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Rules, Regulations, Orders

TITLE 7—AGRICULTURE

CHAPTER VIII — SUGAR DIVISION OF THE AGRICULTURAL ADJUSTMENT ADMINISTRATION

[G. S. Q. R., Series 8, No. 1, Rev. 5, Supp. 1]

PART 821—SUGAR QUOTAS

PRORATION OF DEFICIT IN 1941 QUOTA FOR PUERTO RICO

Pursuant to the authority conferred upon the Secretary of Agriculture under the Sugar Act of 1937, as amended, the following regulations (constituting a supplement to General Sugar Quota Regulations, Series 8, No. 1, Rev. 5¹) are hereby prescribed, which shall have the force and effect of law and shall remain in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture:

Section 821.222 of General Sugar Quota Regulations, Series 8, No. 1, Revision 5, is hereby amended by adding the following new paragraphs:

§ 821.222 *Quotas for domestic areas and proration of deficits therein.*

(d) *Deficit in quota for Puerto Rico.* It is hereby determined, pursuant to subsection (a) of section 204 of the said act, that Puerto Rico will be unable by the amount of 136,968 short tons of sugar, raw value, to market the quota established for that area in paragraphs (a) and (c) of this section.

(e) *Proration of deficit in the Puerto Rican quota.* An amount of sugar equal to the deficit determined in paragraph (d) of this section is hereby prorated, pursuant to subsection (a) of section 204 of the said act, as follows:

Area:	<i>Additional quotas in terms of short tons, raw value</i>
Domestic beet sugar.....	44,766
Mainland cane sugar.....	11,363
Hawaii.....	25,368
Virgin Islands.....	253
Cuba.....	55,213

(f) *Deficits in quotas for the domestic beet sugar area and the Virgin Islands and further deficits in quotas for the mainland cane sugar area, and Hawaii.* It is hereby determined, pursuant to subsection (a) of section 204 of the said act, that the domestic beet sugar area, the mainland cane sugar area, the Virgin Islands, and Hawaii will be unable to market the additional quotas established for these areas in paragraph (e) of this section.

(g) *Proration of deficits in quotas for the domestic beet sugar area and the Virgin Islands and of additional deficits in quotas for the mainland cane sugar area, and Hawaii.* An amount of sugar equal to the deficits determined in paragraph (f) of this section is hereby prorated, pursuant to subsection (a) of section 204 of the said act, as follows:

Area:	<i>Additional quota in terms of short tons, raw value</i>
Cuba.....	81,755

(Sec. 204, 50 Stat. 905; 7 U.S.C., 1114)

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the District of Columbia, city of Washington, this 21st day of October 1941.

[SEAL] **PAUL H. APPELBY,**
Under Secretary of Agriculture.

[F. R. Doc. 41-7928; Filed, October 21, 1941; 11:32 a. m.]

TITLE 8—ALIENS AND NATIONALITY
CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE

[Twelfth Supplement to General Order No. C-1]

PART 110—PRIMARY INSPECTION AND DETENTION

DESIGNATION OF GREEN BAY, WISCONSIN, AS A PORT OF ENTRY FOR ALIENS

OCTOBER 17, 1941.

Pursuant to the authority contained in section 23 of the Act of February 5, 1917 (39 Stat. 892; 8 U.S.C. 102); section 24 of

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the Act of May 26, 1924 (43 Stat. 166; 8 U.S.C. 222); section 1 of Reorganization Plan No. V (5 F.R. 2223); section 37 (a) of the Act of June 28, 1940 (54 Stat. 675;

8 U.S.C. 458) and § 90.1, Title 8, Chapter I, Code of Federal Regulations (5 F.R. 3503), Green Bay, Wisconsin, is designated as a port of entry for aliens entering the United States, effective on and after November 1, 1941.

Section 110.1 *Ports of entry for aliens.* (Rule 3, Subd. A, Par. 1 of the Immigration Rules and Regulations of January 1, 1930, Edition of December 31, 1936) is amended by inserting Green Bay, Wisconsin, between Chicago, Illinois, and Milwaukee, Wisconsin, in the list of ports of entry for aliens in District No. 10, effective November 1, 1941.

LEMUEL B. SCHOFIELD,
*Special Assistant to the
Attorney General in charge
Immigration and Naturalization Service.*

Approved: FRANCIS BIDDLE,
Attorney General.

[F. R. Doc. 41-7914; Filed, October 21, 1941;
10:07 a. m.]

[Eleventh Supplement to General
Order No. C-2]

PART 110—PRIMARY INSPECTION AND DETENTION

DESIGNATION OF CUT BANK, MONTANA AS AIRPORT OF ENTRY; DISCONTINUANCE OF AJO, ARIZONA AND HOULTON, MAINE AS AIRPORTS OF ENTRY

OCTOBER 17, 1941.

Pursuant to the authority contained in section 7 (d) of the Air Commerce Act of 1926 (Act of May 20, 1926, 44 Stat. 572; 49 U.S.C. 177 (d)) and section 1 of Reorganization Plan No. V (5 F.R. 2223), the Cut Bank Airport at Cut Bank, Montana, is hereby designated as a temporary port for the entry into the United States of aliens arriving by aircraft. The designations of Ajo Municipal Air Field, Ajo, Arizona, as a permanent port for the entry into the United States of aliens arriving by aircraft and of Houlton Municipal Airport, Houlton, Maine, as a temporary port for such entries are hereby rescinded.

Section 110.3 (a) *Designated ports of entry by aircraft*—(a) *Permanent ports of entry.* Title 8, Chapter I, Code of Federal Regulations is amended by deleting the designation of Ajo Municipal Air Field, Ajo, Arizona, from the list of permanent ports of entry for aliens arriving by aircraft, and § 110.3 (b) *Temporary ports of entry.* of the said regulations is amended by deleting the designation of Houlton Municipal Airport, Houlton, Maine, as a temporary port for such entries. The Eighth Supplement to General Order No. C-2 (5 F.R. 3837) is hereby canceled.

Section 110.3 (b) of the said regulations is also amended by inserting Cut Bank, Montana, Cut Bank Airport, between Cape Vincent, New York, Cape Vincent

Harbor, and Detroit, Michigan, Detroit Municipal Airport, in the list of temporary ports of entry for aliens arriving by aircraft.

FRANCIS BIDDLE,
Attorney General.

Approval recommended:

LEMUEL B. SCHOFIELD,
*Special Assistant to the
Attorney General in charge
Immigration and Naturalization Service.*

[F. R. Doc. 41-7915; Filed, October 21, 1941;
10:07 a. m.]

[First Supplement to General Order No. C-32]

PART 110—PRIMARY INSPECTION AND DETENTION

AMENDMENT OF REGULATIONS GOVERNING
USE OF RESIDENT ALIENS' BORDER CROSSING
IDENTIFICATION CARDS

OCTOBER 17, 1941.

Pursuant to the authority contained in sections 30 and 37 (a) of the Act of June 28, 1940 (54 Stat. 673, 675; 8 U.S.C. 451, 458); § 90.1 of Title 8, Chapter I, Code of Federal Regulations (5 F.R. 3503), and all other authority conferred by law, § 110.56 of the said regulations (6 F.R. 3111) is hereby amended to read as follows:

§ 110.56 *Resident aliens' border crossing identification cards; use.* A resident alien's border crossing identification card may be used by its rightful holder, under the conditions specified in § 110.58, at any port of entry in the continental United States, including Alaska. The applicant shall state in his application the port of entry at which he expects to make most frequent use of the card, or in the case of an applicant who intends to use the card for only one reentry, the port at which he expects to make that reentry, but such designations in the application shall not affect the right of the holder to present his card at some other port of entry. The original card shall be given to the applicant by the issuing office, and the duplicate card shall be kept at or sent to the port which the applicant has designated as the place where he expects to make most frequent use of the card or where he expects to reenter after a single visit abroad. The duplicate shall thereafter remain on file at such port unless it is deemed advisable to transfer it to some other port. (Secs. 30 and 37 (a); 54 Stat. 673, 675; 8 U.S.C. 451, 458)

LEMUEL B. SCHOFIELD,
*Special Assistant to the Attorney
General in charge Immigration
and Naturalization Service.*

Approved:

FRANCIS BIDDLE,
Attorney General.

[F. R. Doc. 41-7916; Filed, October 21, 1941;
10:07 a. m.]

TITLE 26—INTERNAL REVENUE

CHAPTER I—BUREAU OF INTERNAL REVENUE

[T.D. 5091]

SUBCHAPTER A—INCOME AND EXCESS PROFITS TAXES

DECLARED VALUE EXCESS-PROFITS TAX

Regulations Relating to the Declared Value Excess-Profits Tax Imposed by Subchapter B of Chapter 2 of the Internal Revenue Code, as Amended, for Income-Tax Taxable Years Ending After June 30, 1941

Sec.

- 21.0 Introductory.
- 21.1 Definitions.
- 21.2 Scope of tax.
- 21.3 Measure and rate of tax.
- 21.4 Method of computation, example.
- 21.5 Returns.
- 21.6 Payment of tax.
- 21.7 Credits against tax prohibited.
- 21.8 Determination of tax, assessment, collection.
- 21.9 Taxable years affected.

§ 21.0 *Introductory.* (a) Chapter 6 (Capital Stock Tax) of the Internal Revenue Code (53 Stat. Part 1), as amended, and applicable for capital stock tax years ending June 30, beginning with the year ending June 30, 1941, provides in part as follows:

Sec. 1200. TAX. [As amended by section 205 of the Revenue Act of 1940 and section 301 of the Revenue Act of 1941.]

(a) *Domestic corporations.* For each year ending June 30, beginning with the year ending June 30, 1939, there shall be imposed upon every foreign corporation with respect to carrying on or doing business for any part of such year an excise tax of \$1.25 for each \$1,000 of the adjusted declared value of its capital stock.

(b) *Foreign corporations.* For each year ending June 30, beginning with the year ending June 30, 1939, there shall be imposed upon every domestic corporation with respect to carrying on or doing business in the United States for any part of such year an excise tax equivalent to \$1.25 for each \$1,000 of the adjusted declared value of capital employed in the transaction of its business in the United States.

Sec. 301. CAPITAL STOCK TAX. [Revenue Act of 1941.]

(d) *Effective date.* This section shall be effective only with respect to the year ending June 30, 1941, and succeeding years.

Sec. 1201. EXEMPTIONS.

(a) The taxes imposed by section 1200 shall not apply—

(1) *Corporations exempt from income tax.* To any corporation enumerated in section 101;

(2) *Insurance companies.* To any insurance company subject to the tax imposed by section 201, 204, or 207.

(b) *Common trust funds.* For exemption of common trust funds from the capital stock tax, see section 169 (b) of Chapter 1.

Sec. 1202. ADJUSTED DECLARED VALUE. [As amended by section 301 of the Revenue Act of 1939 and section 202 of the Revenue Act of 1941.]

