The original documents are located in Box 29, folder "Tax Reduction Act of 1975 - Conference Committee Report (2)" of the Ron Nessen Papers at the Gerald R. Ford Presidential Library.

JOINT EXPLANATORY STATEMENT OF THE
COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the 2 Houses on the amendment of the Senate to the bill (H.R. 2166) to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual-income taxes, to increase the low income allowance and the percentage standard deduction, to provide a credit for certain earned income, to increase the investment credit and the surtax exemption, and for other purposes, submit the following joint statement to the House and the Senate an explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

REFUND OF 1974 INDIVIDUAL INCOME TAXES

House bill.--The House bill provides for a refund of 1974 tax liability to be made in one installment beginning in May, 1975. The amount of the refund is to be 10 percent of tax liability up to a maximum refund of $200. Each taxpayer is to receive a refund of at least $100 (or the full amount of his or her actual tax liability if it is less than $100). The refund is to be phased down from the maximum of $200 to $100 as the taxpayer's adjusted gross income rises from $20,000 to $30,000.

Senate amendment.--The Senate amendment provides for a similar refund of 1974 tax liability except that the amount of the refund will be equal to 12 percent of tax liability up to a maximum refund of $240 with a minimum of $120 (or the full amount of the taxpayer's tax liability if it is less than $120).

Conference substitute.--The conference substitute provides for the same refund of 1974 tax liability as in the House bill.

REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS

House bill.--The House bill provides that 1974 income tax refunds under section 101 of the bill are not to be considered income or resources for purposes of determining who is eligible to receive benefits or assistance, or the amount or extent of benefits or assistance, under any Federal or Federally assisted program.

Senate amendment.--The Senate amendment is identical to the House provision.

Conference substitute.--The conference substitute is the same as the House bill and Senate amendment.

REDUCTION IN INDIVIDUAL INCOME TAXES

(Increase In Low-Income Allowance and Standard Deduction; Personal Exemption Credit) ~~and Change in Rates~~

House bill.--The bill raises the minimum standard deduction ("low-income allowance") to $1,900 for single persons and to $2,500 for joint returns. It also increases the percentage standard deduction to 16 percent, with a maximum of $2,500 for single persons and $3,000 for joint returns. These increases under the House bill are effective only for the 1975 tax year.

Senate amendment.--Instead of the increase in the low-income allowance and the percentage standard deduction provided by the House bill, the Senate amendment provides a $200 optional tax credit for each personal exemption deduction to which a taxpayer is entitled in lieu of the $750 deduction and a reduction of 1 percentage point in the tax rates applicable to the first $4,000 of taxable income. The $200 optional tax credit is for the 1975 tax year, and the rate reduction is for 1975 and 1976 tax years.

The amendment provides that taxpayers are to compute their tax by using either the $750 exemption deduction of present law or the tax credit of $200 per exemption provided by the amendment depending on which alternative results in a lower tax liability. The amendment also provides that any overstatement of tax liability resulting from incorrectly choosing the personal exemption deduction instead of the credit (or vice versa) will be treated by the Internal Revenue Service as a mathematical error. The Internal Revenue Service will automatically check the computation made on each return and will refund (or credit) any excess amounts paid resulting from the overstatement of tax liability. Under the amendment the personal exemption tax credit is to apply on a 1 year basis for a taxable year beginning in 1975 only.

In addition to the optional tax credit for personal exemptions, the Senate amendment provides a 1 percentage point reduction in the tax rates applicable to the first $4,000 of taxable income in the case of joint returns. In the case of single persons and married individuals filing separate returns, there are 5 brackets for the first $4,000 of taxable income (3 brackets in the case of heads of households). The amendment also reduces each of these brackets by 1 percentage point.

<u>Conference substitute</u>.--The conference substitute raises the

minimum standard deduction to $1,600 for single persons and to $1,900 for joing returns. It also increases the percentage standard deduction to 16 percent, with a maximum of $2,300 for single persons and $2,600 for joint returns. This is to be effective for 1975.

In addition, the conference substitute provides for a tax credit, in addition to the personal exemption, of $30 for each taxpayer, spouse, and dependent. The credit is effective for 1975.

EARNED INCOME TAX CREDIT

House bill.--The bill provides for a refundable credit of 5 percent of earned income up to a maximum of $200. The credit is to be phased out from the maximum $200 to zero as earned income (or adjusted gross income, if greater) increases from $4,000 to $6,000. The earned income credit applies only for 1975.

Senate amendment.--The Senate amendment provides a tax credit of 10 percent of earned income up to a maximum of $400. The amount of the credit is to be phased out from the maximum amount down to zero as the earned income (or adjusted gross income, if greater) increases from $4,000 to $8,000. Only individuals who maintain a household in the United States for themselves and for 1 or more dependent children are eligible to claim the credit under the Senate amendment. As in the House bill, the Senate amendment applies only to taxable years beginning in 1975.

