obligation arises out of a loan made by such United States person all the proceeds of which are used—

[(i) to finance the construction of such improvements, or

[(ii) to repay all or any part of a loan made to finance such construction, if the construction loan has qualified (or would have qualified) under paragraph (2)(B) and such repayment occurs within 5 years after such construction loan is made.

[(2) LIMITATIONS.—Paragraph (1) shall apply to the acquisition of a debt obligation only if—

[(A) in the case of the sale of property referred to in paragraph (1)(A)—

[(i) the seller is a United States person, and

[(ii) at least 25 percent of the purchase price of the property sold is, at the time of such sale, paid in United States currency to such United States person by the foreign obligor from funds not obtained from United States persons for the purpose of purchasing such property; or

[(B) in the case of the construction of improvements refered to in paragraph (1)(B)—

[(i) at the time any proceeds of the loan out of which such debt obligation arises are advanced, an amount equal to at least one-third of the amount of such advance, plus one-third of the amount of any previous advances of such proceeds, has been expended for such construction by the foreign obligor in United States currency from funds not obtained from United States persons for the purpose of financing such construction, and

[(ii) not less than 85 percent of the cost of such construction attributable to property or services is attributable to property grown, extracted, manufactured, or produced in the United States, or to services performed by United States persons, or to both.

[(3) RELATED PERSONAL PROPERTY.—For purposes of paragraph (1)(A), the term "related personal property" means personal property which is sold in connection with the sale of real property for use in the operation of such real property.

[(i) ACQUISITIONS OF STOCK OF FOREIGN ISSUERS INVESTING EXCLUSIVELY IN THE UNITED STATES.—

[(1) IN GENERAL.—The tax imposed by section 4911 shall not apply to the acquisition from a foreign issuer of its stock by a United States person who is a bona fide resident of a foreign country within the meaning of section 911(a)(1), or who at the time of such acquisition is regularly performing personal services on a full-time basis in a foreign country, if at the close of each calendar quarter ending on or after June 30, 1963, preceding such acquisition, during any part of which such foreign issuer is in existence—

[(A) the assets of such foreign issuer, exclusive of money or deposits with persons carrying on the banking business, consist solely of:

[(i) stock or debt obligations of domestic corporations (other than a corporation which has elected under section 4920(a)(3)(B) to be treated as a foreign issuer or obligor for purposes of this chapter);

[(ii) debt obligations of the United States, or of any State or possession of the United States, or any political subdivision of any State or possession; or

[(iii) debt obligations of citizens or residents of the United States;

[(B) money and deposits with persons carrying on the banking business (other than banks as refined in section 581) constitute less than 5 percent of the value of the assets of such foreign issuer; and

[(C) less than 25 percent of each class of issued and outstanding stock of such foreign issuer is held of record by United States persons.

[(2) ACQUISITIONS THROUGH UNIT INVESTMENT TRUSTS.—For purposes of paragraph (1), an acquisition of an interest in a unit investment trust (within the meaning of section 4(2) of the Investment Company Act of 1940), or in an entity performing similar custodial functions, shall be deemed a direct acquisition from the foreign issuer of the stock held by such trust or entity with respect to such interest and shall not be treated as an acquisition of stock issued by such trust or entity.

[(3) LIMITATIONS.—

[(A) Paragraph (1) shall apply only to that portion of the total acquisitions of stock of foreign issuers described in

such paragraph (determined in the order acquired) by a United States person in any one calendar year that does not exceed $5,000.

[(B) If, after July 30, 1964, a United States person sells or otherwise disposes of stock the acquisition of which was excluded under paragraph (1) from the tax imposed by section 4911, such person shall not, with respect to such stock, be considered a United States person.

[(j) LOSS OF ENTITLEMENT TO EXCLUSION IN CASE OF CERTAIN SUBSEQUENT TRANSFERS.—

[(1) IN GENERAL.—

[(A) Where an exclusion provided by paragraph (1)(B), (2), (3), (4), (5), 6(A), or 6(B)(ii) of subsection (c) has applied with respect to the acquisition of a debt obligation by any person, but such debt obligation is subsequently transferred by such person (before the termination date specified in section 4911(d)) to a United States person otherwise than—

[(i) to any agency or wholly-owned instrumentality of the United States;

[(ii) to a commercial bank acquiring the obligation in the ordinary course of its commercial banking business;

[(iii) to an includible corporation in an affiliated group (as defined in section 48(c)(3)(C)) of which such person is a member;

[(iv) in the case of an exclusion provided by paragraph (1)(B), (2), (3), 6(A), or 6(B)(ii) of subsection (c), to any transferee where the extension of credit by such person and the acquisition of the debt obligation related thereto were reasonably necessary to accomplish the sale or lease of property or services out of which the debt obligation arose, and the terms of the debt obligation are not unreasonable in light of credit practices in the business in which such person is engaged; or

[(v) in a transaction described in subsection (a)(1) or (2), or a transaction (other than a transfer by gift) described in subsection (a)(3).

then liability for the tax imposed by section 4911 (in an amount determined under subparagraph (D) of this paragraph) shall be incurred by the transferor (with respect to such debt obligation) at the time of such subsequent transfer.

[(B) Where the exclusion provided by a paragraph (2) or (3) of subsection (c)—has applied with respect to the acquisition of stock by any person, but such stock is subsequently transferred by such person (before the termination date specified in section 4911(d)) to a United States person otherwise than in a transaction described in subsection (a)(1) or (2), or a transaction (other than a transfer by gift) described in subsection (a)(3), then liability for the tax imposed by section 4911 (in an amount determined under subparagraph (D) of this paragraph) shall be incurred by the transferor (with respect to such stock) at the time of such subsequent transfer.

[(C) Where the exclusion provided by subsection (f) has applied with respect to the acquisition of stock or a debt obligation by any person, but such stock or debt obligation is subsequently transferred by such person (before the termination date specified in section 4911(d)) to any United States person, then liability for the tax imposed by section 4911 (in an amount determined under subparagraph (D) of this paragraph) shall be incurred by the transferor (with respect to such stock or debt obligation) at the time of such subsequent transfer.

[(D) In any case where an exclusion provided by paragraph (1)(B), (2), (3), (4), (5), 6(A), or 6(B)(ii) of subsection (c) or by subsection (f) has applied, but a subsequent transfer described in subparagraph (A), (B), or (C) of this paragraph occurs and liability for the tax imposed by section 4911 is incurred by the transferor as a result thereof, the amount of such tax shall be equal to the amount of tax for which the transferor would have been liable under such section upon his acquisition of the stock or debt obligation involved if such exclusion had not applied with respect to such application.

[(2) UNITED STATES PERSON TREATED AS FOREIGN PERSON ON DISPOSITION OF CERTAIN SECURITIES.—For purposes of this chapter, if, after December 10, 1963, a United States person sells or otherwise disposes of stock or a debt obligation which it—

[(A) acquired to satisfy minimum requirements imposed by foreign law and with respect to which it claimed an exclusion under subsection (b)(3), or

[(B) designated (or was required to designate) as part of a fund of assets under subsection (e),

such person shall not, with respect to that stock or debt obligation, be considered a United States person. For purposes of this chapter, if, after July 18, 1963, a United States person sells or otherwise disposes of stock or a debt obligation to the acquisition of which the last sentence of subsection (b)(2) applied, such person shall not, with respect to that stock or debt obligation, be considered a United States person. For purposes of this chapter, if, after February 27, 1967, a United States person sells or otherwise disposes of stock or a debt obligation to the acquisition of which subsection (b)(15) applied, such person shall not, with respect to that stock or debt obligation, be considered a United States person.

[(k) ACQUISITIONS OF STOCK OR DEBT OBLIGATIONS IN CONNECTION WITH NATIONALIZATION, EXPROPRIATION, ETC.—The tax imposed by section 4911 shall not apply to the acquisition by a United States person of stock or a debt obligation of a foreign issuer or obligor, to the extent that such acquisition is required as a reinvestment within a foreign country by the terms of a contract of sale to, or a contract of indemnification with respect to the nationalization, expropriation, or seizure by, the government of such country or a political subdivision thereof, or an agency or instrumentality of such government, of property owned within such country or such political subdivision by such United States person, or by a controlled foreign corporation (as defined in section

957) more than 50 percent of the total combined voting power of all classes of stock entitled to vote of which is owned (within the meaning of section 958) by such United States person, but only if such contract was entered into because the government of such country or political subdivision, or such agency or instrumentality—

[(A) has nationalized or has expropriated or seized, or has threatened to nationalize or to expropriate or seize, a substantial portion of the property owned within such country or such political subdivision by such United States person or such controlled foreign corporation; or

[(B) has taken action which has the effect of nationalizing or of expropriating or seizing, or of threatening to nationalize or to expropriate or seize, a substantial portion of the property so owned.

[SEC. 4915. EXCLUSION FOR DIRECT INVESTMENTS.

[(a) IN GENERAL.—

[(1) EXCLUDED ACQUISITIONS.—Except as provided in subsections (c) and (d) of this section, the tax imposed by section 4911 shall not apply to the acquisition by a United States person (A) of stocks or a debt obligation of a foreign corporation, or of a debt obligation from a foreign corporation which received such obligation in the ordinary course of its trade or business as a result of the sale or rental of products manufactured or assembled by it or of the performance of services by it, if immediately after the acquisition such person (or one or more includible corporations in an affiliated group, as defined in section 1504, of which such person is a member) owns (directly or indirectly) 10 percent or more of the total combined voting power of all classes of stock of such foreign corporation, or (B) of stock or a debt obligation of a foreign partnership if immediately after the acquisition such person owns (directly or indirectly) 10 percent or more of the profits interest in such foreign partnership. For purposes of the preceding sentence, stock owned (directly or indirectly) by or for a foreign corporation shall be considered as being owned proportionately by its shareholders, and stock owned (directly or indirectly) by or for a foreign partnership shall be considered as being owned proportionately by its partners.

[(2) OVERPAYMENT WITH RESPECT TO CERTAIN TAXABLE ACQUISITIONS.—The tax paid under section 4911 on the acquisition by a United States person of stock or a debt obligation of a foreign corporation or foreign partnership, or a debt obligation from a foreign corporation which received such obligation in the ordinary course of its trade or business as a result of the sale or rental of products manufactured or assembled by it or the performance of services by it, shall (unless this subsection is inapplicable by reason of subsection (c) or (d)) constitute an overpayment of tax if such person—

[(A) meets the ownership requirement of paragraph (1) with respect to such corporation or partnership at any time within 12 months after the date of such acquisition, and

[(B) holds the stock or debt obligation continuously from the date of such acquisition to the last day of the calendar year in which such ownership requirement is first met.

Under regulations prescribed by the Secretary or his delegate, credit or refund (without interest) shall be allowed or made with respect to such overpayment.

[(b) SPECIAL RULE FOR GOVERNMENT-CONTROLLED ENTERPRISES.—A United States person shall be considered to meet the ownership requirement of subsection (a) (1) with respect to a foreign corporation or a foreign partnership if—

[(1) the government of a foreign country or any political subdivision thereof, or an agency or instrumentality of such a government, directly or indirectly through such corporation or partnership or otherwise, restricts to less than 10 percent the percentage of the total combined voting power of all classes of stock of such corporation, or the percentage of the profits interest in such partnership, which may be owned by such United States person;

[(2) such person owns at least 5 percent of the total combined voting power of so much of such stock, or at least 5 percent of so much of such profits interest, as is not owned by any such government, agency, or instrumentality;

[(3) a trade or business actively conducted in one or more foreign countries by such United States person (or by one or more corporations in an affiliate group, as defined in section 48(c) (3) (C), of which such person is a member) is directly related to the business carried on by such foreign corporation or foreign partnership; and

[(4) such person, and one or more other United States persons each of which satisfies the conditions set forth in paragraphs (2) and (3), together meet the ownership requirement of subsection (a) (1).

[(c) EXCEPTION FOR FOREIGN CORPORATIONS OR PARTNERSHIPS FORMED OR AVAILED OF FOR TAX AVOIDANCE.—

[(1) IN GENERAL.—The provisions of subsections (a) and (b) shall be inapplicable in any case where the foreign corporation or foreign partnership is formed or availed of by the United States person for the principal purpose of acquiring through such corporation or partnership, an interest in stock or debt obligations (of one or more other foreign issuers or obligors) the direct acquisition of which by the United States person would be subject to the tax imposed by section 4911.

[(2) COMMERCIAL BANKS, UNDERWRITERS, AND REQUIRED HOLDINGS.—For purposes of this subsection, the acquisition by a United States person of stock or debt obligations of a foreign corporation or foreign partnership which acquires stock or debt obligations of foreign issuers or obligors—

[(A) in making loans in the ordinary course of its business as a commercial bank,

[(B) in the ordinary course of its business of underwriting and distributing securities issued by other persons, or

[(C) to satisfy minimum requirements relating to holdings of stock or debt obligations of foreign issuers or obligors imposed by the laws of foreign countries where such foreign corporation or foreign partnership is doing business,

shall not, by reason of such acquisitions by the foreign corporation or foreign partnership, be considered an acquisition by the United States person of an interest in stock or debt obligations of foreign issuers

or obligors. For purposes of subparagraph (A), any foreign corporation or foreign partnership which is regularly engaged in the business of accepting deposits from customers and receiving other borrowed funds in foreign currencies and making loans in such currencies shall be treated as a commercial bank.

[(4) LOSS OF ENTITLEMENT TO EXCLUSION OR REFUND WHERE FOREIGN CORPORATION OR PARTNERSHIP IS AVAILED OF FOR TAX AVOIDANCE.—In any case where—

[(A) the exclusion provided by subsection (a)(1) has applied with respect to the acquisition of stock or a debt obligation by a United States person, or

[(B) a credit or refund of tax under subsection (a)(2) has been received by a United States person with respect to acquisitions of stock made during a calendar year.

but the foreign corporation or partnership is availed of by such person (after the acquisition described in subparagraph (A) is made or the calendar year described in subparagraph (B) has ended, but before the termination date specified in section 4911(d)) for the principal purpose described in paragraph (1) of this subsection, then liability for the tax imposed by section 4911 shall be incurred by such person (with respect to such stock or debt obligation) at the time the foreign corporation or partnership is so availed of; and the amount of such tax shall be equal (in a case described in subparagraph (A)) to the amount of tax for which such person would have been liable under such section upon his acquisition of the stock or debt obligations involved if such exclusion had not been applied to such acquisition, or (in a case described in subparagraph (B)) to the aggregate amount of tax for which such person was liable under such section upon his acquisitions of the stock involved.

[(d) EXCEPTION FOR ACQUISITIONS MADE WITH INTENT TO SELL TO UNITED STATES PERSONS.—The provisions of subsections (a) and (b) shall be inapplicable in any case where the acquisition of stock or debt obligation of the foreign corporation or foreign partnership is made with an intent to sell, or to offer to sell, any part of the stock or debt obligations acquired to United States persons.

[(e) SPECIAL RULE FOR INVESTMENTS IN CERTAIN LENDING AND FINANCING CORPORATIONS.—

[(1) IN GENERAL.—For purposes of this chapter, a corporation described in paragraph (2) shall be treated as a foreign corporation which is not formed or availed of for the principal purpose described in subsection (c)(1) with respect to an acquisition of its stock or debt obligations, if it is established to the satisfaction of the Secretary or his delegate, pursuant to regulations prescribed by the Secretary or his delegate, that—

[(A)(i) the amounts received by the corporation as a result of the acquisition will not be used to acquire stock of foreign issuers or debt obligations of foreign obligors (other than stock or debt obligations the acquisition of which is not subject to the tax imposed by section 4911 on account of section 4914(c)), or utilized in any way outside of the United States other than for the acquisition of tangible personal property for leasing which is manufactured or produced in the United States, or (ii) the funds used for such acquisition were obtained from sources outside the United States; and

[(B) such information and records with respect to the corporation as are necessary for the administration of this chapter will be made available to the Secretary or his delegate.

[(2) CORPORATIONS.—The corporations referred to in paragraph (1) are—

[(A) a domestic corporation described in section 4920(a)(3)(C),

[(B) a domestic corporation which is a qualified lending and financing corporation (as defined in section 4920(d)) during any period during which an election under section 4920(a)(3B) is in effect, and

[(C) a foreign corporation which is a qualified lending and financing corporation (as defined in section 4920(d)) and has given notice to the Secretary or his delegate of its status as such a corporation.

[(3) MISUSE OF AMOUNTS RECEIVED.—In any case in which paragraph (1) applied to an acquisition of stock or debt obligations and—

[(i) the amounts received by the corporation whose stock or debt obligations were acquired as a result of such acquisition are (before the termination date specified in section 4911(d)) used to acquire stock of foreign issuers or debt obligations of foreign obligors or utilized in any other way outside of the United States in violation of the regulations prescribed under paragraph (1), or

[(ii) information or records with respect to the corporation, which the Secretary or delegate has determined (before such termination date) necessary for the administration of this chapter, are not, after reasonable notice, made available to the Secretary,

then liability for the tax imposed by section 4911 shall be incurred by the acquiring corporation (with respect to such acquisition) at the time such amounts are so used or such information or records are not so made available; and the amount of such tax shall be equal to the amount of tax for which the acquiring corporation would have been liable under such section upon its acquisition of the stock or debt obligations involved if paragraph (1) had not applied to such acquisition.

[SEC. 4916. EXCLUSION FOR INVESTMENTS IN LESS DEVELOPED COUNTRIES.

[(a) GENERAL RULE.—The tax imposed by section 4911 shall not apply to the acquisition by a United States person of—

[(1) a debt obligation issued or guaranteed by the government of a less developed country or a political subdivision thereof, or by an agency or instrumentality of such a government;

[(2) stock or a debt obligation of a less developed country corporation (except as provided in subsection (e)); or

[(3) a debt obligation issued by an individual or partnership resident in a less developed country in return for money or other property which is used, consumed, or disposed of wholly within one or more less developed countries.

For purposes of this subsection, an instrumentality of the government of a less developed country or a political subdivision thereof includes a corporation or other entity with respect to which such government, or any agency of such government, owns more than 50 percent of the total combined voting power of all classes of stock entitled to vote or, in the case of a corporation or other entity not issuing shares of stock, has the authority to elect or appoint a majority of the board of directors or equivalent body of such corporation or other entity.

[(b) LESS DEVELOPED COUNTRY DEFINED.—For purposes of this section, the term "less developed country" means any foreign country (other than an area within the Sino-Soviet bloc) or any possession of the United States with respect to which, as of the date of an acquisition referred to in subsection (a), there is in effect an Executive order by the President of the United States designating such country as an economically less developed country for purposes of the tax imposed by section 4911. For purposes of the preceding sentence, Executive Order Numbered 11071, dated December 27, 1962 (designating certain areas as economically less developed countries for purposes of subparts A and F of part III of subchapter N, and section 1248 of part IV of subchapter P, of chapter 1), shall be deemed to have been issued and in effect, for purposes of the tax imposed by section 4911, on July 18, 1963, and continuously thereafter until there is in effect the Executive order referred to in the preceding sentence. An overseas territory, department, province, or possession of any foreign country may be designated as a separate country. No designation shall be made under this subsection with respect to any of the following:

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

After the President (under the first sentence of this subsection) has designated any foreign country as an economically less developed country for purposes of the tax imposed by section 4911, he shall not terminate such designation (either by issuing an Executive order for that purpose or by issing an Executive order which has the effect of terminating such designation) unless, at least 30 days before such termination, he has notified the Senate and the House of Representatives of his intention to terminate such designation.