(a) *Declaration year.* (1) The adjusted declared value shall be determined with respect to three-year periods beginning with the year ending June 30, 1938, and each third year thereafter. The first year of each such three-year period, or, in case of a corporation not subject to the tax imposed for such year, the first year of such three-year period for

which the corporation is subject to such tax, shall constitute a "declaration year."

(2) For the declaration year of the first three-year period the adjusted declared value shall be the value as declared by the corporation in its return under section 601 of the Revenue Act of 1938, 52 Stat. 595, for the year ending June 30, 1938, or in the case of a corporation not subject to the tax imposed for such year, the value as declared in its return filed under this chapter for the first year with respect to which it is subject to the tax. For each subsequent three-year period, the adjusted declared value for a declaration year shall be the value as declared by the corporation in its return for such declaration year. The value declared by a corporation in its return for a declaration year (which declaration of value cannot be amended) shall be as of the close of its last income-tax taxable year ending with or prior to the close of such declaration year (or as of the date of organization in the case of a corporation having no income-tax taxable year ending with or prior to the close of such declaration year).

(b) *Subsequent years.* (1) Domestic corporations.—for each year of any three-year period subsequent to the declaration year, the adjusted declared value in the case of a domestic corporation shall be the value declared in the return for the declaration year plus—

(A) The cash, and the fair market value of property, paid in for stock or shares,

(B) Paid-in surplus and contributions to capital,

(C) Its net income, computed without the deduction of the tax imposed by Subchapter E of Chapter 2,

(D) Its income wholly exempt from Federal income tax, and

(E) The amount, if any, by which the deduction for depletion exceeds the amount which would be allowable if computed without regard to discovery value or to percentage depletion, under section 114 (b) (2), (3), or (4) of Chapter 1 or a corresponding section of a later Revenue Act;

and minus—

(1) The cash, and the fair market value of property, distributed to shareholders,

(ii) The amount disallowed as a deduction by section 24 (a) (5) of chapter 1 or a corresponding provision of a later Revenue Act, and

(iii) The excess of the deductions allowable for income tax purposes (not including the deduction for the tax imposed by Subchapter E of Chapter 2) over its gross income.

The adjustments provided in this paragraph shall be made for each income-tax taxable year included in the three-year period from the date as of which the value was declared in the return for the declaration year to the close of the last income-tax taxable year ending with or prior to the close of the year for which the tax is imposed by this section. The amount of such adjustment for each such year shall be computed (on the basis of a separate return) according to the income tax law applicable to such year.

(2) *Foreign corporations.* For each year of any three-year period subsequent to the declaration year, the adjusted declared value in the case of a foreign corporation shall be the value declared in the return for the declaration year adjusted (for the same income-tax taxable years as in the case of a domestic corporation), in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, to reflect increases or decreases in the capital employed in the transaction of its business in the United States.

(c) *Corporations in bankruptcy or receivership.* The capital-stock tax year beginning with or within an income-tax taxable year within which bankruptcy or receivership, due to insolvency, of a domestic corporation, is terminated shall constitute a declaration year. In such case the adjusted declared value of any subsequent year of the three-year period shall be determined on the basis

of the value declared in the return for such declaration year.

(d) *Credit for China Trade Act corporations.* For the purpose of the tax imposed by section 1200 there shall be allowed in the case of a corporation organized under the China Trade Act, 1922, 42 Stat. 249, (U.S.C., Title 15, c. 4), as a credit against the adjusted declared value of its capital stock, an amount equal to the proportion of such adjusted declared value which the par value of the shares of stock of the corporation, owned on the last day of the taxable year by (1) persons resident in China, the United States, or possessions of the United States, and (2) individual citizens of the United States or China wherever resident, bears to the par value of the whole number of shares of stock of the corporation outstanding on such date. For the purposes of this subsection shares of stock of a corporation shall be considered to be owned by the person in whom the equitable right to the income from such shares is in good faith vested; and as used in this subsection the term "China" shall have the same meaning as when used in the China Trade Act, 1922.

(e) *Additional declaration years.*—In the case of any domestic corporation, the year ending June 30, 1939, and the year ending June 30, 1940, shall each, if not otherwise a declaration year, constitute an additional declaration year if with respect to such year (1) the taxpayer so elects (which election cannot be changed) in its return filed before the expiration of the statutory filing period or any authorized extension thereof, and (2) the value declared by the taxpayer is in excess of the adjusted declared value computed under paragraph (1) of subsection (b). If, under this subsection, the year ending June 30, 1939, is a declaration year, the computation, under paragraph (1) of subsection (b), of the adjusted declared value for the year ending June 30, 1940, shall be made on the basis of the value declared for the year ending June 30, 1939.

(b) Subchapter B of Chapter 2 of the Internal Revenue Code, as amended and applicable to income-tax taxable years ending after June 30, 1941, provides as follows:

Sec. 600. RATE OF TAX. [As amended by section 204 of the Revenue Act of 1940, section 506 of the Second Revenue Act of 1940, and Section 302 of the Revenue Act of 1941.]

If any corporation is taxable under section 1200 with respect to any year ending June 30, there shall be imposed upon its net income for the income-tax taxable year ending after the close of such year, a declared value excess-profits tax equal to the sum of the following:

6 $\frac{1}{2}$ % per centum of such portion of its net income for such income-tax taxable year as is in excess of 10 per centum and not in excess of 15 per centum of the adjusted declared value;

13 $\frac{1}{2}$ % per centum of such portion of its net income for such income-tax taxable year as is in excess of 15 per centum of the adjusted declared value.

Sec. 601. ADJUSTED DECLARED VALUE.

The adjusted declared value shall be determined as provided in section 1202 as of the close of the preceding income-tax taxable year (or as of the date of organization if it had no preceding income-tax taxable year). If the income-tax taxable year in respect of which the tax under section 600 is imposed is a period of less than 12 months, such adjusted declared value shall be reduced to an amount which bears the same ratio thereto as the number of months in the period bears to 12 months.

Sec. 602. NET INCOME. [As amended by section 202 of the Revenue Act of 1941.]

For the purposes of this subchapter the net income shall be the same as the net income for income-tax purposes for the year in respect of which the tax under section 600 is imposed, computed without the deduction of the tax imposed by section 600 or the tax imposed by Subchapter E of Chapter 2,

but with a credit against net income equal to the credit for dividends received provided in section 26 (b) of chapter 1.

SEC. 603. OTHER LAWS APPLICABLE.

All provisions of law (including penalties) applicable in respect of the taxes imposed by chapter 1, shall, insofar as not inconsistent with this subchapter, be applicable in respect of the tax imposed by section 600, except that the provisions of section 131 of that chapter shall not be applicable.

SEC. 604. PUBLICITY OF RETURNS.

For provisions with respect to publicity of returns under this subchapter, see subsection (a) (2) of section 55.

(c) Section 53 of Chapter 1 of the Internal Revenue Code provides in part:

SEC. 53. TIME AND PLACE FOR FILING RETURNS.

(a) *Time for filing*—(1) *General rule.* Returns made on the basis of the calendar year shall be made on or before the 15th day of March following the close of the calendar year. Returns made on the basis of a fiscal year shall be made on or before the 15th day of the third month following the close of the fiscal year.

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

(b) *To whom return made.*

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

(d) Section 145 of Chapter 1 of the Internal Revenue Code provides in part:

SEC. 145. PENALTIES.

(a) *Failure to file returns, submit information, or pay tax.* Any person required under this chapter to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this chapter, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

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

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

(e) Section 62 of Chapter 1 of the Internal Revenue Code provides:

SEC. 62. RULES AND REGULATIONS.

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

(f) Pursuant to the above-quoted provisions of the Internal Revenue Code and other provisions of the Code, the following regulations are hereby prescribed with respect to the declared value excess-profits tax imposed by the Internal Revenue Code for income-tax taxable years ending after June 30, 1941:

§ 21.1 *Definitions.* As used in these regulations, the term—

(a) "Adjusted declared value" means in the case of a domestic corporation the adjusted declared value of its capital stock as determined under section 1202 of the Internal Revenue Code, as amended, and the regulations issued respecting the capital stock tax imposed by section 1200 of such Code, as amended, and in the case of a foreign corporation the adjusted declared value of capital employed in the transaction of its business in the United States as determined under such section 1202, as amended, and the regulations issued in reference thereto.

(b) "Tax," except as otherwise indicated, means the declared value excess-profits tax imposed by section 600 of the Internal Revenue Code, as amended.

(c) "Income-tax taxable year" means the calendar year, the fiscal year ending during such calendar year, or the fractional part of a year, upon the basis of which the corporation's net income is computed and for which its income tax returns are made for Federal income tax purposes.

(d) "Net income" means "net income" within the contemplation of section 21 of the Internal Revenue Code. Neither the amount of income tax imposed by the Internal Revenue Code or by prior laws, nor the amount of the tax imposed by Subchapters B or E of Chapter 2 of the Internal Revenue Code, shall be deducted from net income in computing the declared value excess-profits tax and none of the credits allowed corporations against net income for income tax purposes are applicable in respect of the declared value excess-profits tax except the credit against net income equal to the credit for dividends received provided in section 26 (b) of the Internal Revenue Code.*

* §§ 21.0 to 21.9, inclusive, issued under the authority contained in sections 62 and 603 of the Internal Revenue Code (53 Stat. 32, 111; 26 U.S.C., Sup. V, 62, 603) and the statutory provisions which such sections of the regulations follow.

§ 21.2 *Scope of tax.* The declared value excess-profits tax, imposed by section 600 of the Internal Revenue Code, as amended, is imposed upon the net income of every corporation for each income-tax taxable year ending after the close of any year ending June 30 in respect of which the corporation is subject to the capital stock tax imposed by section 1200 of the Internal Revenue Code, as amended.*

§ 21.3 *Measure and rate of tax.*—(a) *Domestic and foreign corporations.* The tax is imposed in an amount equal to the sum of (1) 6 $\frac{1}{2}$ percent of such portion of the corporation's net income for

the income-tax taxable year as is in excess of 10 percent and not in excess of 15 percent of the adjusted declared value plus (2) 13 $\frac{1}{2}$ percent of such portion of its net income for the income-tax taxable year as is in excess of 15 percent of the adjusted declared value, as of the close of the last preceding income-tax taxable year (or as of the date of organization if the corporation had no preceding income-tax taxable year).