Conference substitute.--The conference substitute adopts the Senate version of the earned income credit. The language in the Senate amendment with reference to the income being taken into account for welfare purposes, however, is not included as the conferees intend that the language applicable under present law is not changed.

CHANGE IN WITHHOLDING RATES

House bill.--The bill provides a new annual percentage withholding table, which reflects the increases in the low income allowance, the percentage standard deduction, and the provision for an earned income credit provided in the House bill. The Internal Revenue Service is required to calculate withholding tables for other periods and for wage bracket withholding.

Senate amendment.--The Senate amendment requires the Secretary of the Treasury to prescribe new withholding tables which reflect the $200 personal exemption tax credit provided by the Senate amendment, the reduction in income tax rates provided by the Senate amendment, and the earned income credit as modified by the Senate amendment. The changes in the withholding tables are to take effect, as in the House bill, on May 1, 1975.

Conference substitute.--The conference substitute requires the Secretary to prescribe new withholding tables which reflect the temporary increases in the minimum standard deduction and the percentage standard deduction, The earned income credit ~~the temporary decrease in the income tax rates~~, and the additional tax credit provided in the conference substitute. The changes in the withholding tables are to take effect on May 1, 1975.

DEDUCTION OF CERTAIN EXPENSES NECESSARY FOR GAINFUL EMPLOYMENT (CHILDCARE DEDUCTION)

House bill.--The House bill does not contain this provision.

Senate amendment.--The Senate amendment removes the present limits on deductible expenditures (maximum of $4,800 per year) and the income phaseout (the $4,800 maximum phased out $1 for each $2 of adjusted gross income in excess of $18,000 for the husband and wife). It changes the deduction from an itemized deduction (deductible from adjusted gross income) to a "business deduction" (deductible from gross income in determining AGI). Payments to related persons are also made deductible, if the transaction is made in an "arms-length" fashion (pursuant to Treasury regulations).

The Senate amendment also provides for an optional tax credit for 50 percent of the allowable child care expenses, up to a maximum credit of $50 per month ($25 in the case of a married person filing a separate tax return). The changes in the Senate amendment are effective for taxable years beginning after the date of enactment.

Conference substitute.--The conference substitute provides for an increase in the maximum adjusted gross income level from $18,000 to $35,000, before the phaseout begins. This change is effective for taxable years beginning after date of enactment ~~in 1976 and thereafter.~~

EXTENSION OF PERIOD FOR REPLACING OLD RESIDENCE FOR PURPOSES OF NONRECOGNITION OF GAIN UNDER SECTION 1034

House bill.--No provision.

Senate amendment.--The Senate amendment provides an extension of the time period in which a taxpayer may purchase a subsequent principal residence and thereby defer gain, from one year to 18 months (before or after sale). The amendment also extends the period in which the taxpayer may construct a subsequent residence from 18 months to 24 months (if construction begins within 18 months after the sale of the former residence). The extension is effective for sales of residences after December 31, 1973.

Conference substitute.--The conference substitute follows the Senate amendment except that it makes the provision effective for sales of residences after December 31, 1974.

TAX CREDIT FOR HOME PURCHASES

House bill.--No provision.

Senate amendment.--The Senate amendment provides a tax credit for the purchase or construction by an individual taxpayer of a new principal residence. Under the amendment, the definition of a new principal residence includes, but is not limited to, a single family structure, a unit in a condominium or cooperative housing project, and a mobile home. The rate of the credit is equal to 5 percent of the taxpayer's basis in the new residence and the amount of the credit is limited to a maximum of $2,000.

Generally, to be eligible for the credit, the taxpayer must have acquired the home as his principal place of residence after March 12, 1975, and before January 1, 1976. However, the credit will apply to binding contracts entered into before January 1, 1976, if settlement and occupancy occur before January 1, 1977.

Conference substitute.--The conference substitute follows the Senate amendment (on the 5 percent credit and 2,000 maximum), except that it allows a credit only with respect to a new principal residence that was constructed or was under construction before March 26, 1974. In addition, to be eligible for the credit the taxpayer must attach to his income tax return a certification by the seller that the purchase price paid by the buyer is the lowest price at which the new residence was ever offered for sale. Both civil and criminal penalties will be imposed for false certification.