[(c) LESS DEVELOPED COUNTRY CORPORATION DEFINED.—

[(1) IN GENERAL.—For purposes of this section, the term "less developed country corporation" means a foreign corporation which for the applicable periods set forth in paragraph (3)—

[(A) meets the requirements of section 955(c)(1);

[(B) (i) meets the requirements of section 955(c)(2), and

[(ii) on each day of such applicable periods, is owned (as determined under section 985(a)), to the extent of at least 80 percent of each class of its stock, by United States persons or residents of one or more less developed countries; or

[(C) derives 80 percent or more of its gross income, if any, from sources within less developed countries, or from deposits in the United States with persons carrying on the banking business, or both, and has assets 80 percent or more in value of which consists of—

[(i) money, and deposits in the United States with persons carrying on the banking business,

[(ii) stock or debt obligations of any other less developed country corporation,

[(ii) stock or debt obligations of any other less devel-

[(iv) investments which are required because of restrictions imposed by a less developed country,

[(v) debt obligations described in paragraph (3) of subsection (a) of this section, and

[(vi) obligations of the United States.

In applying this paragraph the determination of whether a foreign country is a less developed country shall be made in accordance with subsection (b) of this section. A foreign partnership, as defined in section 7701((a)(2) and (5), the assets, gross income, and ownership of which, for the applicable periods set forth in paragraph (3), satisfy the requirements of subparagraph (A), (B), or (C) of the first sentence of this paragraph, shall be treated as a less developed country corporation for purposes of this section.

[(2) SPECIAL RULES.—

[(A) for purposes of subparagraphs (A), (B), and (C) of paragraph (1), property described in section 956(b)(1) (regardless of when acquired), other than deposits with persons carrying on the banking business, and income derived from such property, shall not be taken into account.

[(B) For purposes of subparagraph (A) of paragraph (1), obligations of any other less developed country corporation shall be taken into account under section 955(c)(1)(B)(iii) without regard to the period remaining to maturity at the time of their acquisition.

[(C) For purposes of subparagraph (C) of paragraph (1), deposits outside the United States (other than deposits in a less developed country) with persons carrying on the banking business, and income from such deposits, shall not be taken into account.

[(3) APPLICABLE PERIODS.—The determinations required by subparagraphs (A), (B), and (C) of paragraph (1) shall be made

(A) for the annual accounting period (if any) of the foreign corporation immediately preceding its accounting period in which the acquisition involved is made, (B) for the annual accounting period of the foreign corporation in which such acquisition is made, and (C) for the next succeeding annual accounting period of the foreign corporation.

[(4) SPECIAL RULES FOR TREATMENT OF CORPORATIONS AS LESS DEVELOPED COUNTRY CORPORATIONS.—A foreign corporation shall be treated as satisfying the definition in paragraph (1) with respect to the acquisition by a United States person of stock or a debt obligation if—

[(A) before the acquisition occurs (or, in the case of an acquisition occurring before or within 60 days after the date of the enactment of this chapter, pursuant to application made within such period following such date as may be prescribed by the Secretary or his delegate in regulations), it is established to the satisfaction of the Secretary or his delegate that such foreign corporation—

[(i) has met the applicable requirements of paragraph (1) for the period (if any) referred to in paragraph (3)(A), and

[(ii) may reasonably be expected to satisfy such requirements for the periods referred to in paragraphs (3)(B) and (C); or

[(B) in the case of an acquisition occurring on or before December 10, 1963, the applicable requirements of paragraph (1) are met for the annual accounting period of the foreign corporation immediately preceding its accounting period in which the acquisition occurred.

[(5) TREATMENT OF CORPORATIONS AS LESS DEVELOPED COUNTRY CORPORATIONS IN OTHER CASES.—A foreign corporation may also be treated as satisfying the definition in paragraph (1) with respect to the acquisition by a United States person of stock or a debt obligation (but subject to possible subsequent liability for tax under subsection (d)(1)), if—

[(A) such corporation has met the applicable requirements of paragraph (1) for the period (if any) referred to in paragraph (3)(A), and

[(B) such person reasonably believes that such corporation will satisfy such requirements for the periods referred to in paragraphs (3)(B) and (C).

[(d) SUBSEQUENT LIABILITY FOR TAX IN CERTAIN CASES.—

[(1) STOCK AND DEBT OBLIGATIONS OF CERTAIN CORPORATIONS.—Where a foreign corporation is treated under subsection (c)(5) as satisfying the definition in subsection (c)(1) and the exclusion provided by subsection (a)(2) has applied with respect to the acquisition of stock or a debt obligation of such corporation by any person, but such corporation fails to satisfy the definition contained in subsection (c)(1) for either of the applicable accounting periods referred to in clauses (B) and (C) of subsection (c)(3) (and it is not treated under subsection (c)(4) as satisfying such definition), then liability for the tax imposed by section 4911 shall

be incurred by such person (with respect to such stock or debt obligation) as of the close of the earliest such applicable accounting period (ending on or before the termination date specified in section 4911(d)) with respect to which the corporation fails to satisfy such definition; and the amount of such tax shall be equal to the amount of tax for which such person would have been liable under such section upon the acquisition of the stock or debt obligation involved if such exclusion had not applied with respect to such acquisition.

[(2) DEBT OBLIGATIONS ISSUED IN RETURN FOR CERTAIN PROPERTY.—Where the exclusion provided by subsection (a)(3) has applied with respect to the acquisition by a United States person of a debt obligation issued in return for money or other property as provided in such subsection, but part or all of such money or property is used, consumed, or disposed of (before the termination date specified in section 4911(d)) otherwise than wholly within one or more less developed countries, then liability for the tax imposed by section 4911 shall be incurred by such person (with respect to such debt obligation) as of the time such money or property is first so used, consumed, or disposed of; and the amount of such tax shall be equal to the amount of tax for which such person would have been liable under such section upon the acquisition of the debt obligation involved if such exclusion had not applied with respect to such acquisition.

[(e) REPEAL OF EXCLUSION FOR ISSUES AFTER JANUARY 29, 1973, IN THE CASE OF LESS DEVELOPED COUNTRY SHIPPING COMPANIES.—Subsection (a)(2) shall not apply to acquisitions of stock or debt obligations of a corporation described in subsection (c)(1)(B) (relating to certain less developed country shipping companies) which were issued after January 29, 1973.

[SEC. 4917. EXCLUSION FOR ORIGINAL OR NEW ISSUES WHERE REQUIRED FOR INTERNATIONAL MONETARY STABILITY.

[(a) IN GENERAL.—If the President of the United States shall at any time determine that the application of the tax imposed by section 4911 will have such consequences for a foreign country as to imperil or threaten to imperil the stability of the international monetary system, he may by Executive order specify that such tax shall not apply to the acquisition by a United States person of stock or a debt obligation of the government of such foreign country or a political subdivision thereof, any agency or instrumentality of any such government, any corporation, partnership, or trust (other than a company registered under the Investment Company Act of 1940) organized under the laws of such country or any such subdivision, or any individual resident therein, to the extent that such stock or debt obligation is acquired as all or part of an original or new issue as to which there is filed such notice of acquisition as the Secretary or his delegate may prescribe by regulations. In the case of acquisitions made during the period beginning July 19, 1963, and ending with the date of the enactment of this chapter, the notice of acquisition may be filed within such period following the date of such enactment as the Secretary or his delegate may prescribe by regulations. In the case of acquisitions of debt obligations having a period remaining to maturity of 1

year or more but less than 3 years made during the period beginning February 11, 1965, and ending with the date of the enactment of the Interest Equalization Tax Extension Act of 1965, the notice of acquisition may be filed within such period following the date of such enactment as the Secretary or his delegate may prescribe by regulations.

[(b) APPLICABILITY OF EXECUTIVE ORDER.—An Executive order described in subsection (a) may be applicable to all such original or new issues or to any aggregate amount or classification thereof which shall be stated in such order and shall apply to acquisitions occurring during such period of time as shall be stated therein. If the order is applicable to a limited aggregate amount of such issues it shall apply (under regulations prescribed by the Secretary or his delegate) to those acquisitions as to which notice of acquisition was first filed, provided that in the case of any such notice the acquisition described in the notice is made before or within 90 days after the date of filing or within such longer period after such date as may be specified in such order.

[(c) ORIGINAL OR NEW ISSUE.—For purposes of this section—

[(1) stock shall be treated as part of an original or new issue only when it is acquired from the issuer by the United States person claiming the exclusion; and

[(2) a debt obligation shall be treated as part of an original or new issue only if acquired not later than 90 days after the date on which interest begins to accrue on such obligation, except that a debt obligation secured by a lien on improvements on real property which are under construction or are to be constructed at the time such obligation is issued (or if such obligation is one of a series, at the time the first obligation in such series is issued) shall be treated as part of an orginal or new issue if—

[(A) such obligation is acquired not later than 90 days after the date on which interest begins to accrue on the total amount of such obligation (or if such obligation is one of a series, on the last issued of the obligations in such series); and

[(B) the United States person claiming the exclusion became committed to the acquisition of such obligation not later than 90 days after the date on which interest began to accrue on any part of such obligation (or, if such obligation is one of a series, on the first obligation issued in such series).

[(d) REDUCTION OF EXCLUSION IN CASE OF LATE FILING OF CERTAIN NOTICES OF ACQUISITION.—If, with respect to an acquisition of stock or a debt obligation which is all or part of an original or new issue to which an Executive order issued under subsection (a) is applicable (other than an Executive order which is applicable to a limited aggregate amount of such issues), the notice of acquisition required by subsection (a) is not filed on or before the last day (including extensions of time) specified in the regulations prescribed by the Secretary or his delegate under such subsection, the exclusion provided by such Executive order shall not apply to 1 percent of such acquisition for each 30-day period or fraction thereof after such last day during which such failure continues, except that in no event shall such exclusion be reduced under this subsection by more than 5 percent of such acquisition.

[(e) FULFILLMENT OF TREATY OBLIGATIONS.—In determining whether to issue an Executive order under subsection (a) with respect to a foreign country, and in determining whether to revoke or modify an Executive order issued under subsection (a) with respect to a foreign country (whether issued before or after the enactment of this subsection), the President may take into account whether such foreign country is according privileges to United States persons in conformity with treaties of friendship, commerce, and navigation between the United States and such foreign country.

[SEC. 4978. EXEMPTION FOR PRIOR AMERICAN OWNERSHIP AND COMPLIANCE.

[(a) GENERAL RULE.—The tax imposed by section 4911 shall not apply to an acquisition of stock of a foreign issuer or a debt obligation of a foreign obligor if it is established in the manner provided in this section that—

[(1) the person from whom such stock or debt obligation was acquired was a United States person throughout the period of his ownership or continuously since July 18, 1963, and was not ineligible, under the provisions of this chapter, to dispose of such stock or debt obligation as a United States person; and

[(2) such person—

[(A) had paid the tax imposed by section 4911 with respect to the acquisition of such stock or debt obligation by such person; or

[(B) acquired such stock or debt obligation without liability for payment of such tax.

[(b) ESTABLISHING EXEMPTION FOR PRIOR AMERICAN OWNERSHIP AND COMPLIANCE.—

[(1) CONCLUSIVE PROOF.—For purposes of the exemption for prior American ownership and compliance provided in subsection (a)—

[(A) a validation certificate, evidencing that the person from whom stock of a foreign issuer or a debt obligation of a foreign obligor was acquired was a person described in subsection (a), issued by the Secretary or his delegate (or by any officer or employee of the United States designated by the Secretary or his delegate) and filed in accordance with the requirements prescribed by the Secretary or his delegate; or

[(B) a written confirmation (referred to as an IET clean confirmation) received by the person acquiring such stock or debt obligation from a participating firm acting as a broker in effecting the acquisition (or acting for its own account) which contains no reference to liability for the tax imposed by section 4911,

shall be conclusive proof that such exemption applies with respect to the acquisition of the stock or debt obligation described in such certificate or confirmation, if the person making the acquisition relies in good faith on the validity of such certificate or confirmation.

[(2) OTHER PROOF.—If the person making an acquisition of stock or a debt obligation shows reasonable cause for his inability

year or more but less than 3 years made during the period beginning February 11, 1965, and ending with the date of the enactment of the Interest Equalization Tax Extension Act of 1965, the notice of acquisition may be filed within such period following the date of such enactment as the Secretary or his delegate may prescribe by regulations.

[(b) APPLICABILITY OF EXECUTIVE ORDER.—An Executive order described in subsection (a) may be applicable to all such original or new issues or to any aggregate amount or classification thereof which shall be stated in such order and shall apply to acquisitions occurring during such period of time as shall be stated therein. If the order is applicable to a limited aggregate amount of such issues it shall apply (under regulations prescribed by the Secretary or his delegate) to those acquisitions as to which notice of acquisition was first filed, provided that in the case of any such notice the acquisition described in the notice is made before or within 90 days after the date of filing or within such longer period after such date as may be specified in such order.

[(c) ORIGINAL OR NEW ISSUE.—For purposes of this section—

[(1) stock shall be treated as part of an original or new issue only when it is acquired from the issuer by the United States person claiming the exclusion; and

[(2) a debt obligation shall be treated as part of an original or new issue only if acquired not later than 90 days after the date on which interest begins to accrue on such obligation, except that a debt obligation secured by a lien on improvements on real property which are under construction or are to be constructed at the time such obligation is issued (or if such obligation is one of a series, at the time the first obligation in such series is issued) shall be treated as part of an orginal or new issue if—

[(A) such obligation is acquired not later than 90 days after the date on which interest begins to accrue on the total amount of such obligation (or if such obligation is one of a series, on the last issued of the obligations in such series); and

[(B) the United States person claiming the exclusion became committed to the acquisition of such obligation not later than 90 days after the date on which interest began to accrue on any part of such obligation (or, if such obligation is one of a series, on the first obligation issued in such series).

[(d) REDUCTION OF EXCLUSION IN CASE OF LATE FILING OF CERTAIN NOTICES OF ACQUISITION.—If, with respect to an acquisition of stock or a debt obligation which is all or part of an original or new issue to which an Executive order issued under subsection (a) is applicable (other than an Executive order which is applicable to a limited aggregate amount of such issues), the notice of acquisition required by subsection (a) is not filed on or before the last day (including extensions of time) specified in the regulations prescribed by the Secretary or his delegate under such subsection, the exclusion provided by such Executive order shall not apply to 1 percent of such acquisition for each 30-day period or fraction thereof after such last day during which such failure continues, except that in no event shall such exclusion be reduced under this subsection by more than 5 percent of such acquisition.

[(e) FULFILLMENT OF TREATY OBLIGATIONS.—In determining whether to issue an Executive order under subsection (a) with respect to a foreign country, and in determining whether to revoke or modify an Executive order issued under subsection (a) with respect to a foreign country (whether issued before or after the enactment of this subsection), the President may take into account whether such foreign country is according privileges to United States persons in conformity with treaties of friendship, commerce, and navigation between the United States and such foreign country.

[SEC. 4978. EXEMPTION FOR PRIOR AMERICAN OWNERSHIP AND COMPLIANCE.

[(a) GENERAL RULE.—The tax imposed by section 4911 shall not apply to an acquisition of stock of a foreign issuer or a debt obligation of a foreign obligor if it is established in the manner provided in this section that—

[(1) the person from whom such stock or debt obligation was acquired was a United States person throughout the period of his ownership or continuously since July 18, 1963, and was not ineligible, under the provisions of this chapter, to dispose of such stock or debt obligation as a United States person; and

[(2) such person—

[(A) had paid the tax imposed by section 4911 with respect to the acquisition of such stock or debt obligation by such person; or

[(B) acquired such stock or debt obligation without liability for payment of such tax.

[(b) ESTABLISHING EXEMPTION FOR PRIOR AMERICAN OWNERSHIP AND COMPLIANCE.—

[(1) CONCLUSIVE PROOF.—For purposes of the exemption for prior American ownership and compliance provided in subsection (a)—

[(A) a validation certificate, evidencing that the person from whom stock of a foreign issuer or a debt obligation of a foreign obligor was acquired was a person described in subsection (a), issued by the Secretary or his delegate (or by any officer or employee of the United States designated by the Secretary or his delegate) and filed in accordance with the requirements prescribed by the Secretary or his delegate; or

[(B) a written confirmation (referred to as an IET clean confirmation) received by the person acquiring such stock or debt obligation from a participating firm acting as a broker in effecting the acquisition (or acting for its own account) which contains no reference to liability for the tax imposed by section 4911,

shall be conclusive proof that such exemption applies with respect to the acquisition of the stock or debt obligation described in such certificate or confirmation, if the person making the acquisition relies in good faith on the validity of such certificate or confirmation.

[(2) OTHER PROOF.—If the person making an acquisition of stock or a debt obligation shows reasonable cause for his inability

to establish such exemption under paragraph (1) he may furnish other evidence to establish to the satisfaction of the Secretary or his delegate that such exemption is applicable to such acquisition.

[(3) CERTAIN ACQUISITIONS BY DEALERS.—For purposes of paragraph (1), if the person acquiring the stock or debt obligation is a participating firm acting for its own account and if such participating firm would be entitled to issue a written confirmation referred to in paragraph (1)(B) if it were acting as a broker in effecting such acquisition for the account of a customer, such participating firm shall be treated as having received a written confirmation referred to in paragraph (1)(B) with respect to such acquisition.

[(c) PARTICIPATING FIRM.—

[(1) DEFINITION.—For purposes of this section, a participating firm is a member or member organization of a national securities exchange or association registered with the Securities and Exchange Commission which satisfies the eligibility requirements set forth in paragraph (2).

[(2) ELIGIBILITY REQUIREMENTS.—

[(A) IN GENERAL.—A member or member organization of a national securities exchange or association registered with the Securities and Exchange Commission shall qualify as a participating firm if such member or member organization notifies the Secretary or his delegate that it—

[(i) agrees to comply with the provisions of this chapter and with the documentation, recordkeeping, reporting, and auditing requirements prescribed by the Secretary or his delegate to implement such provisions; and

[(ii) if such notification is made after August 14, 1967, is complying with such provisions and requirements.

[(B) PARTICIPATING FIRMS DURING INTERIM PERIOD.—During the period commencing July 15, 1967, and ending on August 14, 1967, the following are deemed to be participating firms which satisfy the eligibility requirements of subparagraph (A):

[(i) all members and member organizations of the New York Stock Exchange;

[(ii) all members and member organizations of the American Stock Exchange; and

[(iii) members or member organizations of the National Association of Securities Dealers, Inc., which reported net capital (as defined in rule 15c 3–1 under the Securities Exchange Act of 1934) of $750,000 in the latest financial statement filed with the Securities and Exchange Commission on form X–17A–5 prior to July 13, 1967, or which effected at least 300 transactions with respect to the sale or acquisition of stock of foreign issuers or debt obligations of foreign obligors during either the week commencing on July 2, 1967, or the week commencing on July 9, 1967.

[(C) TERMINATION OF STATUS.—The status of a member or member organization of a national securities exchange or association registered with the Securities and Exchange Commission qualifying as a participating firm shall be terminated if—

[(i) such member or member organization qualifies as a participating firm during the interim period described in subparagraph (B) and does not submit to the Secretary or his delegate, on or before August 15, 1967, the notification described in subparagraph (A);

[(ii) such member or member organization files a written request with the Secretary or his delegate to terminate such status; or

[(iii) the Secretary or his delegate has reasonable cause to believe a participating firm is failing to comply with the statutory provisions and procedural requirements described in subparagraph (A), and notifies the participating firm of such noncompliance.