(b) *Adjusted declared value.* No variation is permitted between the adjusted declared value set forth in the corporation's capital stock tax return and the adjusted declared value set forth in its declared value excess-profits tax return, except that in the case of a declared value excess-profits tax return for an income-tax taxable year which is a period of less than twelve months the adjusted declared value set forth in its capital stock tax return shall be reduced to an amount which bears the same ratio thereto as the number of months in the period bears to twelve months.*

§ 21.4 *Method of computation; example.* The application of the provisions of § 21.3 of these regulations may be illustrated generally by the following example:

Example. The M Corporation, the income-tax taxable year of which is the calendar year, is subject to the capital stock tax imposed by section 1200, as amended, of the Internal Revenue Code, for the year ending June 30, 1941. The value declared in its capital stock tax return for the year ending June 30, 1941, of its capital stock as of the close of its preceding income-tax taxable year (the calendar year 1940) is \$100,000. The net income of the corporation for the calendar year 1941, determined under the Internal Revenue Code, is \$25,000. During its taxable year the corporation received dividends from corporations subject to taxation under Chapter 1 of the Internal Revenue Code, amounting to \$5,000. The declared value excess-profits tax for the calendar year 1941, is \$1,089, computed as follows:

Net income for calendar year 1941.....	\$25,000
Less: Credit for dividends received (85 percent of \$5,000).....	4,250
Balance of net income.....	20,750
Less: 10 percent of the value declared in the capital stock tax return for the year ending June 30, 1941, of the capital stock as of December 31, 1940 (10 percent of \$100,000).....	10,000
Net income subject to declared value excess-profits tax.....	10,750
Less: Amount taxable at 6 $\frac{1}{2}$ percent, portion of net income in excess of 10 percent and not in excess of 15 percent of the adjusted declared value of the capital stock as of December 31, 1940 (\$15,000 minus \$10,000).....	5,000
Amount taxable at 13 $\frac{1}{2}$ percent.....	5,750
Declared value excess-profits tax at 6 $\frac{1}{2}$ percent (6 $\frac{1}{2}$ percent of \$5,000).....	830

Declared value excess-profits tax at 13% percent (13% percent of \$5,750)----- \$759
 Total declared value excess-profits tax (\$330 plus \$759)--- \$1,089

§ 21.5 *Returns.* Every corporation which is subject to the capital stock tax imposed by section 1200 of the Internal Revenue Code, as amended, for any year shall make a declared value excess-profits tax return for each income-tax taxable year which ends after the close of the year in respect of which it is subject to such capital stock tax. There is no provision in the Internal Revenue Code which authorizes the making of a consolidated return by an affiliated group of corporations for the purpose of the declared value excess-profits tax imposed by section 600 of the Internal Revenue Code, as amended. Accordingly, every corporation which is liable for the making of a declared value excess-profits tax return under section 600 of the Internal Revenue Code, as amended (for any income-tax taxable year ending after June 30, 1941), whether or not such corporation is a member of an affiliated group of corporations, must make its declared value excess-profits tax return and compute its net income separately, without regard to the provisions of section 141 of the Internal Revenue Code as amended.

The declared value excess-profits tax return shall be made within the time prescribed for making the corporation's Federal income tax return for the income-tax taxable year, and shall be made to the collector of internal revenue to whom such income tax return is required to be made.*

§ 21.6 *Payment of tax.* The declared value excess-profits tax for any income-tax taxable year shall be paid within the time prescribed for paying the Federal income tax for such taxable year.*

§ 21.7 *Credits against tax prohibited.* Foreign income and profits taxes may not be credited against the declared value excess-profits tax imposed by section 600 of the Code, as amended.*

§ 21.8 *Determination of tax, assessment, collection.* The determination, assessment, and collection of the tax, and the examination of returns and claims in connection therewith, will be made under such procedure as may be prescribed from time to time by the Commissioner.*

§ 21.9 *Taxable years affected.* These regulations relate solely to income-tax taxable years ending after June 30, 1941, and supersede any previous regulations relative to declared value excess-profits tax for such years.*

[SEAL] NORMAN D. CANN,
 Acting Commissioner
 of Internal Revenue.

Approved: October 17, 1941.
 JOHN L. SULLIVAN,
 Acting Secretary of the Treasury.

[F. R. Doc. 41-7935; Filed, October 21, 1941; 11:34 a. m.]

SUBCHAPTER B—ESTATE AND GIFT TAXES
 [T.D. 5039]

PART 80—ESTATE TAX UNDER THE REVENUE ACTS OF 1926 AND 1932, AS AMENDED

Regulations 80 (1937 Edition) amended to conform to the Revenue Act of 1941

In order to conform Regulations 80 (1937 Edition) [Part 80, Title 26, Code of Federal Regulations], as made applicable to the Internal Revenue Code (53 Stat., Part 1) by Treasury Decision 4885, approved February 11, 1939 [Chapter I,

If the net estate is

Not over \$5,000.....	\$500, plus 7% of excess over \$5,000.
Over \$5,000 but not over \$10,000.....	\$500, plus 11% of excess over \$10,000.
Over \$10,000 but not over \$20,000.....	\$1,000, plus 14% of excess over \$20,000.
Over \$20,000 but not over \$30,000.....	\$3,000, plus 18% of excess over \$30,000.
Over \$30,000 but not over \$40,000.....	\$4,800, plus 22% of excess over \$40,000.
Over \$40,000 but not over \$50,000.....	\$7,000, plus 25% of excess over \$50,000.
Over \$50,000 but not over \$60,000.....	\$9,500, plus 28% of excess over \$60,000.
Over \$60,000 but not over \$100,000.....	\$20,700, plus 30% of excess over \$100,000.
Over \$100,000 but not over \$250,000.....	\$65,700, plus 32% of excess over \$250,000.
Over \$250,000 but not over \$500,000.....	\$145,700, plus 35% of excess over \$500,000.
Over \$500,000 but not over \$750,000.....	\$233,200, plus 37% of excess over \$750,000.
Over \$750,000 but not over \$1,000,000.....	\$325,700, plus 39% of excess over \$1,000,000.
Over \$1,000,000 but not over \$1,250,000.....	\$423,200, plus 42% of excess over \$1,250,000.
Over \$1,250,000 but not over \$1,500,000.....	\$523,200, plus 45% of excess over \$1,500,000.
Over \$1,500,000 but not over \$2,000,000.....	\$753,200, plus 49% of excess over \$2,000,000.
Over \$2,000,000 but not over \$2,500,000.....	\$993,200, plus 53% of excess over \$2,500,000.
Over \$2,500,000 but not over \$3,000,000.....	\$1,263,200, plus 58% of excess over \$3,000,000.
Over \$3,000,000 but not over \$4,000,000.....	\$1,543,200, plus 59% of excess over \$4,000,000.
Over \$4,000,000 but not over \$5,000,000.....	\$1,838,200, plus 63% of excess over \$5,000,000.
Over \$5,000,000 but not over \$6,000,000.....	\$2,463,200, plus 67% of excess over \$6,000,000.
Over \$6,000,000 but not over \$7,000,000.....	\$3,133,200, plus 70% of excess over \$7,000,000.
Over \$7,000,000 but not over \$8,000,000.....	\$3,838,200, plus 73% of excess over \$8,000,000.
Over \$8,000,000 but not over \$10,000,000.....	\$4,563,200, plus 76% of excess over \$10,000,000.
Over \$10,000,000.....	\$5,033,200, plus 77% of excess over \$10,000,000.

note, Title 26, Code of Federal Regulations, 1939 Supp.), to the Revenue Act of 1941 (Public Law 250, 77th Congress), approved September 20, 1941, such regulations are amended as follows:

PARAGRAPH 1. The following is inserted immediately preceding article 1 [§ 80.1 of such Title 26]:

SEC. 401. ESTATE TAX RATES. (Revenue Act of 1941; Enacted September 20, 1941.)

(a) *Rates.* Section 935 (b) of the Internal Revenue Code is amended to read as follows:

(b) The tentative tax referred to in subsection (a) (1) of this section shall be the tentative tax shown in the following table:

The tentative tax shall be

3% of the net estate.
\$150, plus 7% of excess over \$5,000.
\$500, plus 11% of excess over \$10,000.
\$1,000, plus 14% of excess over \$20,000.
\$3,000, plus 18% of excess over \$30,000.
\$4,800, plus 22% of excess over \$40,000.
\$7,000, plus 25% of excess over \$50,000.
\$9,500, plus 28% of excess over \$60,000.
\$20,700, plus 30% of excess over \$100,000.
\$65,700, plus 32% of excess over \$250,000.
\$145,700, plus 35% of excess over \$500,000.
\$233,200, plus 37% of excess over \$750,000.
\$325,700, plus 39% of excess over \$1,000,000.
\$423,200, plus 42% of excess over \$1,250,000.
\$523,200, plus 45% of excess over \$1,500,000.
\$753,200, plus 49% of excess over \$2,000,000.
\$993,200, plus 53% of excess over \$2,500,000.
\$1,263,200, plus 58% of excess over \$3,000,000.
\$1,543,200, plus 59% of excess over \$4,000,000.
\$1,838,200, plus 63% of excess over \$5,000,000.
\$2,463,200, plus 67% of excess over \$6,000,000.
\$3,133,200, plus 70% of excess over \$7,000,000.
\$3,838,200, plus 73% of excess over \$8,000,000.
\$4,563,200, plus 76% of excess over \$10,000,000.
\$5,033,200, plus 77% of excess over \$10,000,000.

(b) *Defense tax repealed.* Subchapter C of Chapter 3 of the Internal Revenue Code is repealed.

(c) *Effective date.* Subsections (a) and (b) shall be effective only with respect to estates of decedents dying after the date of the enactment of this Act.

PAR. 2. Article 1 [§ 80.1 of such Title 26], as amended by Treasury Decision 4995, approved August 1, 1940, is further amended as follows:

By changing the first sentence to read as follows:

§ 80.1 *Estate tax statute.* Federal estate taxation under chapter 3 of the Internal Revenue Code, as amended, consists of, first the basic estate tax, second, the additional estate tax, and third, if the decedent died after June 25, 1940, and on or before September 20, 1941 (the date of the enactment of the Revenue Act of 1941), the defense tax.

By inserting at the end thereof the following paragraph:

The Revenue Act of 1941 amended the Internal Revenue Code by increasing the rates for the computation of the additional tax with respect to the estates of decedents dying after September 20, 1941 (the date of the enactment of such Act), and, as to such estates, repealed the defense tax imposed by section 951 (subchapter C of chapter 3) of the Internal Revenue Code, as added by the Revenue Act of 1940.

PAR. 3. The last two sentences of article 7 [§ 80.7 of such Title 26] are stricken out, and the following is inserted in lieu thereof:

§ 80.7 *Rates of tax* * * * The rates prescribed by the Revenue Act of 1935 for the computation of the additional tax are applicable to estates of decedents dying after August 30, 1935, and on or before February 10, 1939, the date of the enactment of the Internal Revenue Code. The rates prescribed by section 935 (b) of the Internal Revenue Code, as enacted on February 10, 1939, for computation of the additional tax are the same as those prescribed by the Revenue Act of 1935 and are applicable to estates of decedents dying after February 10, 1939, and on or before September 20, 1941, the date of the enactment of the Revenue Act of 1941. The rates prescribed by section 935 (b) of the Code as amended by section 401 of the Revenue Act of 1941 for computation of the additional tax are applicable to estates of decedents dying after September 20, 1941. See "Table I", and "Table II", contained in the following article, for the various rates in effect prior to September 21, 1941, and such article for an explanation of the use of the tables.