INCREASE IN INVESTMENT CREDIT

House bill.--The House bill provides for an increase in the investment credit rate for all taxpayers (including public utilities) to 10 percent from 7 percent (4 percent in the case of certain public utility property). The additional credit for public utilities is limited to $100 million for any one taxpayer. The House provision modifies the limitation on the amount of tax liability that may be offset by the investment tax credit for a year in the case of most public utility property (which under present law is entitled to only a 4 percent investment credit). The percentage limit for public utility property is to be increased from the general 50 percent limit to 100 percent of the income tax liability for 1975 and 1976. In each of the next five taxable years, the increase for public utilities is to be reduced by 10 percentage points until 1981, and thereafter, at which time the 50 percent limitation again is effective. Additionally, the House provision increases from $50,000 to $75,000 the amount of use property which can qualify for the investment credit for any 1 year.

The 10 percent investment credit rate is to be available for property acquired and placed in service after January 21, 1975, and before January 1, 1976; It is also to be available for property placed in service in 1976 if the property was acquired pursuant to an order placed before January 1, 1976. In addition, in the case of property constructed, reconstructed, or erected by the taxpayer, the 10 percent investment credit rate is to be available for property completed by the taxpayer after January 21, 1975, but only to the extent of the portion of the value actually attributable to construction, etc., by the taxpayer after January 21, 1975, and before January 1, 1976.

The provisions increasing the amount of used property which can qualify for the investment credit apply to taxable years beginning in 1975. The provisions with respect to progress payments apply to payments made after January 21, 1975, in taxable years ending after December 31, 1974.

Senate amendment.--The Senate amendment provides that, if certain requirements are met, a 12 percent investment credit is to be available with respect to property acquired and placed in service after January 21, 1975, and before January 1, 1977. Similarly, in the case of property constructed, reconstructed, or erected by the taxpayer, the 12 percent credit is also to be available with respect to property completed by the taxpayer after January 21, 1975, to the extent of the part of the basis of the property properly attributable to construction, etc., after January 21, 1975, and before January 1, 1977.

In cases where the property on which a taxpayer may claim an investment credit (qualified investment in property) for a year exceeds $10,000,000, the 12 percent rate is to be available only if the taxpayer establishes or maintains an employee stock ownership plan. To be eligible for the 12 percent rate in this case, a corporation will be required to contribute to the plan for the taxable year common stock or securities convertable into common stock (or cash for the acquisition of such stock or securities) of the employer in an amount equal to one-half of the additional 2 percentage point increase above the permanent 10 percent rate (i.e., one-twelfth of the total allowable investment credit in this case). If these requirements are not satisfied, the taxpayer will be eligible only for the 10 percent investment credit which the committee provision adopts as a permanent increase in the investment tax credit rate. However, the 12 percent rate will be available without regard to the requirement for an employee stock ownership plan if the qualified investment property of the taxpayer for the taxable year is less than $10,000,000.

The Senate provision puts no limit on the amount of the increase in the investment credit which will be allowed to a public utility. Additionally, the Senate provision adopts the temporary increase in the 50 percent limitation on the amount of tax liability that may be offset by the investment credit with the modification that such increase shall be available for taxable years ending in 1975 rather than for taxable years beginning in 1975.

The Senate provision also provides that the additional credit provided for a public utility by reason of the rate increase or the increase in the limitation based on tax liability is generally not to be available if the additional credit is used to reduce the rate base, unless the credit is then restored to the rate base at least as fast as ratably over the useful life of the property. The additional credit is generally not to be allowed if it is flowed through to income as a reduction in cost faster than ratably over the useful life of the property to which the increased credit applies. This rule with respect to the additional credit is to apply with respect to property used predominately in the trade or business of the furnishing or sale of electrical energy, water, or sewage disposal services, gas through a local distribution system, telephone service, domestic telegraph service, or other domestic communication service, if the rates for furnishing or sale are regulated by a governmental body.

If the governmental regulatory agency requires ratable flow through to income, it cannot require any adjustment to the rate base; if the agency requires adjustments to the rate base, it cannot require flow through to income.

A special election is provided to permit the immediate flow through of the additional credit without the consequence of disallowance in certain cases. This election is to be available only with respect to property where the benefits of accelerated depreciation are flowed through to customers. The election must be made by the taxpayer within 90 days after the date of enactment of the bill. In this case the taxpayer must make the election at its own option and without regard to any requirement imposed by a regulatory agency.

If a regulatory agency requires the flowing through of a company's additional investment credit at a rate faster than permitted, or insists upon a greater rate base adjustment than is permitted, the additional investment credit is to be disallowed, but only after a final determination (made after enactment of this provision) is put into effect. The rules provided under present law with respect to determinations made by a regulatory body on the finality of its orders will apply to the flow through provision.

Lastly, the Senate provision repeals the limitation on the amount of used property which may be included as qualified investment for the purposes of the investment credit with respect to used property acquired by the taxpayer after January 21, 1975.