Any termination of the status of a participating firm in accordance with this subparagraph shall be effective as of the date specified in a notice to such participating firm issued by the Secretary or his delegate which date shall be subsequent to the date on which information regarding the termination of such status is published for the purpose of informing the remaining participating firms and participating custodians.

For purposes of this paragraph, an associate member or member organization of the New York Stock Exchange, the American Stock Exchange, or a national securities association registered with the Securities and Exchange Commission shall be deemed a member or member organization of such exchange or association.

[(d) ISSUANCE OF IET CLEAN CONFIRMATION BY PARTICIPATING FIRM.—A participating firm may issue an IET clean confirmation (referred to in subsection (b)(1)(B)) in connection with an acquisition of stock of a foreign issuer or a debt obligation of a foreign obligor by a United States person—

[(1) if such participating firm—

[(A) acted as a broker in effecting such acquisition and received from another participating firm a written comparison or broker-dealer confirmation under subsection (e) which indicates that the exemption for prior American ownership and compliance provided in subsection (a) applies to such acquisition;

[(B) acted as a broker in effecting both the sale and acquisition on the same day of such stock or debt obligation and would have been entitled to issue a written comparison or broker-dealer confirmation under paragraph (e) which indicates that the exemption for prior American ownership and compliance provided in subsection (a) applies to such acquisition if such acquisition had been effected by another participating firm; or

[(C) sold such stock or debt obligation for its own account and is a person described in subsection (a) with respect to such acquisition; or

[(2) if such acquisition was effected by such participating firm in a sale by, or effected by, another participating firm on a

national securities exchange registered with the Securities and Exchange Commission, or in a transaction in which such participating firm and the participating firm effecting the sale were members of a national association of securities dealers registered with the Securities and Exchange Commission, and if such acquisition was effected in accordance with rules of such exchange or such association which the Secretary or his delegate determines require acquisitions exempt from tax under this section to be effected in such a manner that the requirements of subsection (e) are satisfied.

Any IET clean confirmation issued under this subsection shall be clearly distinguishable from any other confirmation issued with respect to an acquisition of stock of a foreign issuer or a debt obligation of a foreign obligor by a participating firm.

[(e) SALES EFFECTED BY PARTICIPATING FIRMS IN CONNECTION WITH EXEMPT ACQUISITIONS.—A participating firm selling, or effecting the sale of, stock of a foreign issuer or a debt obligation of a foreign obligor may issue a written comparison or broker-dealer confirmation, which indicates the exemption for prior American ownership and compliance provided in subsection (a) applies to the acquisition of such stock or debt obligation, only if such participating firm (or another participating firm for which the sale is being effected) has in its possession (except in the case of a sale by a participating firm selling for its own account and in the case of a sale for another participating firm or a participating custodian to which paragraph (4) applies) a statement, upon which such participating firm (or such other participating firm) relies in good faith, executed under penalty of perjury by the person making the sale, establishing that such person is a United States person and is the owner of all stock of foreign issuers and debt obligations of foreign obligors carried in the records of such participating firm (or such other participating firm) for the account of such person; and such participating firm (or such other participating firm) either—

[(1) (A) at the close of business on July 14, 1967, carried such stock or debt obligation in its records (on a trade-date basis) for the account of the seller; and

[(B) included such stock or debt obligation in the transition inventory referred to in subsection (g) filed or to be filed on on or before the due date by such participating firm with the Secretary or his delegate in accordance with the provisions of such subsection;

[(2) after July 14, 1967, acquired such stock or debt obligation for its own account, if the exemption for prior American ownership and compliance provided in subsection (a) applied to such acquisition by reason of subsection (b) (3), or—

[(A) sold for its own account such stock or debt obligation to the seller, or acting as broker effected the acquisition of such stock or debt obligation by the seller, if the exemption for prior American ownership and compliance provided in subsection (a) applied to such acquisition by reason of subsection (b) (1) (B); and

[(B) continuously carried in its records on a trade-date basis for the account of the seller such stock or debt obligation;

[(3) (A) sold for its own account such stock or debt obligation to the seller, or acting as a broker effected the acquisition of such stock or debt obligation by the seller, if, by reason of subsection (b) (1) (B) (or by reason of subsection (c) or (d) as in effect with respect to acquisitions before July 15, 1967), the exemption for prior American ownership and compliance provided by subsection (a) (or the exemption for prior American ownership provided by subsection (a) as in effect with respect to acquisitions before July 15, 1967) applied to such acquisition; and

[(B) after July 14, 1967, received from the seller the identical stock certificates or evidences of indebtedness which it had previously delivered to the seller with respect to such acquisition by the seller;

[(4) receives possession of such stock or debt obligation from another participating firm or from a participating custodian, together with a transfer of custody certificate, as provided in subsection (h);

[(5) receives from the seller stock which was registered before July 19, 1963, in the name of the seller by a participating custodian which acted as transfer agent or registrar in registering such stock;

[(6) receives a validation certificate issued by the Secretary or his delegate evidencing that the seller is a person described in subsection (a) with respect to such stock or debt obligation and files such certificate with the Secretary or his delegate in accordance with the requirements prescribed by the Secretary or his delegate;

[(7) withholds from the proceeds of such sale (with the consent of the seller) an amount equal to the tax which would be imposed under section 4911 on the acquisition of such stock or debt obligation by the purchaser if such acquisition were not exempt from such tax under this section;

[(8) sells for its own account and pays the tax imposed under section 4911 on its acquisition of such stock or debt obligation not later than the time it would be required to pay over such tax to the Secretary or his delegate if such tax were withheld under paragraph (7); or

[(9) conditions set forth in regulations prescribed by the Secretary or his delegate are met.

The withholding under paragraph (7) shall be treated as the collection of the tax imposed under section 4911 on the acquisition by the seller of such stock or debt obligation and shall be paid over to the Secretary or his delegate or released to the seller at such time and in such manner as provided in regulations prescribed by the Secretary or his delegate. For purposes of paragraphs (2), (3), (5), and (7), the term "seller" does not include a participating firm selling for its own account.

[(f) PARTICIPATING CUSTODIAN.—

[(1) DEFINITION.—For purposes of this section, a participating custodian is a bank or trust company insured by the Federal Deposit Insurance Corporation which satisfies the eligibility requirements set forth in paragraph (2).

[(2) ELIGIBILITY REQUIREMENTS.—

[(A) IN GENERAL.—A bank or trust company insured by the Federal Deposit Insurance Corporation may become a

participating custodian if such bank or trust company notifies the Secretary or his delegate that it—

[(i) agrees to comply with the provisions of this chapter and the documentation, record-keeping, reporting, and auditing requirements prescribed by the Secretary or his delegate to implement such provisions, and

[(ii) if such notification is made after August 14, 1967, is complying with such provisions and requirements.

[(B) PARTICIPATING CUSTODIANS DURING INTERIM PERIOD.—During the period commencing July 15, 1967, and ending on August 14, 1967, Federal Reserve member banks which are classified as reserve city banks are deemed to be participating custodians which satisfy the eligibility requirements of subparagraph (A).

[(C) TERMINATION OF STATUS.—The status of a bank or trust company insured by the Federal Deposit Insurance Corporation as a participating custodian shall be terminated, if—

[(i) such bank or trust company qualifies as a participating firm during the interim period described in subparagraph (B) and does not submit to the Secretary or his delegate, on or before August 15, 1967, the notification described in subparagraph (A);

[(ii) such bank or trust company files a written request with the Secretary or his delegate to terminate such status; or

[(iii) the Secretary or his delegate has reasonable cause to believe a participating custodian is failing to comply with the statutory provisions and procedural requirements described in subparagraph (A), and notifies the participating custodian of such noncompliance.

Any termination of the status of a participating custodian in accordance with this subparagraph shall be effective as of the date specified in a notice to such participating custodian issued by the Secretary or his delegate which date shall be subsequent to the date on which information regarding the termination of such status is published for the purpose of informing the remaining participating custodians and participating firms.

[(g) FILING OF TRANSITION INVENTORY.—A participating firm and participating custodian which qualifies before August 15, 1967, shall, on or before August 15, 1967, file an inventory (designated as a transition inventory) with the Secretary or his delegate which shall include all stock of foreign issuers and debt obligations of foreign obligors carried in its records (on a trade-date basis) by such participating firm or participating custodian as of the close of business on July 14, 1967 (excluding, in the case of a member or member organization which becomes a participating firm after July 15, 1967, and in the case of a bank or trust company which becomes a participating custodian after July 15, 1967, stock and debt obligations not also carried in its records (on a trade-date basis) as of the close of business on the day prior to the day on which it became a participating firm or participating custodian), together with such information as may be required by the Secretary or his delegate.

[(h) TRANSFER OF CUSTODY CERTIFICATE.—

[(1) NATURE OF CERTIFICATE.—A certificate (designated as a transfer of custody certificate) may be issued in accordance with paragraph (2) by a participating firm or participating custodian in connection with a delivery of stock of foreign issuers or debt obligations of foreign obligors which are carried in its records for the account of a United States person to another participating firm or participating custodian.

[(2) AUTHORIZED TRANSFERS OF CUSTODY.—A participating firm or participating custodian shall issue a transfer of custody certificate only if, with respect to the stock or debt obligations described in such certificate, such participating firm or participating custodian (or another participating firm or participating custodian for which the delivery is being effected) has in its possession a statement upon which such participating firm or participating custodian (or such other participating firm or participating custodian) relies in good faith, executed under penalty of perjury, by the person for whose account the delivery is being made, establishing that such person is a United States person and is the owner of all stock of foreign issuers and debt obligations of foreign obligors carried in its records for the account of such person, and if either—

[(A) such participating firm or participating custodian—

[(i) carried in its records (on a trade-date basis) at the close of business on July 14, 1967, for the account of a United States person the stock or debt obligation described in the transfer of custody certificate; and

[(ii) includes such stock or debt obligation in the transition inventory referred to in subsection (g) filed or to be filed on or before the due date by such participating firm with the Secretary or his delegate in accordance with the provisions of such subsection;

[(B) such participating firm or participating custodian received a like amount of stock or debt obligations described in the transfer of custody certificate from another participating firm or participating custodian accompanied by a transfer of custody certificate with respect to such stock or debt obligation;

[(C) such participating firm—

[(i) effected as broker (or for its own account) the acquisition of the stock or debt obligation described in the transfer of custody certificate, and the exemption for prior American ownership and compliance provided in subsection (a) applied to such acquisition by reason of subsection (b)(1)(B); and

[(ii) continuously carried in its records for the account of the person who acquired such stock or debt obligation, or received from such person, the identical stock certificates or evidences of indebtedness which it had previously delivered to such person in connection with such acquisition;

[(D) such participating custodian received an IET clean confirmation in connection with the acquisition of the stock

or debt obligation described in the transfer of custody certificate for the person for whose account such stock or debt obligation is carried in its records; or

[(E) conditions set forth in regulations prescribed by the Secretary or his delegate are met.

[(i) CERTAIN DEBT OBLIGATIONS ARISING OUT OF LOANS TO ASSURE RAW MATERIAL SOURCES.—Under regulations prescribed by the Secretary or his delegate, subsection (a) shall not apply to the acquisition by a United States person of any debt obligation to which section 4914(d) applied where the acquisition of the debt obligation by such person is made with an intent to sell, or to offer to sell, any part of such debt obligation to United States persons. The preceding sentence shall not apply if the tax imposed by section 4911 has applied to any prior acquisition of such debt obligation.

[(j) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section.

[SEC. 4919. SALES BY UNDERWRITERS AND DEALERS TO FOREIGN PERSONS.

[(a) CREDIT OR REFUND.—The tax paid under section 4911 on the acquisition of stock or debt obligations of a foreign issuer or obligor shall constitute an overpayment of tax to the extent that such stock or debt obligations—

[(1) PRIVATE PLACEMENTS AND PUBLIC OFFERINGS.—Are acquired by an underwriter in connection with a private placement or a public offering by a foreign issuer or obligor (or a person or persons directly or indirectly controlling, controlled by, or under common control with such issuer or obligor) and are sold as part of such private placement or public offering by the underwriter (including sales by other underwriters who are United States persons participating in the placement or distribution of the stock or debt obligations acquired by the underwriter) to persons other than United States persons;

[(2) CERTAIN DEBT OBLIGATIONS.—Consist of debt obligations—

[(A) acquired by a dealer in the ordinary course of his business and sold by him, within 90 days after their purchase, to—

[(i) persons other than United States persons, or

[(ii) another dealer who resells them within 30 days after the day of purchase to persons other than United States persons; or

[(B) acquired by a dealer in the ordinary course of his business to cover short sales made by him, within 90 days before their purchase, to—

[(i) persons other than United States persons, or

[(ii) another dealer who resold them within 30 days after the day of purchase to persons other than United States persons; or

[(3) CERTAIN STOCK.—Consist of stock—

[(A) acquired by a dealer in the ordinary course of his business and sold by him on the day of purchase or on either of the two succeeding business days to—

[(i) persons other than United States persons, or

[(ii) another dealer who resells it on the same or the next business day to persons other than United States persons; or

[(B) acquired by a dealer in the ordinary course of his business to cover short sales made by him on the day of purchase or on either of the two preceding business days to—

[(i) persons other than United States persons, or

[(ii) another dealer who resold it on the same or the next business day to persons other than United States persons.

Under regulations prescribed by the Secretary or his delegate, credit (without interest) or refund shall be allowed or made with respect to such overpayment. For purposes of paragraphs (2) and (3) of this subsection and for purposes of paragraph (3) of subsection (b), the day of purchase or sale of any stock or debt obligation is the day on which an order to purchase or to sell, as the case may be, is executed. The President may be Executive order (which shall be applicable for such period and subject to such conditions as may be specified therein) extend the period of two business days specified in subparagraphs (A) and (B) of paragraph (3) to not to exceed 13 calendar days in the case of acquisitions made for customers and not for investment purposes, but any such extension shall be applicable only in cases where the acquiring dealer has submitted to the Secretary or his delegate in advance a satisfactory procedure for identifying which of his acquisitions are for customers and which are for investment purposes.

[(b) EVIDENCE TO SUPPORT CREDIT OR REFUND.—

[(1) IN GENERAL.—Credit or refund shall be allowed to an underwriter or dealer under subsection (a) with respect to any stock or debt obligation sold by him only if the underwriter or dealer—

[(A) files with the return required by section 6011(d) on which credit is claimed, or with the claim for refund, such information as the Secretary or his delegate may prescribe by regulations, and

[(B) establishes that such stock or debt obligation was sold to a person other than a United States person, and

[(C) in any case to which subparagraph (A) or (B) of subsection (a)(3) applies and which involves a sale or acquisition occurring after the expiration of the two-business-day period specified therein, establishes that the sale or acquisition complied with the applicable Executive order issued under the last sentence of subsection (a) and that the procedure submitted under such sentence was followed.

In any case where two or more underwriters form a group for the purpose of purchasing and distributing (through resale) stock or debt obligations of a single foreign issuer or obligor, any one of such underwriters may, to the extent provided by regulations prescribed by the Secretary or his delegate, satisfy the requirements of this paragraph on behalf of all such underwriters.

[(2) CERTAIN SALES BY UNDERWRITERS.—For purposes of paragraph (1)(B), in the case of a claim for credit or refund under subsection (a)(1) with respect to stock or a debt obligation

acquired by an underwriter and not sold by him directly to a person other than a United States person, a certificate of sale to a foreign person (setting forth such information, and filed in such manner, as the Secretary or his delegate may prescribe by regulations), executed by the underwriter who made such sale, shall be conclusive proof that such stock or debt obligation was sold to a person other than a United States person, unless the underwriter relying upon the certificate has actual knowledge that the certificate is false in any material respect.

[(3) CERTAIN SALES BY DEALERS.—

[(A) SALES ON NATIONAL SECURITIES EXCHANGES.—For purposes of paragraph (1)(B), in the case of a claim for credit or refund under subsection (a)(2), the sale by a dealer of a debt obligation on a national securities exchange registered with the Securities and Exchange Commission subject to a special contract (and not in the regular market) shall be conclusive proof that such debt obligation was sold to a person other than a United States person, if such exchange has in effect at the time of the sale rules providing that—

[(i) a member or member organization of such exchange selling a debt obligation as a dealer, or effecting the sale as broker of a debt obligation on behalf of a dealer, on such exchange subject to a special contract (and not in the regular market) shall furnish to the member or member organization purchasing such debt obligation as a dealer, or effecting the purchase as broker of such debt obligation on behalf of a dealer, a written confirmation or comparison stating that such sale is being made as a dealer, or on behalf of a dealer; and

[(ii) if the purchaser of such debt obligation is a dealer (whether or not a member or member organization of such exchange), the terms of the contract applicable to such sale shall require the purchasing dealer to undertake to resell such debt obligation within 30 days after the day of purchase to a person other than a United States person.

A dealer who acquires a debt obligation in a transaction in which a written confirmation or comparison described in clause (i) is furnished shall not be entitled to a credit or refund under subsection (a)(2) with respect to his acquisition of such debt obligation unless he establishes that such debt obligation was sold by him within 30 days after the day of purchase to a person other than a United States person.

[(B) OVER-THE-COUNTER SALES.—For purposes of paragraph (1)(B), in the case of a claim for credit or refund under subsection (a)(2) or (a)(3) with respect to a sale not on a national securities exchange, a written confirmation furnished by a member or member organization of a national securities association registered with the Securities and Exchange Commission stating that such member or member organization—

[(i) effected the purchase as broker of a stock or debt obligation on behalf of a person other than a United States person,

[(ii) purchased a stock which he resold on the day of purchase or the next business day to a person other than a United States person, or

[(iii) purchased a debt obligation which he resold within 30 days after the day of purchase to a person other than a United States person,

shall be conclusive proof that such stock or debt obligation was sold to a person other than a United States person (unless the dealer relying upon the confirmation has actual knowledge that the confirmation is false in any material respect), if such association has in effect at the time of the purchase rules providing that a member or member organization who effects a purchase of, or purchases, a stock or debt obligation from a dealer who notifies such member or member organization that such stock or debt obligation is being sold by such dealer and that such dealer intends to claim a credit or refund under subsection (a)(2) or (a)(3), shall furnish to such dealer a written confirmation stating that the purchase of such stock or debt obligation was (or was not) effected by such member or member organization on behalf of a person other than a United States person, or that such stock or debt obligation was (or was not) sold by such member or member organization on the day of purchase or the next business day in the case of stock, or within 30 days after the day of purchase in the case of a debt obligation to a person other than a United States person.

[(4) SALES OF STOCK BY DEALERS.—For purposes of paragraph (1)(B), in the case of a claim for credit or refund under subsection (a)(3), the sale by a dealer of stock on a national securities exchange registered with the Securities and Exchange Commission subject to a special contract (and not in the regular market) shall be conclusive proof that such stock was sold to a person other than a United States person, unless such dealer has actual knowledge at the time of such sale that the purchaser of such stock is a dealer (whether or not a member or member organization of such exchange).

[(c) DEFINITIONS.—For purposes of this section—

[(1) the term "underwriter" means any person who has purchased stock or debt obligations from the issuer or obligor (or from a person controlling, controlled by, or under common control with such issuer or obligor), or from another underwriter, with a view to the distribution through resale of such stock or debt obligations;

[(2) the term "dealer" means any person who is a member of a national securities association registered with the Securities and Exchange Commission and who is regularly engaged, as a merchant, in purchasing stock or debt obligations and selling them to customers with a view to the gains and profits which may be derived therefrom; and

[(3) the term "persons other than United States persons" includes any foreign branch whose acquisition of stock or a debt obligation of a foreign issuer or obligor from an underwriter or dealer is excluded from the tax imposed by section 4911 by reason

of the last sentence of section 4914(b)(2)(B), but only with respect to the acquisition of stock or debt obligations to which such exclusion applies.