PAR. 4. Article 8 [§ 80.8 of such Title 26], as amended by Treasury Decision 4995, is further amended as follows:

By inserting immediately after the second sentence of the first paragraph the following:

§ 80.8 *Computation of tax.* * * * In the case of decedents dying after February 10, 1939, and on or before September 20, 1941, the additional tax is obtained by subtracting the basic estate tax imposed by the Internal Revenue

Code (corresponding to the tax imposed by the Revenue Act of 1926) from an amount computed on the value of the appropriate net estate at the rates set forth in section 935 (b) of the Internal Revenue Code when enacted (corresponding to the rates set forth in the Revenue Act of 1932 as amended by the Revenue Act of 1935), or, if the decedent died after September 20, 1941, at the rates set forth in section 935 (b) of the Internal Revenue Code as amended by the Revenue Act of 1941.

By inserting "or under the Internal Revenue Code or the Internal Revenue Code as amended," immediately after "Revenue Act of 1932 as amended," in the next to the last sentence of the first paragraph.

By changing the second paragraph to read as follows:

The defense tax, applicable if the decedent died after June 25, 1940, and on or before September 20, 1941, is obtained by computing 10 percent of the total net tax (the total net tax being the sum of the net basic tax and the net additional tax).

By changing the heading in column (1) of "Table I" to read as follows:

In effect from August 31, 1935, to September 20, 1941, inclusive. (Tentative tax.)

(This Treasury decision is issued under authority contained in section 401 of the Revenue Act of 1941 (Public Law 250, 77th Congress), approved September 20, 1941, and in section 3791 (a) of the Internal Revenue Code (53 Stat., 467, 26 U.S.C., Sup. V, 3791 (a)).)

[SEAL] NORMAN D. CANN,
Acting Commissioner of
Internal Revenue.

Approved: October 17, 1941.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 41-7933; Filed, October 21, 1941;
11:34 a. m.]

[T.D. 5090]

PART 85—GIFT TAX UNDER THE REVENUE ACT
OF 1932, AS AMENDED

Regulations 79 (1936 Edition) amended
to conform to the Revenue Act of
1941

In order to conform Regulations 79
(1936 Edition) [Part 85, Title 26, Code of
Federal Regulations], as made applicable
to the Internal Revenue Code (53 Stat.,

Part 1) by Treasury Decision 4885, approved February 11, 1939 [Chapter I, note, Title 26, Code of Federal Regulations, 1939 Sup.], to the Revenue Act of 1941 (Public Law 250, 77th Congress), approved September 20, 1941, such regulations are amended as follows:

If the net gifts are

Not over \$5,000.....	2¼ % of the net gifts.
Over \$5,000 but not over \$10,000.....	\$112.50, plus 5¼ % of excess over \$5,000.
Over \$10,000 but not over \$20,000.....	\$375, plus 8¼ % of excess over \$10,000.
Over \$20,000 but not over \$30,000.....	\$1,200, plus 10½ % of excess over \$20,000.
Over \$30,000 but not over \$40,000.....	\$2,250, plus 13½ % of excess over \$30,000.
Over \$40,000 but not over \$50,000.....	\$3,600, plus 16½ % of excess over \$40,000.
Over \$50,000 but not over \$60,000.....	\$5,250, plus 18¾ % of excess over \$50,000.
Over \$60,000 but not over \$100,000.....	\$7,125, plus 21 % of excess over \$60,000.
Over \$100,000 but not over \$250,000.....	\$15,525, plus 23½ % of excess over \$100,000.
Over \$250,000 but not over \$500,000.....	\$49,275, plus 24 % of excess over \$250,000.
Over \$500,000 but not over \$750,000.....	\$109,275, plus 26¼ % of excess over \$500,000.
Over \$750,000 but not over \$1,000,000.....	\$174,900, plus 27¾ % of excess over \$750,000.
Over \$1,000,000 but not over \$1,250,000.....	\$244,275, plus 29¼ % of excess over \$1,000,000.
Over \$1,250,000 but not over \$1,500,000.....	\$317,400, plus 31½ % of excess over \$1,250,000.
Over \$1,500,000 but not over \$2,000,000.....	\$396,150, plus 33¾ % of excess over \$1,500,000.
Over \$2,000,000 but not over \$2,500,000.....	\$564,900, plus 36¾ % of excess over \$2,000,000.
Over \$2,500,000 but not over \$3,000,000.....	\$748,650, plus 39¾ % of excess over \$2,500,000.
Over \$3,000,000 but not over \$3,500,000.....	\$947,400, plus 42 % of excess over \$3,000,000.
Over \$3,500,000 but not over \$4,000,000.....	\$1,157,400, plus 44¼ % of excess over \$3,500,000.
Over \$4,000,000 but not over \$5,000,000.....	\$1,378,650, plus 47¼ % of excess over \$4,000,000.
Over \$5,000,000 but not over \$6,000,000.....	\$1,851,150, plus 50¼ % of excess over \$5,000,000.
Over \$6,000,000 but not over \$7,000,000.....	\$2,353,650, plus 52½ % of excess over \$6,000,000.
Over \$7,000,000 but not over \$8,000,000.....	\$2,878,650, plus 54¾ % of excess over \$7,000,000.
Over \$8,000,000 but not over \$10,000,000.....	\$3,426,150, plus 57 % of excess over \$8,000,000.
Over \$10,000,000.....	\$4,566,150, plus 57¾ % of excess over \$10,000,000.

(b) Years to which amendments applicable. The amendments made by this section shall be applied in computing the tax for the calendar year 1942 and each calendar year thereafter (but not the tax for the calendar year 1941 or a previous calendar year), and such amendments shall be applied in all computations in respect of the calendar year 1941 and previous calendar years for the purpose of computing the tax for the calendar year 1942 and any calendar year thereafter.

(c) Defense tax repealed. Section 1001 (d) of the Internal Revenue Code (relating to defense tax for five years on gifts) is repealed.

PAR. 2. Article 5 [§ 85.5 of such Title 26], as amended by Treasury Decision 4996, approved August 1, 1940, is further amended as follows:

By striking "prior to 1940 or subsequent to 1945" in the last sentence of the first paragraph and substituting in lieu thereof "other than the calendar year 1940 or 1941".

By striking "1942, 1943, 1944, or 1945," in the first sentence of the second paragraph.

By striking "any" in the second sentence of the second paragraph.

By inserting immediately following the last paragraph the following:

§ 85.5 Computation of tax. * * *

The defense tax imposed by subsection (d) of section 1001 of the Internal Revenue Code, as added by section 207 of the Revenue Act of 1940 (repealed by section 402 of the Revenue Act of 1941) is not applicable to the calendar year 1942 or any calendar year thereafter but re-

PARAGRAPH 1. The following is inserted immediately preceding article 5 [§ 85.5 of such Title 26]:

SEC. 402. GIFT TAX RATES. [Revenue Act of 1941.]

(a) Rates. The Rate Schedule of section 1001 of the Internal Revenue Code is amended to read as follows:

The tax shall be

2¼ % of the net gifts.
\$112.50, plus 5¼ % of excess over \$5,000.
\$375, plus 8¼ % of excess over \$10,000.
\$1,200, plus 10½ % of excess over \$20,000.
\$2,250, plus 13½ % of excess over \$30,000.
\$3,600, plus 16½ % of excess over \$40,000.
\$5,250, plus 18¾ % of excess over \$50,000.
\$7,125, plus 21 % of excess over \$60,000.
\$15,525, plus 23½ % of excess over \$100,000.
\$49,275, plus 24 % of excess over \$250,000.
\$109,275, plus 26¼ % of excess over \$500,000.
\$174,900, plus 27¾ % of excess over \$750,000.
\$244,275, plus 29¼ % of excess over \$1,000,000.
\$317,400, plus 31½ % of excess over \$1,250,000.
\$396,150, plus 33¾ % of excess over \$1,500,000.
\$564,900, plus 36¾ % of excess over \$2,000,000.
\$748,650, plus 39¾ % of excess over \$2,500,000.
\$947,400, plus 42 % of excess over \$3,000,000.
\$1,157,400, plus 44¼ % of excess over \$3,500,000.
\$1,378,650, plus 47¼ % of excess over \$4,000,000.
\$1,851,150, plus 50¼ % of excess over \$5,000,000.
\$2,353,650, plus 52½ % of excess over \$6,000,000.
\$2,878,650, plus 54¾ % of excess over \$7,000,000.
\$3,426,150, plus 57 % of excess over \$8,000,000.
\$4,566,150, plus 57¾ % of excess over \$10,000,000.

mains in effect for the calendar years 1940 and 1941.

PAR. 3. Article 6 [§ 85.6 of such Title 26] is amended as follows:

By substituting the following for the third sentence and the statement preceding the Table for Computing Gift Tax:

§ 85.6 Tax rate schedules * * *

The rates were again increased by the Revenue Act of 1935, and the rate schedule in such Act (section 301) is applicable in the computation of the tax for the calendar years 1936 to 1939, inclusive. The rate schedule in the Internal Revenue Code (section 1001), as enacted on February 10, 1939, is the same as the rate schedule in the Revenue Act of 1935 and is applicable in the computation of the gift tax for the calendar years 1940 and 1941. The rates were further increased by the Revenue Act of 1941, approved September 20, 1941, and the rate schedule under section 1001 of the Code, as amended by such Act, is applicable in the computation of the tax for the calendar year 1942 and each calendar year thereafter. There follows a tabulation of the several rate schedules in effect for calendar years prior to 1942.

By changing the heading in column (1) of the Table for Computing Gift Tax to read as follows: "In effect for calendar years 1936 to 1941, inclusive."

PAR. 4. Article 7 [§ 85.7 of such Title 26] is amended by changing the second

sentence of the third paragraph to read as follows:

§ 85.7 *Application of rate schedules*
* * * Only column 1 should be used in the computation of the tax for the years 1936 to 1941, inclusive.

(This Treasury decision is issued under the authority contained in section 402 of the Revenue Act of 1941 (Public Law 250, 77th Congress), approved September 20, 1941, and in sections 1029 and 3791 (a) of the Internal Revenue Code (53 Stat., 157, 467, 26 U.S.C., Sup. V, 1029, 3791 (a).)

[SEAL] NORMAN D. CANN,
Acting Commissioner of Internal Revenue.

Approved: October 17, 1941.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 41-7934; Filed, October 21, 1941; 11:34 a. m.]

SUBCHAPTER C—MISCELLANEOUS EXCISE TAXES

[Regulations 43, 1941 Edition]

PART 101—TAXES ON ADMISSIONS, DUES, AND INITIATION FEES

SUBPART A—INTRODUCTORY

Sec. 101.0 Scope of regulations.