Conference substitute.--The conference substitute provides for a 10-percent investment credit for all taxpayers (including public utilities) for property acquired and placed in service after January 21, 1975, and before January 1, 1977. In the case of property acquired after December 31, 1976, the 7-percent investment credit (or 4 percent for public utility property) provided under present law is to apply (even if ~~acquired pursuant to an~~ ordered ~~placed~~ by the taxpayer before ~~January 1,~~ 1977. In the case of constructed property, the 10-percent credit is to apply to the portion of the basis attributable to construction occurring after January 21, 1975, and before January 1, 1977.

In the case of a corporate taxpayer, a taxpayer may elect an 11-percent credit with respect to qualified investment for the period beginning January 22, 1975, and ending December 31, 1976, if an amount equal to one percent of the qualified investment is contributed to an employee stock ownership plan.

The rules governing such employee stock ownership plans are substantially the same as in the Senate amendment. However, under the conference substitute the entire contribution is to be transferred to the plan at one time, and not over 10 years. Also, participants are to be immediately vested in the full amount of such contributions, as soon as the contributions are allocated to their accounts. Additionally, distributions of such contributions cannot occur for 7 years (or may occur upon death or disability).

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The conference substitute is the same as the Senate amendment which deleted the $100 million limitation on the increase in the investment credit attributable to the rate change that could be claimed by any one public utility.

With respect to the increase in the 50 percent of tax limitation for public utility property, the conference substitute is the same as the Senate amendment.

With respect to the treatment of the increased credit for utility ratemaking purposes, the conference substitute is the same as the Senate amendment but for technical changes which would make new elections by a public utility unnecessary if ratable flowthrough, or ratable rate base restoration treatment already applied to a utility under present law.

With respect to the limitation on qualified investment in used property, the conference substitute provides an increase to $100,000 from $50,000 for taxable years beginning after December 31, 1974, and before January 1, 1977. Thereafter, the $50,000 limitation under present law is to apply.

ALLOWANCE OF INVESTMENT CREDIT WHERE CONSTRUCTION OF PROPERTY WILL TAKE MORE THAN TWO YEARS

House bill.--Section 302 of the House bill provides that in the case of long lead time property, that is, property that requires at least 2 years to construct, the investment tax credit is to available to the extent that progress payments are made during the construction period (rather than being allowed in the later year when the property is ultimately placed in service). During the first 5 years this provision is in effect, a transitional rule provides for a phase-in of the new system at the rate of 20 percent a year. The temporary 10 percent rate for the investment credit is to be available for qualified progress expenditures made in the period after January 21, 1975 and before January 1, 1976. In general, the provisions with respect to progress payments apply to payments made after January 21, 1975, in taxable years ending after December 31, 1974.

Senate amendment.--The Senate amendment adopts the House provision for progress payments without change.

Conference substitute.--The conference substitute is the same as the House bill and Senate amendment.

INCREASE IN CORPORATE SURTAX EXEMPTION AND CHANGE IN CORPORATE TAX RATES

House bill.--Section 303 of the House bill provides for an increase in the corporate surtax exemption from $25,000 to $50,000 for the period which is calendar year 1975.

Senate amendment.--The Senate amendment adopts the House provision with respect to the increase in the corporate surtax exemption without change. Additionally, the Senate provision reduces the normal tax by 4 percentage points (from 22 percent to 18 percent) while at the same time increasing the surtax by 4 percentage points (from 26 percent to 30 percent). The increase in the corporate surtax exemption and the reduction in the corporate rates are effective for taxable years ending after December 31, 1974. They are to apply, however, only for 1 year and are to cease to apply for taxable years ending after December 31, 1975.

Conference substitute.--The Conference substitute is the same as the House bill and the Senate amendment with regard to the increase in the corporate surtax exemption from $25,000 to $50,000 for 1975 only. In addition, the conference substitute provides a reduction for 1975 in the corporate normal tax rate from 22 percent to 20 percent on the first $25,000 of net income (with the 22 percent rate applicable to the second $25,000 of net income).

INCREASE IN MINIMUM ACCUMULATED EARNINGS
CREDIT FROM $100,000 TO $150,000

House bill.--No comparable provision in the House bill.

Senate amendment.--The Senate amendment provides for an increase of the accumulated earnings credit from $100,000 to $150,000. Thus, a corporation may accumulate as much as $150,000 of earnings before its retained earnings may be subject to the accumulated earnings tax. The amendments relating to the increase in the minimum accumulated earnings credit apply to taxable years beginning after December 31, 1974.

Conference substitute.--The Conference substitute is the same as the Senate amendment.

ELECTION TO SUBSTITUTE NET OPERATING LOSS

CARRYBACK YEARS FOR CARRYFORWARD YEARS

House bill.--The House bill does not have this provision.