[SEC. 4920. DEFINITIONS AND SPECIAL RULES.

[(a) IN GENERAL.—For purposes of this chapter—

[(1) DEBT OBLIGATION.—

[(A) IN GENERAL.—Except as provided in subparagraph (B), the term "debt obligation" means—

[(i) Any indebtedness, whether or not represented by a bond, debenture, note, certificate, or other writing, whether or not secured by a mortgage, and whether or not bearing interest; and

[(ii) any interest in, or any option or similar right to acquire, a debt obligation referred to in this subparagraph, whether or not such interest, option, or right is in writing.

For purposes of the preceding sentence, the term "indebtedness" includes obligations arising under a lease which is entered into principally as a financing transaction.

[(B) EXCEPTIONS.—The term "debt obligation" shall not include any obligation which—

[(i) is convertible by its terms into stock of the obligor, if it is so convertible only within a period of 5 years or less from the date on which interest begins to accrue thereon; or

[(ii) arises out of the divorce, separate maintenance, or support of an individual who is a United States person.

[(2) STOCK.—The term "stock" means—

[(A) any stock, share, or other capital interest in a corporation;

[(B) any interest of a partner in a partnership;

[(C) any interest in an investment trust;

[(D) any indebtedness which is convertible by its terms into stock of the obligor, if it is so convertible only within a period of 5 years or less from the date on which interest begins to accrue thereon; and

[(E) any interest in, or option or similar right to acquire, any stock described in this paragraph.

[(3) FOREIGN ISSUER OR OBLIGOR.—The terms "foreign issuer", "foreign obligor", and "foreign issuer or obligor" mean any issuer of stock or obligor of a debt obligation, as the case may be, which is—

[(A) (i) an international organization of which the United States is not a member,

[(ii) the government of a foreign country or any political subdivision thereof, or an agency or instrumentality of such a government,

[(iii) a corporation, partnership, or estate or trust which is not a United States person as defined in paragraph (4); or

[(iv) a nonresident alien individual;

[(B) subject to the provisions of subsection (e), a domestic corporation which, as of July 18, 1963, was a management company registered under the Investment Company Act of 1940 if—

[(i) at least 80 percent of the value of the stock and debt obligations owned by such corporation on July 18, 1963, and at least 80 percent of the value of the stock and debt obligations owned by such corporation at the end of every calendar quarter thereafter (through the quarter preceding the quarter in which the acquisition involved is made), consists of stock or debt obligations of foreign issuers or obligors and other debt obligations having an original maturity of 90 days or less;

[(ii) such corporation elects to be treated as a foreign issuer or obligor for purposes of this chapter; and

[(iii) such corporation does not materially increase its assets during the period from July 18, 1963, to the date on which such election is made through borrowing or through issuance or sale of its stock (other than stock issued or sold on or before September 16, 1963, as part of a public offering with respect to which a registration statement was first filed with the Securities and Exchange Commission on July 18, 1963, or within 90 days before that date).

The election under clause (ii) shall be made on or before the 60th day after the date of the enactment of this chapter under regulations prescribed by the Secretary or his delegate. Such election shall be effective as of the date specified by the corporation, but not later than the date on which such election is made, and shall remain in effect until revoked. If, at the close of any succeeding calendar quarter, 15 percent or more in value of the outstanding stock of the company is owned, directly or indirectly (within the meaning of section 4915(a)(1), by one person, or the company ceases to meet the requirement of clause (i), the election shall thereupon (with respect to quarters after such calendar quarter) be deemed revoked. When an election is revoked no further election may be made. If the assets of a foreign corporation are acquired by a domestic corporation in a reorganization described in subparagraph (D) or (F) of section 368(a)(1), the two corporations shall be considered a single domestic corporation for purposes of this subparagraph; or

[(C) a domestic corporation which together with its subsidiaries (if any)—

[(i) is primarily engaged in the lending or finance business through offices located outside the United States, and

[(ii) holds itself out, in the course of such business outside the United States, as lending money to the public generally,

and which elects to be treated as a foreign issuer or obligor for purposes of this chapter. The election under the preceding sentence shall be made on or before the 60th day after the date of the enactment of this subparagraph or the 60th day after the organization of the corporation, whichever is later,

under regulations prescribed by the Secretary or his delegate. Any such election shall be effective as of January 26, 1967, or the date of the organization of the corporation, whichever is later, and shall remain in effect until revoked. If, at the close of any succeeding calendar quarter, the corporation ceases to meet the requirement of clause (i) or clause (ii), the election shall thereupon (with respect to quarters after such calendar quarter) be deemed revoked. When an election is revoked no further election may be made.

[(3A) For purposes of paragraph (3[A])(C)—

[(A) the term "lending or finance business" has the meaning given to it by section 542(d)(1), except that the portion of subparagraph (B)(i) of such section following "60 months" shall be disregarded;

[(B) a corporation shall be considered a "subsidiary" of another corporation only if stock possessing at least 50 percent of the voting power of all classes of its stock is directly or indirectly owned by such other corporation and the two corporations are affiliated, with each other; and

[(C) a corporation primarily engaged in lending money to one or more other corporations each of which is affiliated with it and satisfies the requirements of clauses (i) and (ii) of paragraph (3)(C) shall itself be deemed to satisfy such requirements.

For purposes of this paragraph, two corporations are "affiliated" with each other if they are members (or would be members if they were both domestic corporations) of the same affiliated group (within the meaning of section 1504). For purposes of determining whether a domestic corporation is primarily engaged in the lending or finance business, ownership of stock of an affiliated corporation which satisfies the requirements of clause (i) or (ii) of paragraph (3)(C) shall be disregarded.

[(3B) CERTAIN DOMESTIC LENDING OR FINANCING CORPORATIONS.—

[(A) IN GENERAL.—The terms "foreign issuer", "foreign obligor", and "foreign issuer or obligor" also mean a domestic corporation which is a qualified lending or financing corporation (as defined in subsection (d)) and which elects to be treated, for purposes of this chapter, as a foreign issuer and foreign obligor.

[(B) ELECTION.—An election under subparagraph (A) shall be made in such manner as the Secretary or his delegate prescribes by regulations. Any such election shall be effective as of the date thereof and shall remain in effect until revoked. If, at any time, the corporation ceases to be a qualified lending or financing corporation, the election shall thereupon be deemed revoked. When an election is revoked, no further election may be made. If an election is revoked, the corporation shall incur liability at the time of such revocation for the tax imposed by section 4911 with respect to all stock or debt obligations which were acquired by it during the period for which the election was in effect and which are held by it

at the time of such revocation; and the amount of such tax shall be equal to the amount of tax for which the corporation would be liable under such section if it had acquired such stock or debt obligations immediately after such revocation.

[(4) 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, other than a corporation described in subparagraph (B) or (C) of paragraph (3) or in paragraph (3B),

[(D) an agency or wholly-owned instrumentality of the United States,

[(E) a State or political subdivision, or any agency or instrumentality thereof, and

[(F) any estate or trust—

[(i) the income of which from sources without the United States is includible in gross income under subtitle A (or would be so includible if not exempt from tax under section 501(a), section 521(a), or section 584(b)), or

[(ii) which is situated in the Commonwealth of Puerto Rico or a possession of the United States.

[(5) DOMESTIC CORPORATION; DOMESTIC PARTNERSHIP.—The terms "domestic corporation" and "domestic partnership" mean, respectively, a corporation or partnership created or organized in the United States or under the laws of the United States or of any State, except that such terms do not include a branch office of such a corporation or partnership located outside the United States if—

[(A) such corporation or partnership (without regard to the activities of such office) is a dealer (as defined in section 4919(c)(2));

[(B) such office (which is operated by employees or partners of such corporation or partnership) was located outside the United States on July 18, 1963, and was regularly engaged, as a merchant, in purchasing and selling stock or debt obligations of foreign issuers or obligors with a view to the gains and profits which may be derived therefrom, for a period of not less than 12 consecutive calendar months prior to July 18, 1963;

[(C) all acquisitions by such branch office of stock of foreign issuers and debt obligations of foreign obligors are made in the ordinary course of its business as such a merchant or as an underwriter (as defined in section 4919(c)(1));

[(D) such office maintains separate books and records reasonably reflecting the assets and liabilities properly attributable to such office; and

[(E) there is in effect an election that such branch office be treated as a foreign corporation or foreign partnership for purposes of this chapter.

The election under subparagraph (E) shall be made by such corporation or partnership on or before the 60th day after the date of the enactment of this chapter under regulations prescribed by the Secretary or his delegate. A separate election may be made with respect to each branch office of such corporation or partnership. Such election shall be effective as of July 18, 1963, and shall remain in effect until revoked in accordance with such regulations. If, at any time, a branch office ceases to meet the requirements of subparagraph (A), (C), or (D), the election with respect to such office shall thereupon be deemed revoked. When an election is revoked, a new election under subparagraph (E) may be made subject to such conditions and limitations as may be prescribed by the Secretary or his delegate. A corporation or partnership making an election under this paragraph or paragraph (5A) with respect to a branch office located outside the United States shall not, at any time, be considered a United States person either with respect to stock or a debt obligation of a foreign issuer or obligor held by such branch office at the time the election is made with respect to such branch office or with respect to stock or a debt obligation of a foreign issuer or obligor acquired by such branch office while the election with respect to such branch office is in effect.

[(5A) CERTAIN COMMERCIAL FINANCING BRANCHES NOT TREATED AS DOMESTIC CORPORATIONS.—The term "domestic corporation" does not include a branch office of such a corporation located outside the United States if—

[(A) such corporation is primarily engaged in the trade or business of acquiring debt obligations (i) arising out of the sale of tangible personal property produced, manufactured, or assembled by one or more includible corporations in an affiliated group (determined under section 48(c)(3)(C) except that clause (i) of such section shall not apply) of which such acquiring corporation is a member and (ii) arising out of the sale of tangible personal property received as part or all of the consideration in sales of tangible personal property described in clause (i);

[(B) such office is primarily engaged in the trade or business of acquiring debt obligations described in subparagraph (A) which are repayable exclusively in one or more currencies other than United States currency;

[(C) such office was located outside the United States on February 10, 1965, and was regularly engaged in the trade or business of acquiring debt obligations described in subparagraph (B) for a period of not less than 12 consecutive months before February 10, 1965;

[(D) such office maintains separate books and records reasonably reflecting the assets and liabilities properly attributable to such office; and

[(E) there is in effect an election that such branch office be treated as a foreign corporation for purposes of this chapter.

For purposes of this paragraph, a corporation or a branch office shall be treated as primarily engaged in the trade or business described in subparagraph (A) during the taxable year if at least

90 percent of the face amount of the debt obligations acquired by such corporation or branch office during such taxable year consists of debt obligations described in subparagraph (A) and if throughout such taxable year such corporation or branch office is exclusively engaged in the trade or business of acquiring debt obligations (whether or not described in subparagraph (A)) and servicing debt obligations arising out of sales of tangible personal property described in subparagraph (A). The election under this paragraph shall be made by such corporation in accordance with regulations prescribed by the Secretary or his delegate. A separate election may be made with respect to each branch office of such corporation except that, for purposes of this paragraph, all branch offices of such corporation located in a country shall be treated as a single branch office. Such election shall be effective as of February 10, 1965, and shall remain in effect until revoked in accordance with such regulations. If, at any time, such corporation ceases to meet the requirements of subparagraph (A), all elections made by such corporation under this paragraph shall be deemed revoked. If, at any time, a branch office (within the meaning of this paragraph) ceases to meet the requirements of subparagraph (B) or (D), the election with respect to such office shall thereupon be deemed revoked. When an election is revoked, a new election under subparagraph (E) may be made subject to such conditions and limitations as may be prescribed by the Secretary or his delegate.

[(6) UNITED STATES; STATE.—The term "United States" whe used in a geographical sense includes the States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States; and the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

[(7) PERIOD REMAINING TO MATURITY.—

[(A) IN GENERAL.—Subject to the modifications set forth in subparagraph (B), the period remaining to maturity of a debt obligation shall be that period beginning on the date of its acquisition and ending on the fixed or determinable date when, according to its terms, the payment of principal becomes due.

[(B) MODIFICATIONS.—The period remaining to maturity—

[(i) of any interest in, or any option or similar right to acquire, any debt obligation shall be the period remaining to maturity of that debt obligation at the time of the acquisition of such interest, option, or right;

[(ii) of any debt obligation which is renewable without affirmative action by the obligee, or of any interest in or option or similar right to acquire such a debt obligation, shall end on the last day of the final renewal period;

[(iii) of any debt obligation which has no fixed or determinable date when the payment of principal becomes due shall be considered to be 28½ years;

[(iv) of any debt obligation which is payable on demand (including any bank deposit) shall be considered to be less than 1 year; and

[(v) of a debt obligation which is subject to retirement before its maturity through operation of a mandatory sinking fund shall be determined under regulations prescribed by the Secretary or his delegate.

[(b) FOREIGN STOCK ISSUES TREATED AS DOMESTIC.—

[(1) IN GENERAL.—For purposes of this chapter, a foreign corporation (other than a company registered under the Investment Company Act of 1940) shall not be considered a foreign issuer with respect to any class of its stock if—

[(A) as of the corporation's latest record date before July 19, 1963, more than 65 percent of such class of stock was held of record by United States persons, or

[(B) the class of stock had its principal market during the calendar year 1962 on one or more national securities exchanges registered with the Securities and Exchange Commission, and, as of the corporation's latest record date before July 19, 1963, more than 50 percent of such class of stock was held of record by United States persons.

[(2) CLASS OF STOCK DEFINED.—For purposes of this subsection, the term "class of stock" means all shares of stock of a corporation issued and outstanding as of the corporation's latest record date before July 19, 1963, which are identical with respect to the rights and interest such shares represent in the control, profits, and assets of the corporation. Such term also includes additional shares possessing rights and interests identical with the rights and interests of shares described in the preceding sentence if such additional shares shall have been—

[(A) issued on or before November 10, 1964;

[(B) issued after November 10, 1964, pursuant to a written commitment made by such corporation on or before such date;

[(C) issued after November 10, 1964, to a shareholder with respect to or in exchange solely for shares described in this paragraph;

[(D) issued after November 10, 1964, and prior to January 30, 1973, upon exercise of a stock option granted to an individual, in connection with his employment by the employer corporation, or its parent or subsidiary corporation, to purchase stock of any such corporations if the tax imposed by section 4911 has been paid;

[(E) issued after November 10, 1964, and if—

[(i) such corporation was actively engaged in a trade or business on July 19, 1963;

[(ii) shares of such class were held of record by more than 250 shareholders on the corporation's latest record date before July 19, 1963, or on the latest record date before the issuance of such additional shares;

[(iii) the percentage of shares of such class held of record by United States persons as of the corporation's latest record date before the issuance of such additional shares is not less than the percentage required to be held

by United States persons as of the latest record date before July 19, 1963, in order for the class of stock to qualify under paragraph (1);

[(iv) all such additional shares are shares which, if acquired by United States persons at the time of original issuance, would have been excluded from the tax imposed by section 4911 by reason of section 4914(a)(6), 4916, or 4917, or are shares issued after January 29, 1973, upon exercise of an option described in section 4914(a)(8) (determined without regard to whether or not the optionee is a United States person) granted to an employee who immediately after such option is granted is an individual described in section 422(b)(7) (provided that the aggregate number of shares of such class subject to all options described in section 4914(a)(8) (determined without regard to whether or not the optionee is a United States person) that are granted during one calendar year does not exceed one percent of the total number of outstanding shares of such class on the first day of such calendar year), or are shares exchanged in a reorganization described in section 368(a)(1)(B) for shares of a domestic corporation which was engaged in the active conduct of a trade or business (other than as a dealer in securities) immediately before the date of such exchange; and

[(v) at least 15 days before the date such additional shares are issued (or, in the case of an issue occurring on or before the 60th day after the date of the enactment of this sentence, within such period as may be prescribed by the Secretary or his delegate by regulations), the issuing corporation files (in accordance with regulations prescribed by the Secretary or his delegate) a notice of intent to issue such shares; or

[(F) issued after March 31, 1973, as consideration for, or upon conversion (or in connection with the prior conversion) of debt obligations which were the consideration for, the acquisition of stock of a foreign corporation, if immediately after such acquisition the acquiring corporation owns (directly or indirectly) more than 50 percent of the total combined voting power of all classes of stock of such foreign corporation, or the acquisition of more than 50 percent (in value) of the assets of a foreign corporation, if—

[(i) such corporation satisfied the requirements of sections 4920(b)(2)(E)(i), (ii), and (iii);

[(ii) shares of such class were held of record by more than 5,000 persons on such corporation's latest record date before January 1, 1973;

[(iii) during the period beginning on January 1, 1973, and running through the date of issuance of such shares, shares of such class were listed for trading on one or more national securities exchanges registered with the Securities and Exchange Commission;

[(iv) during the period beginning on January 1, 1973, and running through the date of the issuance of the additional shares such corporation has maintained its principal office in the United States;

[(v) during the period beginning on January 1, 1973, and running through the date of issuance of the additional shares such corporation has been engaged in trade or business in the United States;

[(vi) during the 5-year period immediately preceding the date of issuance, the aggregate number of additional shares (other than additional shares issued under subparagraph (B), (C), (D), or (E) of this subsection) does not exceed 5 percent of the total number of outstanding shares of such class on the first day of such 5-year period, and

[(vii) the acquired foreign corporation was engaged in the active conduct of a trade or business (other than as a dealer in securities) immediately before the date of such acquisition.

For purposes of subparagraph (E), the issuance of an option or similar right to acquire stock, or of any debt obligation convertible into stock, shall be treated as the issuance of the stock which may be obtained on the exercise of such option or similar right or the conversion of such debt obligation. Upon application by the issuing corporation within 2 years after the date on which additional shares described in the second sentence of this paragraph were issued, the Secretary or his delegate may waive the 15-day requirement set forth in subparagraph (E)(v) with respect to such additional shares if it is shown that the issuing corporation failed to file the notice required by such subparagraph due to inadvertence and not with an intent to avoid the requirements of this chapter.

[(c) SPECIAL RULE FOR FOREIGN UNDERWRITERS.—A partnership or corporation which is not a United States person and which participates, as an underwriter in an underwriting group that includes one or more United States persons, in a public offering of stock or debt obligations of a foreign issuer or obligor shall, if such partnership or corporation so elects and subject to such terms and conditions as the Secretary or his delegate may prescribe by regulations, be treated as a United States person for purposes of this chapter with respect to its participation in such public offering.