SUBPART B—GENERAL PROVISIONS

101.1 Effective period.

SUBPART C—ADMISSIONS

- 101.2 Meaning of "admission".
- 101.3 Meaning of the term "place".
- 101.4 Basis, rate, and computation of tax.
- 101.5 Free and reduced rate admissions.
- 101.6 Effective date of change in exemption.
- 101.7 Meaning of "lease".
- 101.8 Basis, rate, and computation of tax.
- 101.9 Scope and basis of taxes.
- 101.10 Regular or established price defined.
- 101.11 Brokers' sales; rate and computation of tax.
- 101.12 Box office sales; rate and computation of tax.
- 101.13 Basis, rate, and computation of tax.
- 101.14 Entertainments included.

SUBPART D—EXEMPTIONS

- 101.15 Termination of exemptions.
- 101.16 Admissions by or for the benefit of Federal, State, or municipal governments.

SUBPART E—TICKETS AND SIGNS

- 101.17 Tickets or other means to check admissions required.
- 101.18 Requirements applicable to tickets.
- 101.19 Printing of tickets; notice to be given.
- 101.20 Mechanical devices.
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SUBPART F—DUES AND INITIATION FEES

- 101.22 Meaning of dues or membership fees.
- 101.23 Rate and basis of tax.
- 101.24 Determination of character of club.
- 101.25 Social clubs.
- 101.26 Athletic or sporting clubs.
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- 101.28 Initiation fees.
- 101.29 Life membership.
- 101.30 Exempt organizations.

SUBPART G—MISCELLANEOUS PROVISIONS

- 101.31 Duty to collect, return, and pay tax; admissions.
- 101.32 Records; admissions.
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- Sec. 101.34 Application for and certificate of registry.
- 101.35 Traveling shows.
- 101.36 Leases of places.
- 101.37 Duty to collect return, and pay tax; dues and initiation fees.
- 101.38 Records; dues.
- 101.39 Returns and payments; dues.
- 101.40 Jeopardy assessment.
- 101.41 Credit for overpayment.
- 101.42 Abatement or refund of erroneous or illegal assessments or collections.
- 101.43 Refund of overcollections.
- 101.44 Penalties and interest.
- 101.45 Promulgation of regulations.

SUBPART A—INTRODUCTORY

§ 101.0 *Scope of regulations.* These regulations deal with the excise taxes imposed on admissions, dues, and initiation fees by Chapter 10 of the Internal Revenue Code, as amended by section 521, Part II, and sections 541, 542, 543 and 550, Part IV, of Title V of the Revenue Act of 1941. The regulations with respect to the determination of tax liability, the computation of tax and the manner of its application are contained in Subparts C to F, inclusive. The regulations relating to collection and return of tax, the imposition of penalties and related matters are contained in Subpart G.

The statutory references are to the Internal Revenue Code (53 Stat., Part 1) unless otherwise stated.*

*§§ 101.0 to 101.45, inclusive, issued under the authority contained in section 3791 of the Internal Revenue Code, follow the statutory provisions to which they, respectively, refer.

SUBPART E—GENERAL PROVISIONS

DEFINITIONS

Sec. 3797. DEFINITIONS.

(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—

(1) *Person.* The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, company, or corporation.

(2) *Partnership and partner.* The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(3) *Corporation.* The term "corporation" includes associations, joint-stock companies, and insurance companies.

(9) *United States.* The term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(11) *Secretary.* The term "Secretary" means the Secretary of the Treasury.

(12) *Commissioner.* The term "Commissioner" means the Commissioner of Internal Revenue.

(13) *Collector.* The term "collector" means collector of internal revenue.

(14) *Taxpayer.* The term "taxpayer" means any person subject to a tax imposed by this title.

(15) *Military or Naval Forces of the United States.* The term "military or naval forces of the United States" includes the Marine Corps, the Coast Guard, the Army Nurse Corps, Female, and the Navy Nurse Corps, Female.

(b) *Includes and including.* The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

EFFECTIVE PERIOD

Sec. 1723. EFFECTIVE DATE OF CHAPTER.

This chapter shall take effect on the first day of that calendar month occurring next after the enactment of this title.

Sec. 821. DEFENSE EXCISE TAX RATES MADE PERMANENT WHICH ARE NOT INCREASED BY THIS ACT. [Revenue Act of 1941.]

(b) The rates specified in subsection (a) shall be applicable only with respect to the period after the date of the enactment of this Act, and the rates specified in section 1650 (a) * * * of the Internal Revenue Code shall not apply with respect to such period.

Sec. 550. EFFECTIVE DATE OF PART IV. [Title V, Revenue Act of 1941.]

(a) The amendments made by this Part shall be applicable only with respect to the period beginning with the effective date of this Part. * * * This Part shall take effect on October 1, 1941.

(b) Despite the provisions of subsection (a), the tax imposed by section 1700 (e) of the Internal Revenue Code, as amended by section 542 of this Act (relating to cabaret, etc., tax), shall be applicable only with respect to the period beginning at 10 a. m. on October 1, 1941, * * *

§ 101.1 *Effective period.* The taxes on admissions, dues, and initiation fees were effective under Title V of the Revenue Act of 1926, as amended. The applicable provisions of the Revenue Act of 1926, as amended, were superseded, effective March 1, 1939, by provisions of the Internal Revenue Code.

Sec. 521 (b) of the Revenue Act of 1941 applies to the taxes imposed with respect to leases of boxes and seats (see §§ 101.7 and 101.8) and sales outside box offices (see §§ 101.9 to 101.11). These taxes were increased from 10 per cent to 11 per cent by section 1650 of the Internal Revenue Code, added by section 210 of the Revenue Act of 1940. Under section 1650 the increased tax was applicable only with respect to the period after June 30, 1940, and before July 1, 1945. Under the amendments made by the Revenue Act of 1941 the 11 per cent rate applies indefinitely.

Section 550 (a) applies to the admissions tax (see §§ 101.2 to 101.6), the cabaret, roof garden, etc., tax (see §§ 101.13 and 101.14), and the club dues tax (see §§ 101.22 to 101.30). The changes made by the Revenue Act of 1941 with respect to these taxes are applicable on and after October 1, 1941. In the case of the cabaret, roof garden, etc., tax, the change was effective on October 1, 1941, at 10 a. m. for the time belt.*

SUBPART C—ADMISSIONS

Sec. 1700. TAX. [As amended by section 541 of the Revenue Act of 1941.]

There shall be levied, assessed, collected, and paid—(a) Single or season ticket; subscription.

(1) *Rate.* A tax of 1 cent for each 10 cents or fraction thereof of the amount paid for admission to any place, including admission by season ticket or subscription. In the case of persons (except bona fide employees, municipal officers on official business, children under twelve years of age, members of the military or naval forces of the United

States when in uniform, and members of the Civilian Conservation Corps when in uniform) admitted free or at reduced rates to any place at any time when and under circumstances under which an admission charge is made to other persons, an equivalent tax shall be collected based on the price so charged to such other persons for the same or similar accommodations, to be paid by the person so admitted. No tax shall be imposed on the amount paid for the admission of a child under 12 years of age if the amount paid is less than 10 cents.

(2) *By whom paid.* The tax imposed under paragraph (1) shall be paid by the person paying for such admission.

SEC. 1704. ADMISSION DEFINED.

The term "admission" as used in this chapter includes seats and tables, reserved or otherwise and other similar accommodations, and the charges made therefor.

§ 101.2 *Meaning of "admission."* The tax is imposed on "the amount paid for admission to any place," and applies to the amount which *must be paid* in order to gain admission to a place. (See § 101.4.) The term "admission" means the right or privilege to enter into a place. The law specifically provides that it shall also include "seats and tables, reserved or otherwise, and other similar accommodations." A charge for their use in any place must, therefore, be treated as a taxable charge for admission. So an amount paid for the right to use a reserved seat in a theater or circus, a seat in a room or window to view a parade, or the like, is taxable. This is true whether the charge made for the use of the seat, table, or similar accommodation is combined with an admission charge proper to form a single charge, or is separate and distinct from an admission charge, or is itself the sole charge. The tax under section 1700 (a) as amended does not apply, however, to admissions to or charges for seats and tables in a cabaret, roof garden or similar place which are subject to the provisions of section 1700 (e) of the Code as amended. (See §§ 101.13 and 101.14.)

Where an original admission charge carries the right to remain in a place, or to use a seat or table, or other similar accommodation for a limited time only, and an additional charge is made for an extension of such time, the extra charge is paid for "admission" within the meaning of the Code.

The amount paid for admission by season ticket is a fixed sum which entitles the holder to admission on definite dates to a series of scheduled attractions, or to admission at all times during the season, and the form of the ticket is not controlling.

A subscription ticket is one which is issued to a person who subscribes a sum of money to the expense of an entertainment or who agrees to bear a portion of the expense thereof when the amount is ascertained.

An amount paid to become regularly entitled to the privileges of a club or other organization, as members or otherwise, is not an "amount paid for admission" even though one of the privileges be the right to enter a clubhouse, club grounds, gymnasium, swimming

pool, or the like. But where the chief or sole privilege of a so-called membership is a right of admission to certain particular performances or to some place on a definite number of occasions (as contrasted with a more or less unlimited right to enter a clubhouse or other place as many times as desired during a year or some other period), then the amount paid for such so-called membership is an "amount paid for admission" within the meaning of the Code. An entirely different tax is levied on amounts paid as initiation fees or as dues or membership fees to certain classes of clubs or organizations, and also upon life members of such clubs, by section 1710 of the Code. (See Subpart F)

Where a person or organization acquires the sole right to use any place or the right to dispose of all the admissions to any place for one or more occasions, the amount paid for such right is not subject to the tax on admissions. Such a transaction constitutes a rental of the entire place and of the attraction, if any, whether or not it is so designated. However, if the person or organization in turn sells admissions to the place the tax will apply to amounts paid for such admissions.