Senate amendment.--The Senate amendment allows taxpayers generally an election to convert carryover periods for which they are presently eligible into additional carryback years for net operating losses incurred for taxable years 1975 and 1975. (Present law provides generally for a 3-year carryback and a 5-year carryforward for net operating losses incurred by business taxpayers.)

In addition, the Senate amendment provides that, where a corporation would receive a tax benefit under this change of more than $10 million, 25 percent of such tax benefit from the first year of the extended loss carryback is to be placed in an employee stock ownership plan over a 10-year period. A corporation could also put up to 50 percent of this amount (of the 25 percent) into a supplemental unemployment benefit plan if transferred within one year from the time of election.

Conference substitute.--The conference substitute does not contain this provision.

FEDERAL WELFARE RECIPIENTS

EMPLOYMENT INCENTIVE CREDIT

House bill.--No provision.

Senate amendment.--The Senate amendment makes the 20-percent credit of the present law WIN credit available also with respect to wages paid to certain AFDC recipients. The AFDC recipient must have been continuously receiving such financial assistance during the 90-day period immediately preceding the date on which the individual is hired by the employer, and the AFDC recipient must have been employed by the taxpayer for a period in excess of 30 consecutive days on a full-time basis before the credit is allowable. The credit is not allowable for any person who has displaced an individual from employment nor for a migrant worker. For nonbusiness employers, there is a limit of $1,000 per individual so employed each year.

The provision is effective for hirings after the date of enactment and for services rendered to the employer before July 1, 1976.

Conference substitute.--The conference substitute follows the Senate amendment.

TIME FOR MAKING CONTRIBUTIONS TO "H.R. 10" PLANS

House bill.--No provision.

Senate amendment.--The Senate amendment added a provision under which, as to 1974 and subsequent years, a contribution to a pension, profit-sharing, etc., plan would be treated for deduction purposes as being made for a given year even though it was not in fact made until after the end of that year, but only if the contribution was in fact made by the time for filing the tax return for that year (including extensions of time for filing). This amendment would apply only to contributions for plans of self-employed people (so-called "H.R. 10" plans) and only if the employer elects to have this rule apply.

Under present law (the 1974 pension act), this rule is to apply as to 1976 and subsequent years for existing plans, both H.R. 10 plans and corporate plans.

Conference substitute.--Under the conference substitute, the rule of the Senate amendment is to apply for 1975 and subsequent years (but not for 1974).

REPEAL OF EXCISE TAX ON MOTOR VEHICLES

House bill.--No provision.

Senate amendment.--The Senate amendment repeals the present 10-percent manufacturers excise tax (5 percent on or after October 1, 1977) on the sale of trucks and buses, truck trailers and semi-trailers, and highway tractors used in combination with trailers and semi-trailers. The Senate amendment also repeals the 8-percent manufacturers excise tax (5 percent on or after October 1, 1977) on the sale of truck and bus-related parts and accessories. The Senate amendment also provides for floor stock refunds and refunds for certain consumer purchases.

Conference substitute.--The conference substitute does not include the Senate amendment.

While the Conference Committee is quite aware of the depressed condition existing in the truck manufacturing and marketing industry, it felt that the repeal of these excise taxes should more properly be considered in conjunction with the Public Works Committees, at a later date when Congress considers the Federal Highway Act and the Highway Trust Fund of which these taxes are a part.

TAX CREDIT FOR QUALIFIED INSULATION AND SOLAR ENERGY EQUIPMENT EXPENDITURE

House bill.--No provision.

Senate amendment.--The Senate amendment provides a tax credit for qualified insulation expenditures for new and used residences and commercial buildings of 40 percent of the first $500 and 20 percent of any excess expenditures. In addition, a tax credit is allowed for qualified solar energy equipment expenditures for new and used residences and commercial buildings of 40 percent on the first $1,000 of expenditures and 20 percent of any excess up to $2,000. For new residences, the credit is available only to the extent the qualified original insulation materials exceed the minimum HUD standards; this limitation does not apply to storm windows, storm doors and solar heating and cooling equipment.

Under the Senate amendment, unused credits may be carried back to any year for which this provision is in effect and carried over 4 years. The provision is effective during taxable years beginning after December 31, 1974, and ending before January 1, 1980.

Conference substitute.--The conference substitute does not contain this provision. ~~It was noted by~~ The ~~House~~ conferees decided to defer ~~that~~ consideration of this because incentives for insulation and solar energy equipment expenditures are being considered in the Ways and Means Committee energy bill.

TAX EXEMPTION FOR HOMEOWNER'S ASSOCIATIONS, ETC.

House bill.--The House bill does not contain this provision.