[(d) QUALIFIED LENDING AND FINANCING CORPORATIONS.—For purposes of this chapter, the term "qualified lending or financing corporation" means a corporation—

[(1) substantially all of the business of which consists of—

[(A) making loans (including the acquisition of obligations arising under a lease which is entered into principally as a financing transaction),

[(B) acquiring accounts receivable, notes, or installment obligations arising out of the sale of tangible personal property or the performance of services,

[(C) leasing tangible personal property (but only if such leasing accounts for less than 50 percent of its business),

[(D) servicing debt obligations,

[(E) carrying on incidental activities in connection with its business described in subparagraphs (A), (B), (C), or (D), or

[(F) any combination of the foregoing;

[(2) all debt obligations of foreign obligors (other than debt obligations the acquisition of which is not subject to the tax imposed by section 4911 on account of section 4914(c)) acquired by such corporation, and all tangible personal property not manufactured or produced in the United States acquired by such corporation for leasing, are acquired and carried solely out of—

[(A) the proceeds of the sale (including a sale in a transaction described in section 4919(a)(1)) by such corporation (or by a domestic corporation described in section 4912(b)(3) which is a member of a controlled group, as defined in section 48(c)(3)(C), of which such corporation is a member) of debt obligations of such corporation (or such domestic corporation) to persons other than—

[(i) a United States person (not including a foreign branch of a domestic corporation or of a domestic partnership, if such branch is engaged in the commercial banking business and acquires such debt obligations in the ordinary course of such commercial banking business),

[(ii) a foreign partnership in which such corporation (or one or more includible corporations in an affiliated group, as defined in section 1504, of which such corporation is a member) owns directly or indirectly (within the meaning of section 4915(a)(1)) 10 percent or more of the profits interest, or

[(iii) a foreign corporation (not including a qualified lending or financing corporation or a foreign corporation engaged in commercial banking business which acquires such debt obligations in the ordinary course of such commercial banking business), if such corporation (or one or more includible corporations in an affiliated group, as defined in section 1504, of which such corporation is a member) owns directly or indirectly (within the meaning of section 4915(a)(1)) 10 percent or more of the total combined voting power of all classes of stock of such foreign corporation, except to the extent such foreign corporation has, after having given advance notice to the Secretary or his delegate, sold its debt obligations to persons other than persons described in clauses (i) and (ii) and this clause and is using the proceeds of the sales of such debt obligations to acquire the debt obligations of such corporation (or such other domestic corporation),

[(B) the proceeds of payment for stock, or a contribution to the capital of such corporation, if the payment or contribution was derived from the sale of debt obligations by a corporation owning directly or indirectly (within the

meaning of section 4915(a)(1)) 10 percent or more of the total combined voting power of all classes of stock of such corporation to persons other than persons described in clauses (i), (ii), and (iii) of subparagraph (A) and such debt obligations, if acquired by United States persons, would be subject to the tax imposed by section 4911,

[(C) retained earnings and reserves of such corporation to the extent attributable to the conduct of the lending or financing business outside the United States,

[(D) trade accounts and accrued liabilities, to the extent attributable to the conduct of the lending or financing business outside the United States, which are payable by such corporation within 1 year (3 years in the case of tax liabilities) from the date they were incurred or accrued, and which arise in the ordinary course of the trade or business of the corporation otherwise than from borrowing, or

[(E) the proceeds of the sale of debt obligations (by a domestic corporation which has made an election under section 4912(c) with respect to such debt obligations) to a person other than a person described in clause (i), (ii), or (iii) of subparagraph (A) if the proceeds are transferred directly from the lender to such corporation;

[(3) which does not acquire or own any stock of foreign issuers or of domestic corporations or domestic partnerships other than—

[(A) stock of one or more members of a controlled group (as defined in section 48(c)(3)(C)) of which such corporation is a member (or of a corporation which would be a member if it were a domestic corporation) acquired as payment for stock, or as a contribution to capital, of such corporation,

[(B)(i) stock of a corporation described in section 4915(e)(2)(C) or section 4920(a)(3B), if 10 percent or more of the total combined voting power of all classes of such stock is owned (directly or indirectly) by the acquiring corporation, or

[(ii) stock of a partnership which meets the requirements of section 4920(d)(1) and (2) under regulations promulgated by the Secretary or his delegate, if immediately following the acquisition of such corporation owns (directly or indirectly) 10 percent or more of the profits interests in such partnership.

[(C) stock acquired by such corporation through foreclosure, where such stock was held by such corporation as security for loans or leases described in paragraph (1) if such stock is disposed of within a 90-day period beginning on the day after the date of such foreclosure (including any additional 90-day periods reasonably necessary to dispose of such stock that the Secretary or his delegate may allow), or

[(D) stock of a foreign corporation acquired in connection with and incidental to an acquisition of a debt obligation in a transaction described in paragraph (1) if (i) at the time of the acquisition of the debt obligation the value of such

stock does not exceed 10 percent of the value of the debt obligation, and (ii) the terms of the debt obligation are not unreasonable in light of credit practices in the business in which the corporation acquiring such debt obligation is engaged; and

[(4) such corporation, in a manner satisfactory to the Secretary or his delegate, identifies the certificates representing its stock and debt obligations and maintains such records and accounts and submits such reports and other documents as may be necessary to establish that the requirements of the foregoing paragraphs have been met.

[(e) CERTAIN MUTUAL FUNDS.—Notwithstanding subsection (a)(3)(B), a domestic corporation described in such subsection shall not be treated as a "foreign issuer", "foreign obligor", or "foreign issuer or obligor" with respect to any acquisition of stock or a debt obligation which is attributable to funds obtained by borrowing or through issuance of its stock after March 24, 1971, except stock issued as a capital gain dividend, as defined in section 852(b)(3)(C).

[(f) CROSS REFERENCE.—

[For definition of "acquisition", see section 4912.

[SEC. 4921. DEBT OBLIGATIONS WITH MATURITY OF LESS THAN A YEAR.

[(a) STANDBY AUTHORITY.—

[(1) IN GENERAL.—If the President of the United States determines, after taking into account the domestic economic objectives, the balance of payments objectives, and the other international economic objectives of the United States, that it is desirable to apply the tax imposed by section 4911 to the acquisition of debt obligations of foreign obligors having a period remaining to maturity of less than 1 year, he may, from time to time by Executive order (applicable as provided in subsection (c)), extend the application of such tax, at such rate or rates (subject to the provisions of subsection (b)) specified in such order, to the acquisition of such debt obligations specified in such order. The authority conferred by this paragraph may be exercised, at the discretion of the President, with respect to any classification of such debt obligations specified in paragraph (2), and with respect to acquisitions occurring during such period of time, as may be specified in the Executive order. The President may by subsequent Executive order terminate or modify any Executive order previously issued under this section.

[(2) CLASSIFICATIONS.—For purposes of paragraph (1), debt obligations may be classified according to—

[(A) type of debt obligation,
[(B) period of maturity,
[(C) category of obligee,
[(D) category of obligor,
[(E) aggregate amounts subject to tax or not subject to tax, or

[(F) other criteria similar to any of the foregoing.

[(b) RATES OF TAX.—The rates of tax which may be specified in an Executive order issued under this section shall not exceed the rate applicable to debt obligations having a period remaining to maturity of at least 1 year, but less than 1¼ years.

[(c) APPLICABILITY OF EXECUTIVE ORDER.—Any Executive order issued under this section shall apply with respect to acquisitions made after the date on which such Executive order is issued, except that in the case of any such order which subjects acquisitions to the tax which are not then subject to the tax, or which increases a rate of tax (as in effect without regard to such order), to the extent specified in such order, rules similar to the rules prescribed in paragraphs (2), (3), and (4) of section 3(c) of the Interest Equalization Tax Extension Act of 1967 shall apply.

[(d) REGULATIONS.—The Secretary or his delegate may prescribe such regulations (not inconsistent with the provisions of this section or any Executive order issued and in effect under this section) as may be necessary to carry out the provisions of this section.

[SEC. 4922. EXCLUSION FOR CERTAIN ISSUES TO FINANCE NEW OR ADDITIONAL DIRECT INVESTMENT IN THE UNITED STATES.

[(a) GENERAL RULE.—The tax imposed by section 4911 shall not apply to the acquisition by a United States person of—

[(1) stock or a debt obligation constituting all or part of a new issue (as defined in section 4917(c)) which was issued for the purpose of financing new or additional direct investment (as defined by the Secretary or his delegate) in the United States by the foreign issuer or obligor and which qualifies under subsection (b),

[(2) stock pursuant to a right to convert a debt obligation into stock without the payment of any further consideration if such debt obligation qualified for exclusion from tax under this subsection when it was issued, or

[(3) a debt obligation issued for the purpose of refunding or refinancing a new or original issue which met the requirements of paragraph (1) when that new or original issue was issued.

[(b) QUALIFICATION FOR EXCLUSION.—In order for any issue of stock or debt obligations to qualify for an exclusion under subsection (a), the foreign issuer or obligor (prior to the issuance of such stock or debt obligation) shall have established to the satisfaction of the Secretary or his delegate, pursuant to rules or regulations prescribed by the Secretary or his delegate, that—

[(1) at least 50 percent of the total funds required for the direct investment involved will come from sources outside the United States;

[(2) such investment will be made for a period of at least 10 years;

[(3) during such 10-year period the aggregate amount of all investments in the United States by the foreign issuer or obligor will at no time be reduced below the aggregate amount of such investments as determined immediately after the investment to which the exclusion applies;

[(4) during such 10-year period the foreign issuer or obligor will comply with such other conditions and requirements as the Secretary or his delegate may prescribe and make applicable to such issuer or obligor; and

[(5) during such 10-year period the foreign issuer or obligor will submit such reports and information, in such form and manner, as may be required by the Secretary or his delegate to substantiate compliance by the foreign issuer or obligor with the requirements of the preceding paragraphs.

For purposes of this subsection, a foreign issuer or obligor shall not be considered to have failed to meet the requirements of this subsection with respect to an issue of stock described in subsection (a)(2), or a debt obligation described in subsection (a)(3), if he complies with the requirements imposed on him by this subsection with respect to the debt obligation converted, refunded, or refinanced, for the full 10-year period.

[(c) LOSS OF ENTITLEMENT TO EXCLUSION IN CASE OF SUBSEQUENT NONCOMPLIANCE.—

[(1) IN GENERAL.—Where an exclusion under subsection (a) has applied with respect to the acquisition of any stock or debt obligation, but the foreign issuer or obligor subsequently fails (before the termination date specified in section 4911(d)) to comply with any of the requirements enumerated in subsection (b) or made applicable to such issuer or obligor under paragraph (4) thereof, then liability for the tax imposed by section 4911 (in an amount determined under paragraph (2) of this subsection) shall be incurred by such foreign issuer or obligor (with respect to such stock or debt obligations) at the time such failure to comply occurs as determined by the Secretary or his delegate.

[(2) AMOUNT OF TAX.—In any case where an exclusion under subsection (a) has applied with respect to an original or new issue of stock or debt obligations, but a subsequent failure to comply with the requirements enumerated in or made applicable to the foreign issuer or obligor under subsection (b) occurs and liability for the tax imposed by section 4911 is incurred by the issuer or obligor as a result thereof, the amount of such tax shall be equal to the amount of tax for which all persons acquiring such stock or debt obligations (as part of the original or new issue) would have been liable under such section upon their acquisition thereof if such exclusion had not applied to such acquisition.

[Subchapter B—Acquisitions by Commercial Banks

[SEC. 4931. COMMERCIAL BANK LOANS.

[(a) STANDBY AUTHORITY.—The provisions of this section shall apply only if the President of the United States—

[(1) determines that the acquisition of debt obligations of foreign obligors by commercial banks in making loans in the ordinary course of the commercial banking business has materially impaired the effectiveness of the tax imposed by section 4911, because such acquisitions have, directly or indirectly, replaced acquisitions by United States persons, other than commercial banks,

of debt obligations of foreign obligors which are subject to the tax imposed by such section, and

[(2) specifies by Executive order that the provisions of this section shall apply to acquisitions by commercial banks of debt obligations of foreign obligators, to the extent specified in such order.

Such Executive order shall be effective, to the extent specified therein, with respect to acquisitions made during the period beginning on the day after the date on which the order is issued and ending on the date set forth in section 4911(d). Such Executive order may be modified from time to time (by Executive order), except that no such modification shall (A) have the effect of excluding from the application of subsection (b) a significant class of acquisitions to which such subsection applied under such Executive order or any modification thereof, or (B) subject any acquisition made on or before the date of issuance of such modification to the application of subsection (b). Clause (A) of the preceding sentence shall not prevent a modification of such Executive order (or any modification thereof) to exclude from the application of subsection (b) acquisitions by commercial banks, through branches located outside the United States, of debt obligations of foreign obligors payable in currency of the United States.

[(b) DEBT OBLIGATIONS WITH MATURITY OF 1 YEAR OF MORE, ETC.—During the period in which an Executive order issued under subsection (a) is effective, and to the extent specified in such order (and any modifications thereof), sections 4914(b)(2)(A), 4914(j)(1)(A)(ii), and 4915(c)(2)(A) shall not apply.

[(c) EXCLUSIONS.—

[(1) EXPORT LOANS.—The provisions of subsection (b) shall not apply with respect to the acquisition by a commercial bank of a debt obligation arising out of the sale or lease of personal property or services (or both) if—

[(A) not less than 85 percent of the amount of the loan, amount paid or other consideration given to acquire such debt obligation is attributable to the sale or lease of property manufactured, produced, grown, extracted, created, or developed in the United States, or to the performance of services by United States persons, or to both, and

[(B) the extension of credit and the acquisition of the debt obligation related thereto are reasonably necessary to accomplish the sale or lease of property or services out of which the debt obligation arises, and the terms of the debt obligation are not unreasonable in light of credit practices in the business in which the United States person selling or leasing such property or services is engaged.

For purposes of the preceding sentence, the acquisition by a wholly-owned subsidiary of a commercial bank of a debt obligation arising out of a lease made by such subsidiary shall be treated as the acquisition of a debt obligation by a commercial bank.

[(2) FOREIGN CURRENCY LOANS BY FOREIGN BRANCHES.—The provisions of subsection (b) shall not apply to the acquisition by a

commercial bank of a debt obligation of a foreign obligor payable in the currency of a foreign country if, under regulations prescribed by the Secretary or his delegate—

[(A) such bank establishes and maintains, for each of its branches located outside the United States, a fund of assets with respect to deposits payable in foreign currency to customers (other than United States persons engaged in the commercial banking business and members of an affiliated group (determined under section 48(c)(3)(C)) of which such a United States person is a member) of such branch, and

[(B) such debt obligation is designated, to the extent permitted by this paragraph, as part of a fund of assets described in subparagraph (A) (but only after debt obligations of foreign obligors payable in foreign currency having a period remaining to maturity of less than one year held by such bank have been designated as part of such a fund).

A debt obligation may be designated as part of a fund of assets described in subparagraph (A) only to the extent that, immediately after such designation, the adjusted basis of all the assets held in such fund does not exceed 110 percent of the deposits payable in foreign currency to customers (other than United States persons engaged in the commercial banking business and members of an affiliated group (determined under section 48(c)(3)(C)) of which such a United States person is a member) of the branch with respect to which such fund is maintained.

[(3) PREEXISTING COMMITMENTS.—The provisions of subsection (b) shall not apply to the acquisition by a commercial bank of a debt obligation of a foreign obligor—

[(A) made pursuant to an obligation to acquire which on August 4, 1964—

[(i) was unconditional, or

[(ii) was subject only to conditions contained in a formal contract under which partial performance had occurred; or

[(B) as to which on or before August 4, 1964, the acquiring commercial bank (or, in a case where 2 or more commercial banks are making acquisitions as part of a single transaction, a majority in interest of such banks) had taken every action to signify approval of the acquisition under the procedures ordinarily employed by such bank (or banks) in similar transactions and had sent or deposited for delivery to the foreign person from whom the acquisition was made written evidence of such approval in the form of a document setting forth, or referring to a document sent by the foreign person from whom the acquisition was made which set forth, the principal terms of such acquisition.

[(d) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations (not inconsistent with the provisions of this section or of an Executive order issued under subsection (a)) as may be necessary to carry out the provisions of this section.]

CHAPTER 41—PUBLIC CHARITIES

SEC. 4911. TAX ON EXCESS EXPENDITURES TO INFLUENCE LEGISLATION.

(a) TAX IMPOSED.—

(1) IN GENERAL.—There is hereby imposed on the excess lobbying expenditures of any organization to which this section applies a tax equal to 25 percent of the amount of the excess lobbying expenditures for the taxable year.

(2) ORGANIZATIONS TO WHICH THIS SECTION APPLIES.—This section applies to any organization with respect to which an election under section 501(g) (relating to lobbying expenditures by public charities) is in effect for the taxable year.

(b) EXCESS LOBBYING EXPENDITURES.—For purposes of this section, the term "excess lobbying expenditures" means, for a taxable year, the greater of—

(1) the amount by which the lobbying expenditures made by the organization during the taxable year exceed the lobbying nontaxable amount for such organization for such taxable year, or

(2) the amount by which the grass roots expenditures made by the organiztaion during the taxable year exceed the grass roots nontaxable amount for such organization for such taxable year.

(c) DEFINITIONS.—For purposes of this section.—

(1) LOBBYING EXPENDITURES.—The term "lobbying expenditures" means expenditures for the purpose of influencing legislation (as defined in subsection (d)).

(2) LOBBYING NONTAXABLE AMOUNT.—The lobbying nontaxable amount for any organization for any taxable year is the lesser of (A) $1,000,000 or (B) the amount determined under the following table:

If the exempt purpose expenditures are—	The lobbying nontaxable amount is—
Not over $500,000	20 percent of the exempt purpose expenditures.
Over $500,000 but not over $1,000,000	$100,000, plus 15 percent of the excess of the exempt purpose expenditures over $500,000.
Over $1,000,000 but not over $1,500,000	$175,000, plus 10 percent of the excess of the exempt purpose expenditures over $1,000,000.
Over $1,500,000	$225,000, plus 5 percent of the excess of the exempt purpose expenditures over $1,500,000.

(3) GRASS ROOTS EXPENDITURES.—The term "grass roots expenditures" means expenditures for the purpose of influencing legislation (as defined in subsection (d) without regard to paragraph (1)(B) thereof).

(4) GRASS ROOTS NONTAXABLE AMOUNT.—The grass roots nontaxable amount for any organization for any taxable year is 25 percent of the lobbying nontaxable amount (determined under paragraph (2)) for such organization for such taxable year.

(d) INFLUENCING LEGISLATION.—

(1) GENERAL RULE.—Except as otherwise provided in paragraph (2), for purposes of this section, the term "influencing legislation" means—

(A) any attempt to influence any legislation through an attempt to affect the opinion of the general public or any segment thereof, and

(B) any attempt to influence any legislation through communication with any member or employee of a legislative body, or with any other government official or employee who may participate in the formulation of the legislation.

(2) EXCEPTIONS.—For purposes of this section, the term "influencing legislation", with respect to an organization, does not include—

(A) making available the results of nonpartisan analysis, study, or research;

(B) providing of technical advice or assistance (where such advice would otherwise constitute the influencing of legislation) to a governmental body or to a committee or other subdivision thereof in response to a written request by such body or subdivision, as the case may be;

(C) appearances before, or communications to, any legislative body with respect to a possible decision of such body which might affect the existence of the organization, its powers and duties, its tax-exempt status, or the deductions of contributions to the organization;

(D) communications between the organization and its bona fide members with respect to legislation or proposed legislation of direct interest to the organization and such members, other than communications described in paragraph (3); and

(E) any communication with a government official or employee, other than—

(i) a communication with a member or employee of a legislative body (where such communication would otherwise constitute the influencing of legislation), or

(ii) a communication the principal purpose of which is to influence legislation.

(3) COMMUNICATIONS WITH MEMBERS.—

(A) A communication between an organization and any bona fide member of such organization to directly encourage such member to communicate as provided in paragraph (1)(B) shall be treated as a communication described in paragraph (1)(B).

(B) A communication between an organization and any bona fide member of such organization to directly encourage such member to urge persons other than members to communicate as provided in either subparagraph (A) or subparagraph (B) of paragraph (1) shall be treated as a communication described in paragraph (1)(A).