If a charge imposed on a person admitted to a place is designated as an admission it will be presumed that it is in fact an admission charge, even though it includes rental of property or services, such, for example, as a charge of 50 cents for admission to a swimming pool, including use of a suit. The tax will apply in such case unless it is clearly shown that the charge is for rental or services, and that persons who do not use the property or services offered (e. g., use of a swimming suit) are admitted free. On the other hand, the designation of a charge as a rental or service charge (e. g., a charge for use of a swimming suit) will not avoid the application of the tax if it in fact represents a charge for admission, or includes the right to admission. If the same charge is made to the person using or furnishing his own property or equipment as where property or equipment is furnished by the management, such charge is an amount paid for admission and subject to tax. If a lesser charge is made to persons who do not desire to use the property or services offered, the lesser charge represents the admission charge.*

§ 101.3 *Meaning of the term "place."* The tax under section 1700 (a) of the Code is on the amount paid for admission to any place. "Place" is a word of very broad meaning, and it is not defined or otherwise limited by the Code. But the basic idea it conveys is that of a definite inclosure or location. The phrase "to any place," therefore, does not narrow the meaning of the word "admission," except to the extent that it implies that the admission is to a definite inclosure or location. The inclosure or location may be on, above, or beneath the surface of the earth. Places of amusement obvi-

ously constitute the most important class of places admission to which is subject to this tax.*

§ 101.4 *Basis, rate, and computation of tax.* The amount paid for admission to any place, including any amount paid for a season ticket or as a subscription, is subject under section 1700 (a) of the Code, as amended, to a tax of 1 cent for each 10 cents or fraction thereof (except that no tax is due on the amount paid for the admission of a child under 12 years of age if the amount paid is less than 10 cents). The tax in each case is to be paid by the person paying for admission. This tax applies to the *payment* for admission, not to the *admission* itself, and as soon as payment for admission is made the tax attaches, whether or not the admission ever takes place, and no refund of the tax can be allowed by reason of non-use of the ticket unless the admission charge also is refunded. The tax applies if the payment for admission occurs in the United States, even though the *admission* is to take place outside the territorial limits of the United States.

The tax applies whether any profit is contemplated or realized and whether the affair to which admission is charged is public or private.

The tax attaches to the amount paid for each admission separately, and, therefore, if two or more admissions are paid for at once, the total tax is determined by computing separately the tax on each admission and then adding together the taxes so computed. In other words, the tax for 10 single admissions will always be ten times the tax for each single admission.

Where a single charge is made to cover admission to more than one attraction, the tax is computed on the basis of such charge. If separate charges are made for each attraction, the tax is computed on each such charge. Where, however, after paying one charge a second charge is made for accommodations which are essentially an extension of the accommodations granted in return for the payment of the first charge, the tax attaches to the total of the two charges made. Thus, if a combination ticket is issued entitling the holder to admission and to the use of a reserved seat for \$1.50, the tax is 15 cents, and the same amount of tax would be due if separate tickets of admission and for a reserved seat were sold for 75 cents each. In the latter case, however, the tax due on the first charge would be 8 cents (1 cent for each 10 cents or fraction thereof of the charge) and the tax on the second charge would be 7 cents (1 cent for each 10 cents or fraction thereof of the total charge, less the amount of tax, 8 cents, paid on the first charge).

The amount paid for admission to any place is the amount which must be paid to the person or persons controlling such admission in order to secure the privilege. If a ticket or card of admission is sold by the person controlling the admission for an amount in excess of the regular or

established price or charge therefor, the tax imposed by section 1700 (a) (1) will apply to the total selling price. As to taxes on excess charges see § 101.9.*

§ 101.5 *Free and reduced rate admissions*—(a) *General rule.* A person admitted free or at a reduced rate to any place at a time when and under circumstances under which an admission charge is made to other persons, is liable to tax (except as provided in paragraph (b) of this section), in an amount equivalent to the tax on the amount paid by such other persons for the same or similar accommodations. If tickets or cards of admission are issued the tax should be collected at the time of the issuance of such tickets or cards, while if no tickets or cards are used tax should be collected when the persons are admitted.

(b) *Exceptions.* A bona fide employee of the management of the theater or other place, a municipal officer on official business, or a child under 12 years of age, is not liable to tax if admitted free but if admitted at a reduced rate is liable to tax on the reduced price, except that a child under 12 years of age admitted for less than 10 cents is not liable for tax. Bona fide employees are (1) those persons, including directors and officers, regularly employed by the proprietor of the place or attraction or regularly engaged in work or business transacted there, whether their duties require admission to the place or not, and whether on duty at the time admitted or not; and (2) other persons whose admission to the place is required for the performance of some duty to, or work for, the proprietor.

Persons in the military or naval forces of the United States when in uniform, and members of the Civilian Conservation Corps when in uniform are not liable for tax if admitted free, and if admitted at a reduced rate are liable for tax on the reduced price.

Newspaper reporters, photographers, telegraphers, radio announcers, and persons of similar vocation who are admitted free to any place for the performance of special duties in connection with an event and whose special duties are the sole reason for their presence and free admission, are not liable for any tax on admissions. Free admissions, including free admissions to spoken plays, etc., granted to such persons who are not admitted solely for the purpose of performing their special duties in connection with the event are subject to tax equivalent to the tax on the admission charge paid by other persons for the same or similar accommodations.*

§ 101.6 *Effective date of change in exemption.* All sums paid on and after October 1, 1941, for admissions are subject to tax under section 1700 (a) (1) of the Internal Revenue Code as amended by section 541 of the Revenue Act of 1941, except that no tax attaches to an admission charge of less than 10 cents for a child under 12 years of age.*

LEASES OF BOXES OR SEATS

[Sec. 1700. TAX.] [As amended by section 521 (a) (1) of the Revenue Act of 1941]

[There shall be levied, assessed, collected, and paid—] (b) Permanent use or lease of boxes or seats.

(1) *Rate.* In the case of persons having the permanent use of boxes or seats in an opera house or any place of amusement or a lease for the use of such box or seat in such opera house or place of amusement (in lieu of the tax imposed under paragraph (1) of subsection (a)), a tax equivalent to 11 per centum of the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by or for the lessee or holder.

(2) *By whom paid.* The tax imposed under paragraph (1) shall be paid by the lessee or holder.

§ 101.7 *Meaning of "lease."* This tax applies to cases where a person has the permanent use, or a lease for the use, of a box or seat in any opera house or other place of amusement. The term "lease" means a continuous and exclusive right to use a particular box or seat for the term of the lease. It does not include the right to use a box or seat merely on the occasion of regular performances given by a particular company, but the contract must give the holder of the box or seat the right of use thereof whenever an attraction of any kind is presented in that place during the continuance of the lease. To constitute a lease of a box or seat a formal document of lease is not necessary.

Examples. (1) A corporation owning a theater gives the exclusive right to the use of a particular box for a year to each stockholder owning a certain number of shares. Since the stockholder has the exclusive use of the box for the period, this tax applies.

(2) A theater presents attractions, each running for a period of a week. A person arranges to reserve for his use a certain seat for every Monday night during the year. Such a reservation is not a lease.*

§ 101.8 *Basis, rate, and computation of tax.* In the case of a person having the permanent use or a lease for the use of a box or a seat in any opera house or other place of amusement the tax imposed by section 1700 (a) (1) on "the amount paid for admission to any place" does not apply. Instead, the provisions quoted above impose a tax on the right to the use of the box or seat equivalent to 11 per cent of the total amount that would be realized by the sale, at the established price, of the right to occupy a similar box or seat for each performance or exhibition during the period for which such box or seat is reserved. In other words, the tax is based not on the amount, if any, actually paid for the particular box or seat, but on the amount that would be paid, at the established price, for admission to all performances given, not merely those attended, if payments were made for each performance separately. The tax is not on the actual use of the box or seat, but on the most

extensive possible use. Note that the rate of the tax here is 11 per cent and not "1 cent for each 10 cents or fraction thereof," as it is under section 1700 (a) (1). In case of a box, if there is no comparable box for the use of which on single occasions admission charges are made, the tax is to be computed by determining the amount for which a single box seat in the same part of the house is sold, multiplying that amount by the number of seats in the box, and calculating the tax on the basis above indicated. If there is no box located in a similar position, the tax is to be computed by determining the amount for which a single seat in the same part of the house is sold, multiplying that amount by the number of seats in the box, and calculating the tax accordingly.

Examples. (1) The season of a certain professional baseball league runs from April 15 to October 15. One club leases 6-seat boxes under contracts which entitle the holders to occupy the boxes on all occasions when attractions are presented between those dates. There are 70 games scheduled for the season, and the price of a 6-seat box for a single game (including general admission of six persons to the grandstand) is \$10. In case of the lease of a box under the above-mentioned contract the tax to be collected from the holder is \$77 (11 per cent of seventy times \$10), and if extra attractions, at which the holder would be entitled to the use of such box, are presented at any time during the period for which the box is held, additional tax equivalent to 11 per cent of the established price of a similar box must be collected on each such occasion, whether or not the box is occupied.

(2) Another club leases box seats under contracts which entitle the holders to occupy the seats on all occasions when attractions are presented between April 15 and October 15, but do not entitle them to general admission to the grandstand. The price of one of these seats for a single game (not including a taxable charge of 75 cents for general admission to the grandstand) is 50 cents. Under such a contract the tax to be collected is \$3.85, which is 11 per cent of \$35—the amount that would be paid for the 70 games scheduled at the rate of 50 cents for each game. In addition, the holder will be required to pay tax on the general admission charge to the grandstand each time he is admitted. If extra attractions at which the lessee is entitled to occupy his seat are presented at any time during the period for which the seat is held, additional tax equivalent to 11 per cent of the established price of a similar seat must be collected on each such occasion, whether or not the seat is occupied.

(3) The owners of a certain opera house, in leasing it to an opera company, reserve for their own use the whole parterre tier of thirty-five 6-seat boxes, paying therefor annually the sum of \$70,-

000. These boxes are distributed among the various owners, \$2,000 a year being paid for an annual lease of each. There are no similar boxes in the house, but the established price of each seat in the box in the next tier, which is less desirable, is \$10 per seat. The number of performances during the season is fixed in advance at 100. Each lessee of such a box on paying the \$2,000 for the season must pay a tax of at least \$660 (one hundred times 11 per cent of six times \$10), to be paid over in turn to the opera company and the collector of internal revenue. This minimum figure for the tax is based on the established price of the box seats which are the most nearly similar, but which are less desirable. If extra attractions are presented at any time during the period for which the box is leased, additional tax equivalent to 11 percent of the established price of a similar box must be collected on each such occasion, whether or not the box is occupied.*

CHARGES IN EXCESS OF ESTABLISHED PRICE

[SEC. 1700. TAX.] [As amended by sections 521 (a) (2) and 542 (d) of the Revenue Act of 1941]

[There shall be levied, assessed, collected, and paid—] (c) Sales outside box office.

(1) *Rate.* Upon tickets or cards of admission to theaters, operas, and other places of amusement, sold at news stands, hotels, and places other than the ticket offices of such theaters, operas, or other places of amusement, at a price in excess of the sum of the established price therefor at such ticket offices plus the amount of any tax imposed under paragraph (1) of subsection (a), a tax equivalent to 11 per centum of the amount of such excess.

(2) *By whom paid.* The taxes imposed under paragraph (1) shall be returned and paid by the person selling such tickets.

(d) Sales by proprietors in excess of regular price—

(1) *Rate.* A tax equivalent to 50 per centum of the amount for which the proprietors, managers, or employees of any opera house, theater, or other place of amusement sell or dispose of tickets or cards of admission in excess of the regular or established price or charge therefor.

(2) *By whom paid.* The tax imposed under paragraph (1) shall be returned and paid by the persons selling such tickets.