Senate amendment.--The Senate amendment provides that a homeowner's association, etc., may be exempt from taxation if it is organized and operated exclusively for the operation, management, preservation, maintenance and repair of (1) the residential units owned by its members or (2) the common areas or facilities owned by the association or its members. The provision is effective for taxable years beginning after December 31, 1973.

Conference substitute.--The conference substitute does not contain this provision. The conferees deferred consideration of this provision believing it appropriate to consider it in tax reform legislation.

PERCENTAGE DEPLETION FOR OIL AND GAS

House Bill.--The House bill repeals percentage depletion generally for oil or gas produced on or after January 1, 1975. Depletion is continued for natural gas sold under a fixed price contract in effect February 1, 1975, which does not permit price adjustment after that date to reflect repeal of depletion. Depletion is also continued until July 1, 1976, for gas sold in interstate commerce if no price adjustment is permitted after February 1, 1975, to reflect repeal of depletion.

For geothermal steam, present law is unaffected, so that if steam is ultimately held by the courts to be a gas entitled to a 22-percent rate of depletion, this treatment will be continued.

Senate amendment.--Under the Senate amendment, the deduction for percentage depletion is generally eliminated with respect to oil and gas produced on or after January 1, 1975, with certain exceptions. These include the exceptions provided under the House bill. In addition, the Senate amendment retains percentage depletion at 22 percent on a permanent basis for the small independent producer to the extent that his average daily production of oil does not exceed 2,000 barrels a day, or his average daily production of natural gas does not exceed 12,000,000 cubic feet. Where the independent producer has both oil and natural gas production, the exemption must be allocated between the two types of production.

In determining how much of a taxpayer's total production for the year will be entitled to the 22-percent rate, his total production for the year is averaged over the entire taxable year to arrive at an average daily figure, regardless of when the production might actually have occurred.

Where the producer has a partial interest in mineral property, his production from that property, for purposes of the exemption , will be proportional to his interest. For example, an individual owning a 10-percent interest in property with 2,000 barrels of average daily production will be treated as having used 200 barrels of his exemption in connection with that property.

If the taxpayer's average daily production exceeds 2,000 barrels (or 12,000,000 cubic feet of gas) the Senate amendment requires that the small production exemption ~~to~~ be allocated among all of the properties in which the taxpayer has an interest. The allocation is made by totaling the production from all properties and allocating to each property the same proportion of the small production exemption as that property's total production bears to the taxpayer's total production from all properties.

Under the amendment, the 2,000-barrel (12,000,000 cubic feet) exemption is to be allocated (a) among the corporations which are members of the same controlled group of corporations (as defined in sec. 1563(a), but with a 50 percent common control test); among corporation trusts and estates if 50 percent of the beneficial interest is owned by the same or related persons; and (c) among the taxpayer and his spouse and minor children.

The small produc~~tion~~er exemption is not to be available, under the Senate amendment, with respect to any oil or gas property transfered after December 31, 1974, if the principal value of the property has been demonstrated before the transfer, except in the case of a transfer by reason of death, or a transfer pursuant to a section 351 transaction.

Also, the small produc~~tion~~er exemption is only to be available in the case of the independent oil or gas producer. The exemption is not available to any producer owning or controlling a retail outlet for the sale of oil or natural gas or petroleum products, or for a producer who refines more than 50,000 barrels of oil o~~r~~n any one day of the taxable year.

The deduction resulting from the small producer exemption may not exceed 50 percent of the taxpayer's net income from all sources (computed without regard to depletion allowed under the small producer exemption, net operating loss carrybacks and capital loss carrybacks). Percentage depletion which may not be used as a result of this limitation may be carried forward on an unlimited basis and used in a succeeding year (subject to the 50 percent limitation applicable to that year).

In addition, the deduction resulting from the small producer exemption is to be available, under the Senate amendment, only to the extent of the taxpayer's qualified plowback investment for the year (as well as any qualified plowback investment which was unused in the preceding year). The plowback requirement does not apply, under the amendment, to percentage depletion attributable to a royalty interest.

¶ Conference substitute.--The conference substitute follows the Senate amendment in providing a small producer exemption from the repeal of percentage depletion for oil and gas. Initially the exemption ("depletable oil quantity") is 2,000 barrels of average daily production (or 12,000,000 cubic feet of natural gas). However, the exemption is to be phased down gradually, but not eliminated, so as to minimize the impact of the ~~[illegible]~~ reduction on small independent producers.

Under the substitute, the exemption is to be reduced 200 barrels a year for 5 years from 1976 through 1980, when the permanent exemption of ~~[illegible]~~ 1,000 barrels per day will be reached. The depletion rate for oil and gas covered under the

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small producer exemption will also be phased down gradually from 22 percent. In 1981, the rate will be 20 percent; in 1982, 18 percent; in 1983, 16 percent; and in 1984 the rate will be reduced to a permanent level of 15 percent. However, under the substitute, a taxpayer will be permitted to take percentage depletion, at a 22 percent rate, on all production resulting from secondary or tertiary recovery methods (until 1984) (but not in excess of 1,000 barrels per day).