(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) EXEMPT PURPOSE EXPENDITURES.—

(A) IN GENERAL.—The term "exempt purpose expenditures" means, with respect to any organization for any taxable year, the total of the amounts paid or incurred by such organization to accomplish purposes described in section 170(c)(2)(B) (relating to religious, charitable, education, etc., purposes).

(B) CERTAIN AMOUNTS INCLUDED.—The term "exempt purpose expenditures" includes—

(i) administrative expenses paid or incurred for purposes described in section 170(c)(2)(B), and

(ii) amounts paid or incurred for the purpose of influencing legislation (whether or not for purposes described in section 170(c)(2)(B)).

(C) CERTAIN AMOUNTS EXCLUDED.—The term "exempt purpose expenditures" does not include amounts paid or incurred to or for—

(i) a separate fundraising unit of such organization, or

(ii) one or more other organizations, if such amounts are paid or incurred primarily for fundraising.

(2) LEGISLATION.—The term "legislation" includes action with respect to Acts, bills, resolutions, or similar items by the Congress, any State legislature, any local council, or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure.

(3) ACTION.—The term "action" is limited to the introduction, amendment, enactment, defeat, or repeal of Acts, bills, resolutions, or similar items.

(4) DEPRECIATION, ETC., TREATED AS EXPENDITURES.—In computing expenditures paid or incurred for the purpose of influencing legislation (within the meaning of subsection (b)(1) or (b)(2)) or exempt purpose expenditures (as defined in paragraph (1)), amounts properly chargeable to capital account shall not be taken into account. There shall be taken into account a reasonable allowance for exhaustion, wear and tear, obsolescence, or amortization. Such allowance shall be computed only on the basis of the straight-line method of depreciation. For purposes of this section, a determination of whether an amount is properly chargeable to capital account shall be made on the basis of the principles that apply under subtitle A to amounts which are paid or incurred in a trade or business.

(f) AFFILIATED ORGANIZATIONS.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (4), if for a taxable year two or more organizations described in section 501(c)(3) are members of an affiliated group of organizations as defined in paragraph (2), and an election under section 501(g) is effective for at least one such organization for such year, then—

(A) the determination as to whether excess lobbying expenditures have been made and the determination as to whether the expenditure limits of section 501(g)(1) have been exceeded shall be made as though such affiliated group is one organization,

(B) if such group has excess lobbying expenditures, each such organization as to which an election under section 501(g) is effective for such year shall be treated as an organization which has excess lobbying expenditures in an amount which equals such organization's proportionate share of such group's excess lobbying expenditures,

(C) if the expenditure limits of section 501(g)(1) are exceeded, each such organization as to which an election under section 501(g) is effective for such year shall be treated, as an organization which is not described in section 501(c)(3) by reason of the application of 501(g), and

(D) subparagraphs (C) and (D) of subsection (d)(2), paragraph (3) of subsection (d), and clause (i) of subsection (e)(1)(C) shall be applied as if such affiliated group were one organization.

(2) DEFINITION OF AFFILIATION.—For purposes of paragraph (1), two organizations are members of an affiliated group of organizations but only if—

(A) the governing instrument of one such organization requires it to be bound by decisions of the other organization on legislative issues, or

(B) the governing board of one such organization includes persons who—

(i) are specifically designated representatives of another such organization or are members of the governing board, officers, or paid executive staff members of such other organization, and

(ii) by aggregating their votes, have sufficient voting power to cause or prevent action on legislative issues by the first such organization.

(3) DIFFERENT TAXABLE YEARS.—If members of an affiliated group of organizations have different taxable years, their expenditures shall be computed for purposes of this section in a manner to be prescribed by regulations promulgated by the Secretary or his delegate.

(4) LIMITED CONTROL.—If two or more organizations are members of an affiliated group of organizations (as defined in paragraph (2) without regard to subparagraph (B) thereof), and the governing instrument of no such organization requires it to be bound by decisions of any of the other such organizations on legislative issues other than as to action with respect to Acts, bills, resolutions, or similar items by the Congress, then—

(A) in the case of any organization whose decisions bind one or more members of such affiliated group, directly or indirectly, the determination as to whether such organization has paid or incurred excess lobbying expenditures and the determination as to whether such organization has exceeded the expenditure limits of section 501(g)(1) shall be made as though such organization has paid or incurred those amounts

paid or incurred by such members of such affiliated group to influence legislation with respect to Acts, bills, resolutions, or similar items by the Congress, and

(B) in the case of any organization to which subparagraph (A) does not apply, but which is a member of such affiliated group, the determination as to whether such organization has paid or incurred excess lobbying expenditures and the determination as to whether such organization has exceeded the expenditure limits of section 501(g)(1) shall be made as though such organization is not a member of such affiliated group.

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Subtitle F—Procedure and Administration

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CHAPTER 61—INFORMATION AND RETURNS

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Subchapter A—Returns and Records

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PART II—TAX RETURNS OR STATEMENTS

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Subpart A—General Requirement

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SEC. 6011. GENERAL REQUIREMENT OF RETURN, STATEMENT, OR LIST.

(a) GENERAL RULE.—When required by regulations prescribed by the Secretary or his delegate any person made liable for any tax imposed by this title, or for the collection thereof, shall make a return or statement according to the forms and regulations prescribed by the Secretary or his delegate. Every person required to make a return or statement shall include therein the information required by such forms or regulations.

(b) IDENTIFICATION OF TAXPAYER.—The Secretary or his delegate is authorized to require such information with respect to persons subject to the taxes imposed by chapter 21 or chapter 24 as is necessary or helpful in securing proper identification of such persons.

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[(d) INTEREST EQUALIZATION TAX RETURNS, ETC.—

[(1) IN GENERAL.—

[(A) Every person shall make a return for each calendar quarter during which he incurs liability for the tax imposed

by section 4911, or would so incur liability but for the provisions of section 4918. The return shall, in addition to such other information as the Secretary or his delegate may by regulations require, include a list of all acquisitions made by such person during the calendar quarter for which exemption is claimed under section 4918 accompanied by a copy of any return made during such quarter under subparagraph (B). No return or accompaning evidence shall be required under this paragraph, in connection with any acquisition with respect to which—

[(i) an IET clean confirmation is obtained in accorddance with the provisions of section 4918(b),

[(ii) a validation certificate described in section 4918(b) issued to the person from whom such acquisition was made is obtained, and such certificate was filed in accordance with the requirements prescribed by the Secretary or his delegate, or

[(iii) a validation certificate was obtained by the acquiring person after such acquisition and before the date prescribed by section 6076(a) for the filing of the return,

nor shall any such acquisition be required to be listed in any return made under this paragraph.

[(B) Every person who incurs liability for the tax imposed by section 4911 shall, if he disposes of the stock or debt obligation with respect to which such liability was incurred prior to the filing of the return required by subparagraph (A) (unless such disposition is made under circumstances which entitle such person to a credit under the provisions of section 4919), make a return of such tax.

[(2) INFORMATION RETURNS OF COMMERCIAL BANKS.—Every United States person (as defined in section 4920(a)(4)) which is a commercial bank shall file a return with respect to loans and commitments to foreign obligors at such times, in such manner, and setting forth such information as the Secretary or his delegate shall by forms and regulations prescribe.

[(3) REPORTING REQUIREMENTS FOR CERTAIN MEMBERS OF EXCHANGES AND ASSOCIATIONS.—Every member or member organization of a national securities exchange or of a national securities association registered with the Securities and Exchange Commission, which is not subject to the provisions of section 4918(c), shall keep such records and file such information as the Secretary or his delegate may by forms or regulations prescribe in connection with acquisitions and sales effected by such member or member organization, as a broker or for his own account, of stock of a foreign issuer or debt obligations of a foreign obligor—

[(A) with respect to which a validation certificate described in section 4918(b)(1)(A) has been received by such member or member organization; or

[(B) with respect to which an acquiring United States person is subject to the tax imposed by section 4911.]

[e] (c) RETURNS, ETC., OF DISCS AND FORMER DISCS.—

(1) RECORDS AND INFORMATION.—A DISC or former DISC shall for the taxable year—

(A) furnish such information to persons who were shareholders at any time during such taxable year, and to the Secretary or his delegate, and

(B) keep such records, as may be required by regulations prescribed by the Secretary or his delegate.

(2) RETURNS.—A DISC shall file for the taxable year such returns as may be prescribed by the Secretary or his delegate by forms or regulations.

[f] (*d*) INCOME, ESTATE, AND GIFT TAXES.—

For requirement that returns of income, estate, and gift taxes be made whether or not there is tax liability, see secitons 6012 to 6019, inclusive.

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PART III—INFORMATION RETURNS

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Subpart A—Information Concerning Persons Subject to Special Provisions

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SEC. 6033. RETURNS BY EXEMPT ORGANIZATIONS.

(a) ORGANIZATIONS REQUIRED TO FILE.—

(1) IN GENERAL.—Except as provided in paragraph (2), every organization exempt from taxation under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the internal revenue laws as the Secretary or his delegate may by forms or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary or his delegate may from time to time prescribe; except that, in the discretion of the Secretary or his delegate, any organization described in section 401(a) may be relieved from stating in its return any information which is reported in returns filed by the employer which established such organization.

(2) EXCEPTIONS FROM FILING.—

(A) MANDATORY EXCEPTIONS.—Paragraph (1) shall not apply to—

(i) churches, their integrated auxiliaries, and conventions or associations of churches,

(ii) any organization (other than a private foundation, as defined in section 509(a)) described in subparagraph (C), the gross receipts of which in each taxable year are normally not more than $5,000, or

(iii) the exclusively religious activities of any religious order.

(B) DISCRETIONARY EXCEPTIONS.—The Secretary or his delegate may relieve any organization required under paragraph (1) to file an information return from filing such a return where he determines that such filing is not necessary to the efficient administration of the internal revenue laws.

(C) CERTAIN ORGANIZATIONS.—The organizations referred to in subparagraph (A)(ii) are—

(i) a religious organization described in section 501(c)(3);

(ii) an educational organization described in section 170(b)(1)(A)(ii);

(iii) a charitable organization, or an organization for the prevention of cruelty to children or animals, described in section 501(c)(3), if such organization is supported, in whole or in part, by funds contributed by the United States or any State or political subdivision thereof, or is primarily supported by contributions of the general public;

(iv) an organization described in section 501(c)(3), if such organization is operated, supervised, or controlled by or in connection with a religious organization described in clause (i);

(v) an organization described in section 501(c)(8); and

(vi) an organization described in section 501(c)(1), if such organization is a corporation wholly owned by the United States or any agency or instrumentality thereof, or a wholly-owned subsidiary of such a corporation.

(b) CERTAIN ORGANIZATIONS DESCRIBED IN SECTION 501(e)(3).—Every organization described in section 501(c)(3) which is subject to the requirements of subsection (a) shall furnish annually information, at such time and in such manner as the Secretary or his delegate may by forms or regulations prescribe, setting forth—

(1) its gross income for the year,

(2) its expenses attributable to such income and incurred within the year,

(3) its disbursements within the year for the purposes for which it is exempt,

(4) a balance sheet showing its assets, liabilities, and net worth as of the beginning of such year,

(5) the total of the contributions and gifts received by it during the year, and the names and addresses of all substantial contributors,

(6) the names and addresses of its foundation managers (within the meaning of section 4946(b)(1)) and highly compensated employees, [and]

(7) the compensation and other payments made during the year to each individual described in paragraph (6)[.], *and*

(8) in the case of an organization with respect to which an election under section 501(g) is effective for the taxable year, the following amounts for such organization for such taxable year:

(A) the lobbying expenditures (as defined in section 4911(c)(1)),

(B) the lobbying nontaxable amount (as defined in section 4911(c)(2)),

(C) the grass roots expenditures (as defined in section 4911(c)(3)), and

(D) the grass roots nontaxable amount (as defined in sec. 4911(c)(1)),

For purposes of paragraph (8), if section 4911(f) applies to the organization for the taxable year, such organization shall furnish the amounts with respect to the affiliated group as well as with respect to such organization.

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PART V—TIME FOR FILING RETURNS AND OTHER DOCUMENTS

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[SEC. 6076. TIME FOR FILING INTEREST EQUALIZATION TAX RETURNS.

[(a) Each return made under section 6011(d)(1)(A) shall be filed on or before the last day of the first month following the period for which it is made.

[(b) Each return made under section 6011(d)(1)(B) shall be filed on or before the date of disposition of the stock or debt obligation with respect to which such return is made.]

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Subchapter B—Miscellaneous Provisions

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SEC. 6103. PUBLICITY OF RETURNS AND DISCLOSURE OF INFORMATION AS TO PERSONS FILING INCOME TAX RETURNS.

(a) PUBLIC RECORD AND INSPECTION.—

(1) Returns made with respect to taxes imposed by chapters 1, 2, 3, and 6 upon which the tax has been determined by the Secretary or his delegate shall constitute public records; but, except as hereinafter provided in this section, they shall be open to inspection only upon order of the President and under rules and regulations prescribed by the Secretary or his delegate and approved by the President.

(2) All returns made with respect to the taxes imposed by chapters 1, 2, 3, 5, 6, 11, 12, and 32, subchapters B and C of chapter 33, subchapter B of chapter 37, and chapter 41 *(as in effect before July 1, 1974)* shall constitute public records and shall be open to public examination and inspection to such extent as shall be authorized in rules and regulations promulgated by the President.

(3) Whenever a return is open to the inspection of any person, a certified copy thereof shall, upon request, be furnished to such

person under rules and regulations prescribed by the Secretary or his delegate. The Secretary or his delegate may prescribe a reasonable fee for furnishing such copy.

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SEC. 6104. PUBLICITY OF INFORMATION REQUIRED FROM CERTAIN EXEMPT ORGANIZATIONS AND CERTAIN TRUSTS.

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(c) PUBLICATION TO STATE OFFICIALS.—

(1) GENERAL RULE.—In the case of any organization which is described in section 501(c)(3) and exempt from taxation under section 501(a), or has applied under section 508(a) for recognition as an organization described in section 501(c)(3), the Secretary or his delegate at such times and in such manner as he may by regulations prescribe shall—

(A) notify the appropriate State officer of a refusal to recognize such organization as an organization described in section 501(c)(3), or of the operation of such organization in a manner which does not meet, or no longer meets, the requirements of its exemption,

(B) notify the appropriate State officer of the mailing of a notice of deficiency of tax imposed under section 507 or chapter *41 or* 42, and

(C) at the request of such appropriate State officer, make available for inspection and copying such returns, filed statements, records, reports, and other information, relating to a determination under subparagraph (A) or (B) as are relevant to any determination under State law.

(2) APPROPRIATE STATE OFFICER.—For purposes of this subsection, the term "appropriate State officer" means the State attorney general, State tax officer, or any State official charged with overseeing organizations of the type described in section 501(c)(3).

(d) PUBLIC INSPECTION OF PRIVATE FOUNDATIONS' ANNUAL REPORTS.—The annual report required to be filed under section 6056 (relating to annual reports by private foundations) shall be made available by the foundation managers for inspection at the principal office of the foundation during regular business hours by any citizen on request made within 180 days after the publication of notice of its availability. Such notice shall be published, not later than the day prescribed for filing such annual report (determined with regard to any extension of time for filing), in a newspaper having general circulation in the county in which the principal office of the private foundation is located. The notice shall state that the annual report of the private foundation is available at its principal office for inspection during regular business hours by any citizen who requests it within 180 days after the date of such publication, and shall state the address of the private foundation's principal office and the name of its principal manager.

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CHAPTER 62—TIME AND PLACE FOR PAYING TAX

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Subchapter B—Extensions of Time for Payment

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SEC. 6161. EXTENSION OF TIME FOR PAYING TAX.

(a) * * *

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(b) AMOUNT DETERMINED AS DEFICIENCY.—Under regulations prescribed by the Secretary or his delegate, the Secretary or his delegate may extend, to the extent provided below, the time for payment of the amount determined as a deficiency:

(1) In the case of a tax imposed by chapter 1, 12, *41*, 42, or 43, for a period not to exceed 18 months from the date fixed for payment of the deficiency, and, in exceptional cases, for a further period not to exceed 12 months;

(2) In the case of a tax imposed by chapter 11, for a period not to exceed 4 years from the date otherwise fixed for payment of the deficiency.

An extension under this subsection may be granted only where it is shown to the satisfaction of the Secretary or his delegate that the payment of a deficiency upon the date fixed for the payment thereof will result in undue hardship to the taxpayer in the case of a tax imposed by chapter 1, *41*, 42, or [chapter] 43, to the estate in the case of a tax imposed by chapter 11, or to the donor in the case of a tax imposed by chapter 12. No extension shall be granted if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

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CHAPTER 63—ASSESSMENT

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Subchapter A—In General

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SEC. 6201. ASSESSMENT AUTHORITY.

(a) AUTHORITY OF SECRETARY OR DELEGATE.—The Secretary or his delegate is authorized and required to make the inquiries, determinations, and assessments of all taxes (including interest, additional amounts, additions to the tax, and assessable penalties) imposed by

this title, or accruing under any former internal revenue law, which have not been duly paid by stamp at the time and in the manner provided by law. Such authority shall extend to and include the following:

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(d) DEFICIENCY PROCEEDINGS.—

For special rules applicable to deficiences of income, estate, gift, [chapter 42, and chapter 43] *and certain excise* taxes, see subchapter B.

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Subchapter B—Deficiency Procedures in the Case of Income, Estate, Gift, and Certain Excise Taxes

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SEC. 6211. DEFINITION OF A DEFICIENCY.

(a) IN GENERAL.—For purposes of this title in the case of income, estate, and gift taxes imposed by subtitles A and B and excise taxes imposed by chapters *41*, 42, and 43, the term "deficiency" means the amount by which the tax imposed by subtitle A or B, or chapter *41*, 42, or 43, exceeds the excess of—

(1) the sum of—

(A) the amount shown as the tax by the taxpayer upon his return, if a return was made by the taxpayer and an amount was shown as the tax by the taxpayer thereon, plus

(B) the amounts previously assessed (or collected without assessment) as a deficiency, over—

(2) the amount of rebates, as defined in subsection (b)(2), made.

(b) RULES FOR APPLICATION OF SUBSECTION (a).—For purposes of this section—

(1) The tax imposed by subtitle A and the tax shown on the return shall both be determined without regard to payments on account of estimated tax, without regard to the credit under section 31, and without regard to so much of the credit under section 32 as exceeds 2 percent of the interest on obligations described in section 1451.

(2) The term "rebate" means so much of an abatement, credit, refund, or other repayment, as was made on the ground that the tax imposed by subtitle A or B or chapter *41*, 42, or 43 was less than the excess of the amount specified in subsection (a)(1) over the rebates previously made.

(3) The computation by the Secretary or his delegate, pursuant to section 6014, of the tax imposed by chapter 1 shall be considered as having been made by the taxpayer and the tax so computed considered as shown by the taxpayer upon his return.

(4) The tax imposed by subtitle A and the tax shown on the return shall both be determined without regard to the credit under section 39, unless, without regard to such credit, the tax imposed by subtitle A exceeds the excess of the amount specified in subsection (a)(1) over the amount specified in subsection (a)(2).

SEC. 6212. NOTICE OF DEFICIENCY.

(a) IN GENERAL.—If the Secretary or his delegate determines that there is a deficiency in respect of any tax imposed by subtitle A or B of chapter *41*, 42, or 43, he is authorized to send notice of such deficiency to the taxpayer by certified mail or registered mail.