§ 101.9 *Scope and basis of taxes.* While two distinct taxes are imposed under the provisions quoted above, one on excess charges for tickets or cards of admission sold at places other than the ticket offices of the theaters, operas, or other places of amusement, and the other on excess charges imposed by the proprietors, managers, or employees of such places, there are certain rules generally applicable to both. These will be found in this and in the succeeding section.

The provisions of the Code relating to excess charges apply regardless of the established price. Any amount received by the person selling the tickets or cards over and above the established price, or any lump sum which bears a relation to the number of tickets so sold, whether

called a "contribution," "service charge," or the like, is an "excess charge."

The taxes on excess charges are of more limited application than the tax on admissions proper. The former attach only to excess charges for tickets or cards of admission valid for admission to theaters, operas, or other places of amusement, where as the tax on admissions attaches to amounts paid for admission to any place. (See § 101.4.) Thus, a tax may be due on an amount paid for admission to a place where no excess charge tax could be collected because the place is not a theater, opera, or other place of amusement. As shown in § 101.4, the full amount, including excess charges, paid to the theater or person controlling the same is subject to the tax on admissions, which must be paid by the person paying for admission. However, excess charges paid to brokers or persons who do not control the admission are not regarded as payments for admission to any place and are not therefore subject to tax under section 1700 (a) (1). The taxes on charges in excess of the regular or established price, whether the ticket or card of admission is sold at the box office or elsewhere, are to be paid by the person selling such ticket or card of admission. These taxes are therefore distinct from and in addition to the admissions tax.*

§ 101.10 *Regular or established price defined.* The "regular or established price" of admission to an attraction on a given occasion means the full price, fixed by the person in control, in force at the time of the first sale, of tickets or cards of admission thereto. However, the mere fact that a price is called an established price does not make it such. The established or regular price of admission may be the same for all admissions, or may vary in accordance with the accommodations furnished. Any scale of prices adopted in good faith, and reasonably corresponding to the kinds of accommodations furnished, will be accepted as showing the true established prices of admission. The established price of an admission need not be the same for different attractions or even for different performances of the same attraction; but when tickets are once put on sale for a particular performance the price of admission for every accommodation at that performance is thereby established. Established prices of admission once so adopted are not affected by the mere sale of a few admissions at prices different from the ones so established. Established prices once adopted for any occasion may not be thereafter increased for that occasion. If tickets are subsequently sold at higher prices, the excess charges are taxable. Prices once established or adopted may be reduced, but in such case liability to excess-charge taxes with respect to all admissions sold at the original established

prices can be avoided only by complying with the following conditions:

(1) Any reduction of an established price must apply equally to all admissions covered by such established price; (2) the reduction must not result in setting a lower price for certain accommodations than is charged for other like accommodations on the same occasion; (3) public notice must be promptly given of the reduction and of the fact that every person having paid for admission at the former established price can secure a refund at any reasonable time of the amount he paid in excess of the new established price; and (4) such refunds actually must be made promptly on request.

The rules above indicated in this section apply not only to single admissions but also to season tickets and subscriptions. The established price for a season ticket or subscription is the full price, fixed by the person in control, in force at the time of the first sale.

For requirements as to data to be shown on tickets see § 101.18.*

§ 101.11 *Brokers' sales; rate and computation of tax.* The tax on excess charges applies to tickets or cards of admission to theaters, operas, or other places of amusement "sold at news stands, hotels, and places other than the ticket offices of such theaters, operas, or other places of amusement" at a price in excess of the regular or established price therefor at such ticket offices. The tax is 11 per cent of the amount by which the selling price exceeds the sum of the regular or established price and the tax thereon. The tax is imposed upon and is to be paid by the person so selling the tickets or cards of admission. The liability to this tax attaches whether or not the selling or disposing of such tickets or cards of admission is the principal business or occupation of such person.

In determining the amount of the excess charge, the amount of any tax imposed under section 1700 (a) (1) is always added to the regular or established price and the sum so obtained is subtracted from the selling price. The remainder represents the excess charge, and the 11 per cent tax applies to that amount. Thus, by way of illustration, if a ticket broker sells for \$4.50 a ticket or card of admission the regular or established price of which is \$3.50, plus 35 cents tax, the excess charge is not \$1, but 65 cents. This is determined in the following manner:

Established price.....	\$3.50
Admission tax thereon.....	.35
Total.....	3.85
Sale Price.....	4.50
Difference, representing taxable excess charge.....	.65
Tax due at 11 per cent.....	.0715

No admission tax on the established price is due or collectible by the broker

in this connection, since such tax has already been paid to and collected by the theater or person controlling the admission.

As this is a percentage tax, like that imposed on excess charges imposed by theaters, operas, or other places of amusement, individual transactions will frequently result in a tax involving a fraction of a cent. These fractional parts of cents should be preserved in computing the monthly total of tax due. If the grand monthly total involves one-half, or a larger fraction, of a cent, it shall be increased to 1 cent; otherwise it shall be disregarded. (See section 3658 of the Code.)

It should be particularly noted that this tax is based on the amount charged by the broker in excess of the established price plus tax, not in excess of the price the broker pays. The fact that the broker himself may have paid the theater, opera, or other place of amusement more than the established price for a ticket or card of admission sold or disposed of by him does not affect the tax to be paid by the broker on an excess charge made by him. In other words, if a theater charges a broker more than the established price, and the broker charges the customer more than the established price plus tax on such established price, the theater must pay tax on the excess charged the broker over the established price and the broker must pay tax on the excess charged the customer over the established price plus tax thereon. If the broker pays the theater less than the established price, the latter and not the price actually paid is the sum which must be taken in reckoning the amount of the excess charge.

Where a ticket is sold by a theater to a broker at the established price and it thereafter passes through the hands of one or more brokers before being sold to a user, each broker who sells the ticket for an amount in excess of the established price must pay the tax on the whole amount by which his selling price exceeds the amount of the established price of the ticket at the ticket office of the theater, opera, or other place of amusement plus the tax imposed on such established price under section 1700 (a) (1). For information as to the manner in which returns shall be made and the tax paid over by brokers, see § 101.33.

Examples. (1) A certain ticket broker purchases from a theater a block of tickets for seats in the orchestra, the established price of admission to which is \$3.50, and resells them at an excess charge of 80 cents per ticket. The taxes to be collected and paid by the theater and broker in this case are as follows:

THEATER	
Receives from broker	Disposition
Established price..... \$3.50	which it retains.
Admission tax..... .35	which it must pay to collector..... \$0.35
Total..... 3.85	Total..... .35

BROKER

Receives from customer	Disposition
Established price..... \$3.50	which he retains.
Additional charge..... .85	which he retains as reimbursement of admission tax paid to theater.
Excess charge..... .80	on which he must pay as tax to collector..... \$0.023
Total..... 4.65	Total..... .033

(2) A theater-ticket agency procures tickets from various theaters with the privilege of returning an hour before the performance starts all tickets for that performance then unsold. Such agency charges for each ticket sold 10 cents more than the sum of the established price and the amount paid to the theater as an admission tax, and terms this 10-cent charge a "service charge." The 10-cent advance is an fact an excess charge not withstanding the privilege of returning the unsold tickets and the agency is liable for an excess-charge tax of 1½ cents.*

§ 101.12 *Box office sales; rate and computation of tax.* Where a proprietor, manager, or employee of any opera house, theater, or other place of amusement sells or disposes of any ticket or card of admission for an amount in excess of the regular or established price or charge therefor (as outlined in § 101.10), the excess portion of the price for which it is so sold or disposed of is subject to the tax of 50 per cent imposed under section 1700 (d). This tax is to be paid by the person selling or disposing of the ticket, and (as shown in § 101.9) is distinct from and in addition to the admission tax, which is to be paid by the person to whom the ticket is sold.

The fact that this tax is on a percentage basis makes possible a tax involving a fraction of a cent. As the tax is based on each excess charge imposed, several items of tax each involving a fractional part of a cent may be due with each monthly return. These several fractions should be preserved or included in computing the total tax due with any given return. If the total thus obtained involves one-half, or a larger fraction, of a cent, it shall be increased to 1 cent; otherwise it shall be disregarded.

Example. If a ticket broker purchases from a theater a block of admission tickets, the established price of which is \$2 (admission tax 20 cents), and resells them at an excess charge of 50 cents per ticket, agreeing, however, that half of this excess charge so received by him is to be paid to the theater, the sum of 25 cents received by the theater is in effect an excess charge made by it. The theater, therefore, will be subject to a tax of 50 per cent of this amount (12½ cents) as a tax on the excess charge, and the broker will be subject to a tax of 5½

cents, which is 11 per cent of the 50 cents excess over the established price.*

ROOF GARDENS, CABARETS, OR SIMILAR ENTERTAINMENTS

[Sec. 1700. Tax.] [As amended by section 543 of the Revenue Act of 1941]

[There shall be levied, assessed, collected, and paid—]

(e) Tax on cabarets, roof gardens, etc.—
 (1) *Rate.* A tax equivalent to 5 per centum of all amounts paid for admission, refreshment, service, and merchandise, at any roof garden, cabaret, or other similar place furnishing a public performance for profit, if any payment, or part thereof, for admission, refreshment, service, or merchandise, entitles the patron to be present during any portion of such performance. No tax shall be applicable under subsection (a) (1) on account of an amount paid with respect to which tax is imposed under this subsection.
 (2) *By whom paid.* The tax imposed under paragraph (1) shall be returned and paid by the person receiving such payments.

§ 101.13 *Basis, rate, and computation of tax.* The tax imposed by section 1700 (e), as amended by section 542 of the Revenue Act of 1941, applies to all amounts paid for admission, refreshment, service, and merchandise, at any roof garden, cabaret, or other similar place furnishing a public performance for profit, if any payment or part thereof entitles the patron to be present during any portion of such performance. The tax is at the rate of 5 per cent of the total amounts so paid.

Charges collected prior to commencement of a performance are not taxable with respect to such performance, if the patron is not entitled to remain for any part of the performance.

The liability for the tax is imposed upon the person receiving payment of the charges mentioned, and the tax must be paid by such person regardless of whether collected from the patron either as a separate charge or by being included in the amounts charged for admission, refreshment, service, and merchandise.

Where the tax is passed on to the patron and is shown as a separate item on the waiters check or bill for admission, refreshment, service, and merchandise, the amount thereof shall be excluded in determining the total amount of the charges upon which the tax is to be computed. However, where the tax is not shown as a separate charge, the tax must be computed on the total amount paid by the patrons for admission, refreshment, service, and merchandise.