The deduction resulting from the small producer exemption may not exceed 65 percent of the taxpayer's net income from all sources (computed without regard to depletion allowed under the small producer exemption, net operating loss carrybacks and capital loss carrybacks).

Also, under the substitute, there is to be no plowback requirement in connection with percentage depletion under the small producer exemption.

LIMITATION ON FOREIGN TAX CREDIT FOR TAXES PAID IN CONNECTION WITH FOREIGN OIL AND GAS INCOME

House bill.--No provision.

Senate amendment.--The Senate amendment repeals the foreign tax credit on all foreign oil-related income and allows any taxes on that income as a deduction. The amendment also provides that foreign oil-related income is to be taxed at a 24-percent rate.

Conference substitute.--The conference substitute modifies the Senate amendment and applies a strict limitation on the use of foreign tax credits from foreign oil extraction income and foreign oil-related income. The substitute limits the amount of payments in the form of foreign taxes on foreign oil extraction income which will be treated as creditable taxes to 52.8 percent of taxable income from foreign oil extraction in taxable years ending in 1975, 50.4 percent of such taxable income in 1976, and 50 percent of such taxable income in subsequent taxable years. Any taxes paid in excess of that amount are to be disregarded and not allowed as a deduction. Any excess credits within the respective percentage limitations are to be allowed to offset U.S. tax only against foreign oil-related income.

Also, any payments to a foreign country in connection with the purchase and sale of oil or gas extracted in that country are not to be considered as a tax if the taxpayer has no economic interest in the oil or gas to which section 611(a) of the code applies and either such purchase or such sale is made at a price other than the fair market price of such oil or gas at the time of such purchase or sale. The market price is to be determined without regard to any tax liabilities to the country of extraction to which the oil or gas is subject upon purchase. This provision, of course, is not to apply to fees or other types of income from the provision of services which relate to the extraction of oil or gas for another person. Any payments not allowed as taxes under this provision are to be allowed as deductions.

In addition, the conferees agreed that beginning in 1976 the per country limitation on creditable foreign taxes is not to apply to foreign oil-related income, Instead, the amount of creditable taxes with respect to such income is to be calculated under the overall limitation. The conferees believe that this change should be considered significant in judging requests to revoke consolidated return elections.

The conferees also agreed that beginning in 1975 any losses with respect to foreign oil-related income should be recaptured against future foreign oil-related income by limiting the foreign tax credits available with respect to such future income.

The conference substitute is to apply to taxable years ending after date of enactment.

TAXATION OF EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS AND THEIR SHAREHOLDERS

House bill.--No provision.

Senate amendment.--The Senate amendment provides that U.S. persons holding a one-percent or greater interest in foreign corporations are to be taxed currently on their proportionate share of the income from those corporations in cases where more than 50 percent of the stock of the corporations is controlled by U.S. persons.

Conference substitute.--The conference substitute provides for a number of specific measures which substantially expand the extent to which foreign subsidiaries of U.S. corporations are subject to current U.S. taxation on tax haven types of income under the so-called subpart F rules of the Code.

The conferees expressed their belief that the foreign tax provisions of present law relating to the deferral of foreign income should be further reviewed at the earliest possible date. The conferees indicated that this review should include an examination of the adequacy of existing provisions dealing with the disclosure and reporting of income (and related deductions) of foreign subsidiaries of U.S. corporations.

The conference substitute repeals the minimum distribution exception to the subpart F rules which, under present law, permits a deferral of U.S. taxation on tax haven types of income in cases where the foreign corporation (or various combinations of foreign-related corporations) distribute certain minimum dividends to their U.S. shareholders. The effect of repealing this exception is to tax currently all income of foreign subsidiaries of U.S. corporations which is deemed to be tax haven income under the existing so-called subpart F rules of the Code. An exception to this provision was made for agricultural commodities not produced in commercially marketable quantities in ~~indigenous~~ to the United States. Under the exception, these commodities grown (or raised) abroad are to be excluded from foreign base company sales income.

The conference agreement also repeals the exception from the subpart F rules which presently permits a deferral of taxation in cases in which the tax haven income is reinvested in less-developed countries.

In addition, the conference agreement repeals the rule of present law which permits a deferral of U.S. tax for shipping income received by a foreign subsidiary of a U.S. corporation. However, deferral of tax is to be continued to the extent that the profits of these corporations are reinvested in shipping operations.