(b) ADDRESS FOR NOTICE OF DEFICIENCY.—

(1) INCOME AND GIFT TAXES AND TAXES IMPOSED BY CHAPTER 42.—In the absence of notice to the Secretary or his delegate under section 6903 of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by subtitle A, chapter 12, *chapter 41*, chapter 42, or chapter 43, if mailed to the taxpayer at his last known address, shall be sufficient for purposes of subtitle A, chapter 12, *chapter 41*, chapter 42, chapter 43, and this chapter even if such taxpayer is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

(2) JOINT INCOME TAX RETURN.—In the case of a joint income tax return filed by husband and wife, such notice of deficiency may be a single joint notice, except that if the Secretary or his delegate has been notified by either spouse that separate residences have been established, then, in lieu of the single joint notice, a duplicate original of the joint notice shall be sent by certified mail or registered mail to each spouse at his last known address.

(3) ESTATE TAX.—In the absence of notice to the Secretary or his delegate under section 6903 of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by chapter 11, if addressed in the name of the decedent or other person subject to liability and mailed to his last known address, shall be sufficient for purposes of chapter 11 and of this chapter.

(c) FURTHER DEFICIENCY LETTERS RESTRICTED.—

(1) GENERAL RULE.—If the Secretary or his delegate has mailed to the taxpayer a notice of deficiency as provided in subsection (a), and the taxpayer files a petition with the Tax Court within the time prescribed in section 6213(a), the Secretary or his delegate shall have no right to determine any additional deficiency of income tax for the same taxable year, of gift tax for the same calendar quarter, of estate tax in respect of the taxable estate of the same decedent *of chapter 41 tax for the same taxable year*, of chapter 43 tax for the same taxable [years] *year*, of section 4940 tax for the same taxable year, or of chapter 42 tax (other than under section 4940) with respect to any act (or failure to act) to which such petition relates, except in the case of fraud, and except as provided in section 6214(a) (relating to assertion of greater deficiencies before the Tax Court), in section 6213(b)(1) (relating to mathematical errors), or in section 6861(c) (relating to the making of jeopardy assessments).

SEC. 6213. RESTRICTIONS APPLICABLE TO DEFICIENCIES; PETITION TO TAX COURT.

(a) TIME FOR FILING PETITION AND RESTRICTION ON ASSESSMENT.—Within 90 days, or 150 days if the notice is addressed to a person outside the States of the Union and the District of Columbia, after the notice of deficiency authorized in section 6212 is mailed (not counting Saturday, Sunday, or a legal holiday in the District of Columbia as the last day), the taxpayer may file a petition with the Tax Court for a redetermination of the deficiency. Except as otherwise provided in section 6861 no assessment of a deficiency in respect of any tax imposed by subtitle A or B or chapter *41*, 42, or 43 and no levy or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the taxpayer, nor until the expiration of such 90-day or 150-day period, as the case may be, nor, if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final. Notwithstanding the provisions of section 7421(a), the making of such assessment or the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

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SEC. 6214. DETERMINATIONS BY TAX COURT.

(a) JURISDICTION AS TO INCREASE OF DEFICIENCY, ADDITIONAL AMOUNTS, OR ADDITIONS TO THE TAX.—Except as provided by section 7463, the Tax Court shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the taxpayer, and to determine whether any additional amount, or addition to the tax should be assessed, if claim therefor is asserted by the Secretary or his delegate at or before the hearing or a rehearing.

(b) JURISDICTION OVER OTHER YEARS AND QUARTERS.—The Tax Court in redetermining a deficiency of income tax for any taxable year or of gift tax for any calendar year or calendar quarter shall consider such facts with relation to the taxes for other years or calendar quarters as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the tax for any other year or calendar quarter has been overpaid or underpaid.

(c) TAXES IMPOSED BY SECTION 507 OR CHAPTER *41*, 42, OR 43.—The Tax Court, in redetermining a deficiency of any tax imposed by section 507 or chapter *41*, 42, or 43 for any period, act, or failure to act, shall consider such facts with relation to the taxes under chapter *41*, 42, or 43 for other periods, acts, or failures to act as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the taxes under chapter *41*, 42, or 43 for any other period, act, or failure to act have been overpaid or underpaid.

(d) FINAL DECISIONS OF TAX COURT.—For purposes of this chapter, chapter *41*, 42, or 43, and subtitles A or B the date on which a decision of the Tax Court becomes final shall be determined according to the provisions of section 7481.

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CHAPTER 64—COLLECTION

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Subchapter D—Seizure of Property for Collection of Taxes

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SEC. 6344. CROSS REFERENCES.

(a) LENGTH OF PERIOD.—

For period within which levy may be begun in case of—

(1) Income, estate, and gift taxes, and taxes imposed by chapter *41*, 42, or 43, see sections 6502(a) and 6503(a)(1).

(2) Employment and miscellaneous excise taxes, see section 6502(a).

(b) DELINQUENT COLLECTION OFFICERS.—

For distraint proceedings against delinquent internal revenue officers, see section 7803(d).

(c) OTHER REFERENCES.—For provisions relating to—

(1) Stamps, marks and brands, see section 6807.

(2) Administration of real estate acquired by the United States, see section 7506.

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CHAPTER 66—LIMITATIONS

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Subchapter A—Limitations on Assessment and Collection

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SEC. 6501. LIMITATIONS ON ASSESSMENT AND COLLECTION.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amount of any tax imposed by this title shall be assessed within 3 years after the return was filed (whether or not such return was filed on or after the date prescribed) or, if the tax is payable by stamp, at any time after such tax became due and before the expiration of 3 years after the date on which any part of such tax was paid, and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period.

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(e) SUBSTANTIAL OMISSION OF ITEMS.—Except as otherwise provided in subsection (c)—

(1) INCOME TAXES.—In the case of any tax imposed by subtitle A—

(A) GENERAL RULE.—If the taxpayer omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed. For purposes of this subparagraph—

(i) In the case of a trade or business, the term "gross income" means the total of the amounts received or accrued from the sale of goods or services (if such amounts are required to be shown on the return) prior to diminution by the cost of such sales or services; and

(ii) In determining the amount omitted from gross income, there shall not be taken into account any amount which is omitted from gross income stated in the return if such amount is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Secretary or his delegate of the nature and amount of such item.

(B) CONSTRUCTIVE DIVIDENDS.—If the taxpayer omits from gross income an amount properly includible therein under section 551(b) (relating to the inclusion in the gross income of United States shareholders of their distributive shares of the undistributed foreign personal holding company income), the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.

(2) ESTATE AND GIFT TAXES.—In the case of a return of estate tax under chapter 11 or a return of gift tax under chapter 12, if the taxpayer omits from the gross estate or from the total amount of the gifts made during the period for which the return was filed items includible in such gross estate or such total gifts, as the case may be, as exceed in amount 25 percent of the gross estate stated in the return or the total amount of gifts stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed. In determining the items omitted from the gross estate or the total gifts, there shall not be taken into account any item which is omitted from the gross estate or from the total gifts stated in the return if such item is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Secretary or his delegate of the nature and amount of such item.

(3) EXCISE TAXES.—In the case of a return of a tax imposed under a provision of subtitle D, if the return omits an amount of such tax properly includible thereon which exceeds 25 percent of the amount of such tax reported thereon, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return is filed. In determining the amount of tax omitted on a return, there shall not be taken into account any amount of tax imposed by chapter *41*, 42, or 43 which is omitted from the return if the transaction giving rise to such tax is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Secretary or his delegate of the existence and nature of such item.

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Subchapter B—Limitations on Credit or Refund

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SEC. 6512. LIMITATIONS IN CASE OF PETITION TO TAX COURT.

(a) EFFECT OF PETITION TO TAX COURT.—If the Secretary or his delegate has mailed to the taxpayer a notice of deficiency under section 6212(a) (relating to deficiencies of income, estate, gift, and chapter *41*, 42, or 43 taxes) and if the taxpayer files a petition with the Tax Court within the time prescribed in section 6213(a), no credit or refund of income tax for the same taxable year, of gift tax for the same calendar year or calendar quarter, of estate tax in respect of the taxable estate of the same decedent, or of tab imposed by chapter *41*, 42, or 43 with respect to any act (or failure to act) to which such petition relates, in respect of which the Secretary or his delegate has determined the deficiency shall be allowed or made and no suit by the taxpayer for the recovery of any part of the tax shall be instituted in any court except—

(1) As to overpayments determined by a decision of the Tax Court which has become final; and

(2) As to any amount collected in excess of an amount computed in accordance with the decision of the Tax Court which has become final; and

(3) As to any amount collected after the period of limitation upon the making of levy or beginning a proceeding in court for collection has expired; but in any such claim for credit or refund or in any such suit for refund the decision of the Tax Court which has become final, as to whether such period has expired before the notice of deficiency was mailed, shall be conclusive.

(b) OVERPAYMENT DETERMINED BY TAX COURT.—

(1) JURISDICTION TO DETERMINE.—Except as provided by paragraph (2) and by section 7463, if the Tax Court finds that there is no deficiency and further finds that the taxpayer has made an overpayment of income tax for the same taxable year, of gift tax for the same calendar year or calendar quarter, of estate tax in respect of the taxable estate of the same decedent, or of tax imposed by chapter *41*, 42, or 43 with respect to any act (or failure to act) to which such petition relates, in respect of which the Secretary or his delegate determined the deficiency, or finds that there is a deficiency but that the taxpayer has made an overpayment of such tax, the Tax Court shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Tax Court has become final, be credited or refunded to the taxpayer.

(2) LIMIT ON AMOUNT OF CREDIT OR REFUND.—No such credit or refund shall be allowed or made of any portion of the tax unless the Tax Court determines as part of its decision that such portion was paid—

(A) after the mailing of the notice of deficiency.

(B) within the period which would be applicable under section 6511(b)(2), (c), or (d), if on the date of the mailing of the notice of deficiency a claim had been filed (whether or not filed) stating the grounds upon which the Tax Court finds that there is an overpayment, or

(C) within the period which would be applicable under section 6511 (b)(2), (c), or (d), in respect of any claim for refund filed within the applicable period specified in section 6511 and before the date of the mailing of the notice of deficiency—

(i) which had not been disallowed before that date,

(ii) which had been disallowed before that date and in respect of which a timely suit for refund could have been commenced as of that date, or

(iii) in respect of which a suit for refund had been commenced before that date and within the period specified in section 6532.

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CHAPTER 67—INTEREST

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Subchapter A—Interest on Underpayments

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SEC. 6601. INTEREST ON UNDERPAYMENT, NONPAYMENT, OR EXTENSIONS OF TIME FOR PAYMENT, OF TAX.

(a) * * *

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(c) SUSPENSION OF INTEREST IN CERTAIN INCOME, ESTATE, GIFT, AND CHAPTER *41*, 42, OR 43 TAX CASES.—In the case of a deficiency as defined in section 6211 (relating to income, estate, gift, and certain excise taxes), if a waiver of restrictions under section 6213(d) on the assessment of such deficiency has been filed, and if notice and demand by the Secretary or his delegate for payment of such deficiency is not made within 30 days after the filing of such waiver, interest shall not be imposed on such deficiency for the period beginning immediately after such 30th day and ending with the date of notice and demand.

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Subchapter B—Interest on Overpayments

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SEC. 6611. INTEREST ON OVERPAYMENTS.

(a) RATE.—Interest shall be allowed and paid upon any overpayment in respect of any internal tax at an annual rate established under section 6621.

(b) PERIOD.—Such interest shall be allowed and paid as follows:

(1) CREDITS.—In the case of a credit, from the date of the overpayment to the due date of the amount against which the credit is taken.

(2) REFUNDS.—In the case of a refund, from the date of the overpayment to a date (to be determined by the Secretary of his delegate) preceding the date of the refund check by not more than 30 days, whether or not such refund check is accepted by the taxpayer after tender of such check to the taxpayer. The acceptance of such check shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon.

(d) ADVANCE PAYMENT OF TAX, PAYMENT OF ESTIMATED TAX, AND CREDIT FOR INCOME TAX WITHHOLDING.—The provisions of section 6513 (except the provisions of subsection (c) thereof), applicable in determining the date of payment of tax for purposes of determining the period of limitation on credit or refund, shall be applicable in determining the date of payment for purposes of subsection (a).

(e) INCOME TAX REFUND WITHIN 45 DAYS AFTER RETURN IS FILED.—If any overpayment of tax imposed by subtitle A is refunded within 45 days after the last date prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in case the return is filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

(f) REFUND OF INCOME TAX CAUSED BY CARRYBACK OR ADJUSTMENT FOR CERTAIN UNUSED DEDUCTIONS.

(1) NET OPERATING LOSS OR CAPITAL 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 or net capital 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 or net capital 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, or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made prior to the close of such subsequent taxable year.

(3) ADJUSTMENT FOR CERTAIN UNUSED DEDUCTIONS OF LIFE INSURANCE COMPANIES.—For purposes of subsection (a), if any overpayment of tax imposed by subtitle A arises by operation of section 815(d)(5) (relating to reduction of policyholders surplus account of life insurance companies for certain unused deductions), such overpayment shall be deemed not to have been made prior to the close of the last taxable year to which the loss described in section 815(d)(5)(A) is carried under section 812(b)(2).

(4) WORK INCENTIVE PROGRAM CREDIT CARRYBACK.—For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a work incentive program credit carryback, such overpayment shall be deemed not to have been made prior to the close of the taxable year in which such work incentive program credit carryback arises, or, with respect to any portion of a work incentive program credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made prior to the close of such subsequent taxable year.

(g) REFUND OF INCOME TAX CAUSED BY CARRYBACK OF FOREIGN TAXES.—For purposes of subsection (a), if any overpayment of tax results from a carryback of tax paid or accrued to foreign countries or possessions of the United States, such overpayment shall be deemed not to have been paid or accrued prior to the close of the taxable year under this subtitle in which such taxes were in fact paid or accrued.

[(h) REFUND WITHIN 45 DAYS AFTER FILING CLAIM FOR REFUND OF INTEREST EQUALIZATION TAX PAID ON SECURITIES SOLD TO FOREIGNERS.—No interest shall be allowed under subsection (a) on any overpayment of the tax imposed by section 4911, arising by reason of section 4919(a), if the overpayment is refunded within 45 days after the filing of a claim for refund for that overpayment of tax with respect to a prior quarter.]

[(i)] (*h*) PROHIBITION OF ADMINISTRATIVE REVIEW.—

For prohibition of administrative review, see section 6406.

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CHAPTER 68—ADDITIONS TO THE TAX, ADDITIONAL AMOUNTS, AND ASSESSABLE PENALTIES

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Subchapter A—Additions to the Tax and Additional Amounts

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SEC. 6651. FAILURE TO FILE TAX RETURN OR TO PAY TAX.

(a) ADDITION TO THE TAX.—In case of failure—

(1) to file any return required under authority of subchapter A of chapter 61 (other than part III thereof), subchapter A of chapter 51 (relating to distilled spirits, wines, and beer); or of subchapter A of chapter 52 (relating to tobacco, cigars, cigarettes, and cigarette papers and tubes), or of subchapter A of chapter 53 (relating to machine guns and certain other firearms), 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 due to willfull neglect, there shall be added

to the amount required to be shown as tax on such return 5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate;

(2) to pay the amount shown as tax on any return specified in paragraph (1) on or before the date prescribed for payment of such tax (determined with regard to any extension of time for payment), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount shown as tax on such return 0.5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate; or

(3) to pay any amount in respect of any tax required to be shown on a return specified in paragraph (1) which is not shown (including an assessment made pursuant to section 6213(b)) within 10 days of the date of the notice and demand therefor, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount of tax stated in such notice and demand 0.5 percent of the amount of such tax if the falure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate.

(b) PENALTY IMPOSED ON NET AMOUNT DUE.—For purposes of—

(1) subsection (a)(1), the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed on the return,

(2) subsection (a)(2), the amount of tax shown on the return shall, for purposes of computing the addition for any month, be reduced by the amount of any part of the tax which is paid on or before the beginning of such month and by the amount of any credit against the tax which may be claimed on the return, and

(3) subsection (a)(3), the amount of tax stated in the notice and demand shall, for the purpose of computing the addition for any month, be reduced by the amount of any part of the tax which is paid before the beginning of such month.

(c) LIMITATIONS AND SPECIAL RULE.—

(1) ADDITIONS UNDER MORE THAN ONE PARAGRAPH.—

(A) With respect to any return, the amount of the addition under paragraph (1) of subsection (a) shall be reduced by the amount of the addition under paragraph (2) of subsection (a) for any month to which an addition to tax applies under both paragraphs (1) and (2).

(B) With respect to any return, the maximum amount of the addition permitted under paragraph (3) of subsection (a) shall be reduced by the amount of the addition under paragraph (1) of subsection (a) which is attributable to the

tax for which the notice and demand is made and which is not paid within 10 days of notice and demand.

(2) AMOUNT OF TAX SHOWN MORE THAN AMOUNT REQUIRED TO BE SHOWN.—If the amount required to be shown as tax on a return is less than the amount shown as tax on such return, subsections (a)(2) and (b)(2) shall be applied by substituting such lower amount.

(d) EXCEPTION FOR DECLARATIONS OF ESTIMATED TAX.—This section shall not apply to any failure to file a declaration of estimated tax required by section 6015 or to pay any estimated tax required to be paid by section 6153 or 6154.

[(e) CERTAIN INTEREST EQUALIZATION TAX RETURNS.—The provisions of this section shall apply with respect to returns of amounts withheld under section 4918(e)(7) (relating to withholding of interest equalization tax by participating firms) in the same manner and to the same extent as they apply with respect to returns specified in subsection (a)(1).]

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Subchapter B—Assessable Penalties

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[SEC. 6680. FAILURE TO FILE INTEREST EQUALIZATION TAX RETURNS.

[(a) IN GENERAL.—In addition to the penalty imposed by section 7203 (relating to willful failure to file return, supply information, or pay tax)—

[(1) RETURN REQUIRED UNDER SECTION 6011(d)(1).—Any person who is required under section 6011(d)(1) (relating to interest equalization tax returns) to file a return for any period in respect of which, by reason of the provisions of section 4918, he incurs no liability for payment of the tax imposed by section 4911 and who fails to file such return within the time prescribed by section 6076, shall pay a penalty of $10 or 5 percent of the amount of tax for which he would incur liability for payment under section 4911 but for the provisions of section 4918, whichever is the greater, for each such failure unless it is shown that the failure is due to reasonable cause. The penalty imposed by this paragraph shall not exceed $1,000 for each failure to file a return.

[(2) RETURN REQUIRED UNDER SECTION 6011(d)(3).—Any person required to file a return under section 6011(d)(3) who fails to file such return at the time prescribed by the Secretary or his delegate, or who files a return which does not show the information required, shall pay a penalty of $1,000, unless it is shown that such failure is due to reasonable cause.

[(b) CROSS REFERENCE.—

[For additions and penalities in case of failure to file interest equalization tax returns or pay or remit, see section 6651.

[SEC. 6681. FALSE EQUALIZATION TAX CERTIFICATES.

[(a) FALSE STATEMENT OF UNITED STATES PERSON STATUS.—In addition to the criminal penalty imposed by section 7241, any person who, for purposes of section 4918(e) or 4918(h), executes a statement as to his status as a United States person and ownership of stock and debt obligations which contains a misstatement of material fact shall, unless it is shown that such action is due to reasonable cause and not due to willful neglect, be liable to a penalty equal to 125 percent of the amount of the tax imposed by section 4911 on the acquisition of any stock or debt obligation which, but for the provisions of section 4918, would be payable by the person acquiring such stock or debt obligation.

[(b) LIABILITY OF PARTICIPATING FIRMS AND PARTICIPATING CUSTODIANS.—

[(1) CONFIRMATIONS AND COMPARISONS.—Unless it is shown that such action is due to reasonable cause and not due to willful neglect, a participating firm described in section 4918(c) shall be liable to a penalty equal to 125 percent of the amount of tax imposed by section 4911 on the acquisition of stock or a debt obligation which, but for the provisions of section 4918, would be payable by the person acquiring the stock or debt obligation, if such participating firm—

[(A) furnishes an IET clean confirmation referred to in section 4918(b) other than in accordance with the provisions of section 4918(d),

[(B) furnishes a written comparison or broker-dealer confirmation other than in accordance with the provisions of section 4918(e), or

[(C) violates the rules of an exchange or association referred to in section 4918(d)(2) and as a result thereof an IET clean confirmation referred to in section 4918(b) is issued under section 4918(d)(2) by another participating firm.

[(2) TRANSFER OF CUSTODY CERTIFICATES.—Unless it is shown that such action is due to reasonable cause and not due to willful neglect, a participtaing firm or participating custodian (described in section 4918(f)) shall be liable to a penalty equal to 125 percent of the amount of tax imposed by section 4911 on the acquisition of stock or a debt obligation which, but for the provisions of section 4918, would be payable by the person acquiring the stock or debt obligation, if such firm or custodian issues a transfer of custody certificate (described in section 4918(h)(1)) which contains a misstatement of material fact or issues a transfer of custody certificate other than in accordance with the provisions of section 4918.

[(c) FALSE CERTIFICATE OF SALES TO FOREIGN PERSONS.—In addition to the criminal penalty imposed by section 7241, any person who willfully executes a certificate of sales to foreign persons described in section 4919(b)(2) which contains a misstatement of material fact shall be liable to a penalty equal to 125 percent of the amount of the tax imposed by section 4911 on the acquisition by the underwriter of the stock or debt obligation with respect to which such certificate is executed.

[(d) FALSE CONFIRMATIONS OR COMPARISONS FURNISHED BY DEALERS.—

[(1) MEMBERS OF NATIONAL SECURITIES EXCHANGES.—A member or member organization of a national securities exchange described in section 4919(b)(3)(A) who, in a transaction subject to the rules of such exchange as described in such section, willfully furnishes a written confirmation or comparison which contains a misstatement of material fact or which fails to state a material fact shall be liable to a penalty equal to 125 percent of the amount of the tax imposed by section 4911 on the acquisition of the debt obligation by the dealer for whose benefit such confirmation or comparison is furnished.

[(2) DEALERS.—Any person who sells as a dealer a debt obligation in a transaction subject to the rules of a national securities exchange as described in section 4919(b)(3)(A), in which such sale is effected on his behalf by a member or member organization of such exchange, and who willfully fails to disclose to such member or member organization that such sale is being made by him as a dealer, shall be liable to a penalty equal to 125 percent of the amount of the tax imposed on his acquisition of such debt obligation.

[(3) MEMBERS OF NATIONAL SECURITIES ASSOCIATIONS.—A member or member organization of a national securities association described in section 4919(b)(3)(B) who willfully furnishes a written confirmation described in such section (in a transaction subject to the rules of such association as described in such section) which contains a misstatement of material fact or which fails to state a material fact shall be liable to a penalty equal to 125 percent of the amount of the tax imposed by section 4911 on the

acquisition of the debt obligation by the dealer for whose benefit such confirmation is furnished.

[(e) PENALTY TO BE IN LIEU OF TAX IN CERTAIN CASES.—Unless the person acquiring the stock or debt obligation involved had reason to know that the IET clean confirmation which he received was false in any material respect, the penalty under subsection (b)(1) shall be in lieu of any tax on the acquisition of stock or debt obligation under section 4911.

[(f) FALSE APPLICATION FOR VALIDATION CERTIFICATE, ETC.—Any person who knowingly supplies information in connection with an application for a validation certificate (described in section 4918(b)(1)(A)) which contains a misstatement of a material fact, or who knowingly obtains or uses a validation certificate for the purpose of establishing an exemption for prior American ownership and compliance under section 4918(a) other than in accordance with the provisions of section 4918, shall be liable to a penalty equal to 125 percent of an amount equal to the tax which would have been imposed by section 4911 if the stock or debt obligation described in such certificate had been acquired by a person required to pay such tax on the date of application.]

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[SEC. 6689. FAILURE BY CERTAIN FOREIGN ISSUERS AND OBLIGORS TO COMPLY WITH UNITED STATES INVESTMENT EQUALIZATION TAX REQUIREMENTS.

[In addition to any other penalties imposed by law, any foreign issuer or obligor with respect to an original or new issue of whose stock or debt obligations an exclusion from tax under section 4922 applied, but who fails to comply with any of the applicable requirements enumerated in or made applicable to such issuer or obligor under subsection (b) of such section and (under section 4922(c)) incurs liability for the tax imposed by section 4911 as a result thereof, shall, unless it is shown that such failure to comply is due to reasonable cause and not due to willful neglect, be liable (in addition to the liability for tax so incurred) for a penalty equal to 25 percent of the total amount of such tax.]

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CHAPTER 75—CRIMES, OTHER OFFENSES, AND FORFEITURES

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Subchapter A—Crimes

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PART II—PENALTIES APPLICABLE TO CERTAIN TAXES

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[SEC. 7241. PENALTY FOR FRAUDULENT EQUALIZATION TAX CERTIFICATES.

[(a) Any person who, on or after the date of the enactment of the Interest Equalization Tax Act, willfully executes a certificate of American ownership or blanket certificate of American ownership described in section 4918(e), or a certificate of sales to foreign persons described in section 4919(b)(2), which is known by him to be fraudulent or to be false in any material respect shall be guilty of a misdemeanor and, upon conviction thereof, shall for each offense be fined not more than $1,000, or imprisoned not more than 1 year, or both.

[(b) Any person who, on or after the date of the enactment of the Interest Equalization Tax Extension Act of 1967, willfully executes, for purposes of section 4918(e) or 4918(h), a statement as to his status as a United States person and ownership of stock and debt obligations which is known by him to be fraudulent or to be false in any material respect shall be guilty of a misdemeanor and, upon conviction thereof, shall for each offense be fined not more than $1,000, or imprisoned not more than 1 year, or both.]

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CHAPTER 76—JUDICIAL PROCEEDINGS

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Subchapter B—Proceedings by Taxpayers and Third Parties

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SEC. 7422. CIVIL ACTIONS FOR REFUND.

(a) NO SUIT PRIOR TO FILING CLAIM FOR REFUND.— * * *

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(e) STAY OF PROCEEDINGS.—If the Secretary or his delegate prior to the hearing of a suit brought by a taxpayer in a district court or the Court of Claims for the recovery of any income tax, estate tax, gift tax, or tax imposed by chapter [42] *41*, *42*, or 43 (or any penalty relating to such taxes) mails to the taxpayer a notice that a deficiency has been determined in respect of the tax which is the subject matter

of taxpayer's suit, the proceedings in taxpayer's suit shall be stayed during the period of time in which the taxpayer may file a petition with the Tax Court for a redetermination of the asserted deficiency, and for 60 days thereafter. If the taxpayer files a petition with the Tax Court, the district court or the Court of Claims, as the case may be, shall lose jurisdiction of taxpayer's suit to whatever extent jurisdiction is acquired by the Tax Court of the subject matter of taxpayer's suit for refund. If the taxpayer does not file a petition with the Tax Court for a redetermination of the asserted deficiency, the United States may counterclaim in the taxpayer's suit, or intervene in the event of a suit as described in subsection (c) (relating to suits against officers or employees of the United States), within the period of the stay of proceedings notwithstanding that the time for such pleading may have otherwise expired. The taxpayer shall have the burden of proof with respect to the issues raised by such counterclaim or intervention of the United States except as to the issue of whether the taxpayer has been guilty of fraud with intent to evade tax. This subsection shall not apply to a suit by a taxpayer which, prior to the date of enactment of this title, is commenced, instituted, or pending in a district court or the Court of Claims for the recovery of any income tax, estate tax, or gift tax (or any penalty relating to such taxes).

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Calendar No. 1275

94TH CONGRESS
2d Session

SENATE

REPORT
No. 94-1345

FOOD STAMP PURCHASES BY WELFARE RECIPIENTS

SEPTEMBER 29, 1976.—Ordered to be printed

Mr. LONG, from the Committee on Finance, submitted the following

REPORT

[To accompany H.R. 13500]

The Committee on Finance, to which was referred the bill (H.R. 13500) to amend the Internal Revenue Code of 1954 with respect to influencing legislation by public charities, having considered the same, reports favorably thereon with an amendment and with an amendment to the title and recommends that the bill (as amended) do pass.

House bill.—As passed by the House, H.R. 13500 provided a new elective set of requirements for determining whether a charitable organization has engaged in excessive lobbying activities sufficient to cause it to lose its exemption and qualification for receiving deductible contributions. The substance of the bill has already been enacted by the Congress as part of H.R. 10612, the Tax Reform Act of 1976.

Committee bill.—The committee bill strikes out all after the enacting clause and instead substitutes an amendment dealing with food stamp purchases by welfare recipients.

Under a provision of Public Law 93-86, State welfare agencies were mandated to withhold, at the option of the recipient, the amount of the AFDC grant needed to purchase the recipient's food stamp allotment and to distribute the food stamp coupon allotment along with the reduced cash grant (usually by mail). The committee bill would add a provision to title IV-A of the Social Security Act to give the States the option of using this procedure instead of requiring it.

II. GENERAL EXPLANATION OF THE BILL

In response to problems encountered by some States in implementing the mandatory requirement for Public Assistance Withholding (PAW) procedures, Public Law 94-182 allowed the Federal Government to make PAW procedures optional with each State until October 1, 1976. This action was taken in the expectation that major food

stamp legislation (including permanent provisions for PAW procedures at the option of the States) would be acted on before the October 1 extended deadline.

Both the Senate-approved (S. 3136) and House Agriculture Committee (H.R. 13613) food stamp bills include provisions making PAW procedures permanently optional with the States. However, it appears unlikely that final action on these bills will come before the October 1 deadline.

Although many States do use PAW issuance procedures successfully, some States and localities have found the provisions extremely difficult to implement. There is a serious problem in the mail issuance of readily negotiable food stamp coupons in urban areas where the probability of mail loss is high. Major design problems are met in attempting to coordinate State-run AFDC systems with locally run or contracted-out food stamp issuance systems. Many States, even though they utilize computers, encounter the costly problem of computer incompatibility between the AFDC and food stamp systems. The heavy additional cost of establishing computer capability to implement withholding or computer compatibility is a financial burden with which a number of States find they cannot cope. There is, in addition, strong opposition in some States to requiring that PAW issuance procedures operate in all areas of the State, rather than in those areas where the State feels these procedures would be most appropriate.

A recent House Agriculture Committee survey of State and local welfare administrators noted that:

> A State option to offer PAW was overwhelmingly favored by State administrators. A concern about the possibility of mail theft in all or some localities appeared frequently in [the State administrators'] responses. State administrators also observed that not all States share the capability of an integrated computer system for public assistance and food stamps, a capability said to be necessary for PAW implementation. The need to take into account other variances in administrative systems was also cited. The local administrators also favored a State option (41 percent). They expressed concern over mail theft and spoke of difficulties in implementation because there are two different agencies administering two different programs with resulting difficulty in coordination.

To date, only 23 States and one other jurisdiction have fully implemented PAW issuance procedures for food stamp coupons. Ten other States have implemented the procedures in some of the counties of the State. However, 17 States and three other jurisdictions have not implemented PAW issuance procedures. The following shows the breakdown by State.

States and jurisdictions with full implementation (24)

Alaska, Arizona, Arkansas, Delaware, Guam, Hawaii, Idaho, Iowa, Kansas, Kentucky, Mississippi, Montana, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Utah, Virginia, Washington, West Virginia, and Wyoming.

States with partial implementation (10)

California, Colorado, Indiana, Maryland, Minnesota, New York, Tennessee, Texas, Vermont, and Wisconsin.

States and jurisdictions without implementation (20)

Alabama, Connecticut, the District of Columbia, Florida, Georgia, Illinois, Louisiana, Maine, Massachusetts, Michigan, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, North Dakota, Pennsylvania, Puerto Rico, Rhode Island, and the Virgin Islands.

Under current law, the Agriculture Department will begin requiring that all States offer, statewide, PAW food stamp issuance procedures to AFDC recipients in October 1976. In view of the circumstances cited above, the committee believes that this requirement is unwarranted. The committee bill therefore would give States the option of offering PAW issuance procedures on a permanent basis. States could choose not to offer PAW procedures, offer them statewide, or offer them only in selected areas of the State. For those States choosing to offer PAW issuance procedures to AFDC recipients, the administrative cost of the procedures would continue to be governed by the Federal-State cost-sharing provisions of the Food Stamp Act, as amended.

The committee bill also provides that administrative costs incurred by States in conducting public assistance withholding procedures must be paid under the food stamp program.

III. Budgetary Impact of H.R. 13500

The Finance Committee estimates that the enactment of H.R. 13500 with the amendments recommended by the committee would be consistent with the budgetary totals included in the second concurrent resolution on the budget for fiscal year 1977.

Giving States the option of using public assistance withholding procedures is estimated to result in a savings in AFDC administrative costs of $3 million in fiscal year 1977 and in the four subsequent fiscal years. For purposes of indicating the relationship between this bill and the allocation by the committee of budget totals for fiscal year 1977 pursuant to section 302(b) of the Congressional Budget Act, the Committee on Finance estimates that there would be an overall net reduction in Federal budget authority and outlays, of an entitlement nature amounting to $3 million.

IV. Vote of the Committee in Reporting the Bill

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made relative to the vote by the committee on the motion to report the bill. The bill was ordered reported by voice vote.

V. Changes in Existing Law

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is

enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SOCIAL SECURITY ACT, AS AMENDED

* * * * * * *

TITLE IV—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES

PART A—AID TO FAMILIES WITH DEPENDENT CHILDREN

* * * * * * *

FOOD STAMP DISTRIBUTION

Sec. 410. (*a*) *Any State plan for aid and services to needy families with children may* (*but is not required under this title or any other provision of Federal law to*) *provide for the institution of procedures, in any or all areas of the State, by the State agency administering or supervising the administration of such plan under which any household participating in the food stamp program established by the Food Stamp Act of 1964, as amended, will be entitled, if it so elects, to have the charges, if any, for its coupon allotment under such program deducted from any aid, in the form of money payments, which is* (*or, except for the deduction of such charge, would be*) *payable to or with respect to such household* (*or any member or members thereof*) *under such plan and have its coupon allotment distributed to it with such aid.*

(*b*) *Any deduction made pursuant to an option provided in accordance with subsection* (*a*) *shall not be considered to be a payment described in section 406* (*b*) (*2*).

(*c*) *Notwithstanding any other provision of law, no agency which is designated as a State agency for any State under or pursuant to the Food Stamp Act of 1964, as amended, shall be regarded as having failed to comply with any requirement imposed by or pursuant to such Act solely because of the failure, of the State agency administering or supervising the administration of the State plan* (*approved under this part*) *of such State, to institute or carry out a procedure, described in subsection* (*a*).

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H. R. 13500

Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday, the nineteenth day of January, one thousand nine hundred and seventy-six

An Act

To amend the Social Security Act with respect to food stamp purchases by welfare recipients.

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

FOOD STAMP DISTRIBUTION TO AFDC FAMILIES

That (a) Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"FOOD STAMP DISTRIBUTION

"SEC. 410. (a) Any State plan for aid and services to needy families with children may (but is not required under this title or any other provision of Federal law to) provide for the institution of procedures, in any or all areas of the State, by the State agency administering or supervising the administration of such plan under which any household participating in the food stamp program established by the Food Stamp Act of 1964, as amended, will be entitled, if it so elects, to have the charges, if any, for its coupon allotment under such program deducted from any aid, in the form of money payments, which is (or, except for the deduction of such charge, would be) payable to or with respect to such household (or any member or members thereof) under such plan and have its coupon allotment distributed to it with such aid.

"(b) Any deduction made pursuant to an option provided in accordance with subsection (a) shall not be considered to be a payment described in section 406(b)(2).

"(c) Notwithstanding any other provision of law, no agency which is designated as a State agency for any State under or pursuant to the Food Stamp Act of 1964, as amended, shall be regarded as having failed to comply with any requirement imposed by or pursuant to such Act solely because of the failure, of the State agency administering or supervising the administration of the State plan (approved under this part) of such State, to institute or carry out a procedure, described in subsection (a).".

(b) Administrative costs incurred by a State plan for aid and services to needy families with children, approved under Part A of title IV of the Social Security Act, in conducting procedures (described in section 410 of such Act, as added by subsection (a) of this section) in connection with the food stamp program shall be paid from funds appropriated to carry out the Food Stamp Act of 1964, as amended.

SEC. 2. (a) Title XVI of the Social Security Act is amended by adding immediately after section 1617 the following new section:

"OPERATION OF STATE SUPPLEMENTATION PROGRAMS

"SEC. 1618. (a) In order for any State which makes supplementary payments of the type described in section 1616(a) (including pay-

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ments pursuant to an agreement entered into under section 212(a) of Public Law 93–66), on or after June 30, 1977, to be eligible for payments pursuant to title XIX with respect to expenditures for any calendar quarter which begins—

"(1) after June 30, 1977, or, if later,

"(2) after the calendar quarter in which it first makes such supplementary payments,

such State must have in effect an agreement with the Secretary whereby the State will—

"(3) continue to make such supplementary payments, and

"(4) maintain such supplementary payments at levels which are not lower than the levels of such payments in effect in December 1976, or, if no such payments were made in that month, the levels for the first subsequent month in which such payments were made.

"(b) The Secretary shall not find that a State has failed to meet the requirements imposed by paragraph (4) of subsection (a) with respect to the levels of its supplementary payments for a particular month or months if the State's expenditures for such payments in the twelve-month period (within which such month or months fall) beginning on the effective date of any increase in the level of supplemental security income benefits pursuant to section 1617 are not less than its expenditures for such payments in the preceding twelve-month period.".

(b) Section 401(a)(2) of the Social Security Amendments of 1972 is amended—

(1) by inserting "(subject to the second sentence of this paragraph)" immediately after "Act" where it first appears in subparagraph (B), and

(2) by adding at the end thereof the following new sentence: "In determining the difference between the level specified in subparagraph (A) and the benefits and income described in subparagraph (B) there shall be excluded any part of any such benefit which results from (and would not be payable but for) any cost-of-living increase in such benefits under section 1617 of such Act (or any general increase enacted by law in the dollar amounts referred to in such section) becoming effective after June 30, 1977.".

(c) The provisions of this section shall be effective with respect to benefits payable for months after June 1977.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

FOR IMMEDIATE RELEASE October 22, 1976

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

I am today signing H.R. 13500, amendments to the Food Stamp and Supplemental Security Income (SSI) programs.

This Food Stamp amendment gives to the States needed flexibility in deciding how to manage their food stamp programs. It makes optional a previous legislative requirement which was often inappropriate because of its complexity, cost, and the occasional unintended hardships it created.

The bill also has a provision which guarantees that the aged, blind, and disabled recipients of Supplemental Security Income benefits will receive annual cost-of-living increases from the Federal government. Under current law, these increases do not always get passed on to the recipient. However, I think it is important that this guarantee be available. SSI recipients are particularly vulnerable to the ravaging effects of inflation. This bill will at least provide this deserving group a minimum level of protection.

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