Finally, the conferees agreed to modify the present rule in the subpart F provisions which permits corporations having less than 30 percent of their gross income in the form of tax haven income to avoid the current taxation provisions of subpart F. The conference substitute provides that such tax haven income will be taxed currently under the subpart F rules in any case where it equals or exceeds 10 percent of gross income.

These provisions are to apply to taxable years beginning after December 31, 197~~4~~5.

ELIMINATION OF DOMESTIC INTERNATIONAL SALES CORPORATION TREATMENT FOR CERTAIN NATURAL RESOURCES AND ENERGY PRODUCTS

House bill.--No provision.

Senate amendment.--The Senate amendment denies the benefits provided for domestic international sales corporations (DISC's) for the export of natural resources and energy products (i.e., products for which an allowance for cost depletion is provided) and for products subject to export control under section 4(b) of the Export Administration Act of 1969. The provision applies to sales made after March 18, 1975.

Conference substitute.--The conference substitute follows the Senate amendment.

INVESTMENT TAX CREDIT ON FOREIGN DRILLING RIGS

House bill.--No provision.

Senate amendment.--The Senate amendment denies the investment tax credit for foreign situs drilling rigs used outside of the northern half of the Western Hemisphere. The provision applies to property placed in service after March 18, 1975, unless such property is covered by a binding contract which was in effect on April 1, 1974.

Conference substitute.--The conference substitute follows the Senate amendment.

EXTENSION OF UNEMPLOYMENT COMPENSATION ACT OF 1974

House bill.--No provision.

Senate amendment.--The Senate amendment extends the benefits of the Emergency Unemployment Compensation Act of 1974 for an additional 13 weeks to those who have exhausted 52 weeks of benefits. This is available only for the period ending June 30, 1975. The provision states that the Secretary of Labor shall, at the earliest practicable date after the enactment, propose to each State with which he has in effect an agreement under section 102 of the 1974 Act a modification of such agreement designed to cause payments of emergency compensation as provided in the Senate amendment.

Conference substitute.--The conference substitute follows the Senate amendment.

SPECIAL PAYMENTS TO PEOPLE RECEIVING BENEFITS UNDER SOCIAL SECURITY, RAILROAD RETIREMENT, OR SUPPLEMENTAL SECURITY INCOME PROGRAMS

House bill.--No provision.

Senate amendment.--The Senate amendment added a provision to the bill, under which a one-time special payment of $100 is to be made by the Secretary of the Treasury to each individual who, for March, 1975, was entitled to monthly insurance benefits under title II of the Social Security Act, to monthly pension or annuity benefits under the Railroad Retirement Acts, or to supplemental security income benefits. An individual could receive only one such $100 special payment, even though he was entitled, for March, 1975, to benefits under 2 or more of the above-mentioned programs.

The Secretary of Health, Education, and Welfare and the Railroad Retirement Board are to provide the Treasury with such data and information as may be necessary to determine who is entitled to these special payments.

Receipt of the special payment by an individual is not to affect his eligibility for, or the amount of, the aid or assistance which he or his family would otherwise be entitled to receive under a welfare-type program. Federal financial participation in any State (or local) welfare-type program is to cease if that program violates the "disregard" requirement described in the preceding sentence.

Conference substitute.--The conference substitute generally follows the Senate amendment, except that the amount of the special payment is to be $50 per qualified recipient. In addition, The conference substitute restricts it to residents of the United States who have applied for benefits under one of the three programs prior to April 1, 1975, and who actually receive a benefit for the month of March 1975 which is paid by August 31, 1975. The conference agreement includes the requirement that these payments be disregarded in determining eligibility under other programs and clarifies their non-taxable nature for income tax purposes.

The conferees emphasize that these payments are not social security benefits in any sense but are intended to provide to the aged, blind, and disabled a payment comparable in nature to the tax rebates which the bill provides to those who are working. These payments, therefore, should be clearly identifiable as Treasury Department payments and not be included in or confused with social security benefit checks.

DYEING OF CERTAIN HEATING OIL

House bill.--No provision.

Senate amendment.--The Senate amendment requires that certain heating fuel oil be colored with an oil soluble dye, so that such nontaxed fuel oil may be distinguishable from taxable diesel fuel oil for highway use. The Administrator of the Federal Energy Administration is to determine the appropriate soluble dye and the point of the petroleum distribution system to add the dye; and he may enter the premises (during business hours) to inspect for violations. Violators are to be subject to a fine of not more than $25,000, or imprisonment of not more than 5 years, or both.

The provision is to be effective on the date of enactment.

Conference substitute.--The conference substitute does not contain this provision. ~~It was noted, however, by~~ The ~~House~~ conferees (deferred consideration of this because) ~~that~~ the subject would be reviewed during the Ways and Means Committee consideration of the energy bill.