The tax upon admissions generally, imposed by subsection (a) (1) of section 1700, as amended, does not apply to any charge for admission that is subject to the tax imposed by subsection (e) of section 1700, as amended.*

§ 101.14 *Entertainments included.* The phrase "a public performance for profit" includes every public vaudeville or other performance or diversion in the way of acting, singing, declamation, or dancing, either with or without instrumental or other music, conducted by professionals, amateurs, or patrons, under the auspices of the management, in con-

nection with the serving or selling of food or other refreshment or merchandise at any room in any hotel, restaurant, hall, or other public place. Every form of entertainment so conducted is included, except instrumental music unaccompanied by any other form of entertainment.

Where music by an orchestra and a space in which the patrons may dance are furnished in the dining room of a hotel, or in a restaurant, bar, etc., the entertainment constitutes a public performance for profit at a roof garden, cabaret or similar place, and the payments made for admission, refreshment, service and merchandise are subject to the tax.

Examples. (1) A proprietor of a dancing establishment provides for the serving of refreshments to his patrons. An admission or cover charge is made to each patron. In this case the admission or cover charges and also the charges for refreshment, service, and merchandise are subject to the tax.

(2) A certain hotel provides an orchestra and a dancing floor surrounded by tables and serves refreshments to its patrons during the dancing hours. No charge is made for dancing. This is a case of a public performance for profit where the charges for refreshment, service, and merchandise are taxable.

(3) A hotel gives a New Year's Eve party in its dining room for which a charge of \$5 per person is made to anyone desiring to attend. A dinner is served and entertainment in the form of music and dancing by the patrons is furnished. The charge of \$5 for refreshment, service, and merchandise is subject to tax of 25 cents.*

SUBPART D—EXEMPTIONS

SEC. 541. ADMISSIONS TAX. [Revenue Act of 1941]

(b) *Termination of exemptions.* Section 1701 of the Internal Revenue Code (relating to exemptions from admissions tax) shall not apply with respect to amounts paid, on or after the effective date of this Part, for admission.

(c) *Exemption of national park, etc., admissions terminated.* The Interior Department Appropriation Act, 1942, is amended by striking out that part thereof under the heading "National Park Service" which reads as follows:

Hereafter fees incident to admission to the national parks and monuments and other areas in the national park system, charged and collected with the approval of the Secretary of the Interior, shall be exempt from all Federal tax on admissions.

The Act entitled "An Act making appropriations for the Department of the Interior for the fiscal year ending June 30, 1936, and for other purposes", approved May 9, 1935, is amended by striking out that part thereof under the heading "National Park Service" which reads as follows:

Provided, That any admission fee charged for entrance to Carlsbad Caverns and any fee charged for guide service therein, shall be exempt from all taxes on admissions.

§ 101.15 *Termination of exemptions.* The several exemptions from the tax on admissions formerly allowed by section 1701 of the Code and by the Interior De-

partment appropriation acts were terminated as of October 1, 1941, by section 541 (b) and (c) of the Revenue Act of 1941. Accordingly, all amounts paid on and after October 1, 1941, for admission to any place are subject to tax, regardless of the purpose of the entertainment or affair and regardless of the organization or person to whom the proceeds inure. A child under 12 years of age admitted for less than 10 cents is not liable for tax. (See § 101.4.)*

§ 101.16 *Admissions by or for the benefit of Federal, State, or municipal governments.* The fact that the authority charging admissions or receiving the proceeds thereof is the United States or an agency thereof, or a State or Territory or political subdivision thereof, such as a county, city, town, or other municipality, does not make such admissions exempt. The code specifically provides that the taxes on admission shall be paid by the person paying for admission. It is not, therefore, a tax on the person or authority selling the admissions or receiving the proceeds thereof.*

SUBPART E—TICKETS AND SIGNS

SEC. 1702. PRINTING OF PRICE ON TICKET.

The price (exclusive of the tax to be paid by the person paying for admission) at which every admission ticket or card is sold shall be conspicuously and indelibly printed, stamped, or written on the face or back of that part of the ticket which is to be taken up by the management of the theater, opera, or other place of amusement, together with the name of the vendor if sold other than at the ticket office of the theater, opera, or other place of amusement.

SEC. 1703. PENALTIES.

(a) Failure to print correct price on ticket.—Whoever sells an admission ticket or card on which the name of the vendor and price is not printed, stamped, or written, as provided in section 1702, or at a price in excess of the price so printed, stamped, or written thereon, is guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$100.

§ 101.17 *Tickets or other means to check admissions required.* Where admission tickets or cards are not used some other method or system must be provided by which the number of admissions sold and the tax due thereon may be ascertained and checked. Therefore, every place admission to which is taxable must provide either:

(a) Tickets or cards of admission to evidence all admissions which are subject to tax; or

(b) A mechanical device or other method which will register or show the number of persons entering the place.

Exception. In the case of a person or organization who or which only makes charges for admission irregularly and occasionally and not more than six times a year, compliance with the foregoing requirements will not be necessary; but in such cases a correct record must be kept in accordance with § 101.32 showing all information necessary to enable revenue officers to determine the amount of tax due.*

§ 101.18 *Requirements applicable to tickets.* Where tickets or cards of admission are used, they must comply with the following requirements:

(a) The price (exclusive of the tax to be paid by the person paying for admission) at which every ticket or card is sold must be conspicuously and indelibly printed, stamped, or written on that part of the ticket which is to be taken up by the management of the place for admission to which it is valid. This is a specific requirement of the Code itself. For administrative purposes it is necessary to show not only the selling price but also (1) the regular or established price (see § 101.10), (2) the tax, and (3) the total of the price and tax. The regular or established price, the tax based thereon, and the total, shall appear on the face (in the case of strip tickets the back may be used) of the portion of the ticket which is to be taken up by the management, in the following or equivalent form:

Established	-----
Tax paid	-----
Total	-----

If the ticket is sold at a price other than the regular or established price, the actual selling price, the tax (for basis and computation of tax see § 101.4), and the total shall be shown on the face of the portion of the ticket to be taken up by the management. If the ticket shows the seat or box for which it is valid, the location and seat or box number must appear on that part of the ticket which is taken up by the management as well as on the stub which is given to the patron. If the ticket is sold other than at the ticket office of the theater, opera, or other place of amusement, the name and address of each vendor and his actual selling price must be shown on the back of the portion of the ticket to be taken up by the management. All persons required to collect and account for tax on admissions must keep for possible inspection by revenue officers the portions of the tickets taken up by them, or in the case of a cabaret or similar place, the waiters' checks, for a period of not less than six months.

Where a theater or other place has a reduced or special price of admission for members of the military or naval forces of the United States in uniform, members of the Civilian Conservation Corps in uniform, or children under 12 years of age, a separate form of ticket (serially numbered) should be used showing such reduced or special price and that the ticket is to be used only by such persons.

(b) The name of the place for taxable admission to which a ticket or card is valid must in all cases be shown thereon. Moreover, tickets must either show the date for which they are valid or must be serially numbered. If serially numbered tickets are used, there must be a separate and distinct series for each established price. The numbers of each series must start with 1 and run continuously in regular order until 500,000

is reached, after which they may again start at 1 if so desired. In such case, however, a letter of the alphabet must precede or follow the serial number to distinguish the new series from the preceding series, and such letters must be used in turn until the alphabet is exhausted before starting again with the letter A. No place to which taxable admissions are sold shall have, or permit to be, at such place at the same time two or more rolls or series of tickets of the same established price bearing identical serial numbers which are not distinguished by different letters of the alphabet. Serially numbered tickets must be issued consecutively in the order of the serial numbers of that particular series, and the letters of the alphabet, if any.

(c) In the case of bona fide season or subscription tickets, a single ticket or card or a strip of tickets may be used to evidence more than one admission. In every other case, where several single admissions are sold or disposed of at one time, there must be separate or separable coupons to evidence each right to admission. Thus, in the case of combination tickets, issued by outdoor amusement parks, which entitle the holder to admission to a number of different attractions, there must be a separate ticket or coupon for each such attraction. Furthermore, each separate ticket or coupon must either be dated, or be serially numbered in accordance with paragraph (b) of this section. If serial numbers are used in such combination tickets, each coupon thereof shall bear the same serial number as the stub or cover of the ticket itself.

(d) Except in the case of a non-taxable free admission, no person shall be admitted to any place admission to which is taxable, and which uses tickets or cards, except upon the presentation of a card or ticket complying with the preceding requirements. The ticket or card so presented or a portion thereof must be taken up at the time of admission, by the management of the place, except in the case of a bona fide subscription or season ticket covering two or more admissions.

In any case where tickets have become obsolete due to a change in price, or unusable for any other reason, they shall not be destroyed except in the presence of a representative of the collector's office. They may be taken to the collector's office for destruction or may be held at the theater until a deputy collector calls. After destruction a statement will be issued setting forth the numbers of the tickets destroyed, their denomination, and all other pertinent information. This statement will be issued in duplicate, one copy to be retained in the files of the theater and the other copy by the collector.

Examples. (1) A certain theater has a regular charge of \$1 for orchestra seats. It should print the following on the face

of that part of the ticket which is taken up by the theater upon the admission of the ticket holder.

Established price.....	\$1.00
Tax paid.....	.10
Total	1.10

Two hundred of these tickets are sold by the theater to a certain broker. On selling these tickets he should stamp with a rubber stamp on the back of the same part of the ticket a statement substantially as follows:

Sold by John Jones 27 West St., New York City	
Sale price.....	\$1.50
Tax paid.....	.10
Total sale price.....	1.60

(2) George Nelson purchases from John Jones one of the tickets mentioned in the preceding example and resells this ticket at an advance of 50 cents above the amount which he paid for it. When selling the ticket George Nelson shall draw two lines in the form of a cross through the left-hand portion of the matter stamped by the broker on the back of the ticket and shall add his name and address and a statement as follows:

Sold by Geo. Nelson, 505 West 122 St., New York City.	
Sale price.....	\$2.00
Tax paid.....	.10
Total sale price.....	2.10

(3) A broker on reselling a ticket finds that by reason of the fact that it has previously passed through the hands of several other brokers and has been stamped by them, there is not sufficient space on it for him to stamp the information required by the law and regulations. He may enlarge the ticket by pasting to that part which will be taken up by the theater a slip of paper and stamp the required information on the same, but this must be done in such a way that the information placed on the ticket by former vendors will not be obscured.*

§ 101.19 *Printing of tickets; notice to be given.* Where tickets or cards of admission to any place for admission to which a charge is made are printed, manufactured, or sold by any person, it shall be his duty to give prompt notice to the collector of internal revenue of the district in which is located the place to which admission is to be charged. The notice shall state (a) the name and address of the person to whom the tickets are furnished and (b) the number of tickets furnished, and shall be accompanied by proofs or sample copies of the tickets themselves. If the tickets are serially numbered, the notice must also include a statement as to such serial numbers.*

§ 101.20 *Mechanical devices.* If a mechanical device is used instead of tickets or cards of admission, such device may be placed at the entrance or exit, or at any point en route through

the place, but must be so arranged that every person admitted must himself cause it to register an admission and be so constructed that no change can be made in the record of admissions until at least 99,999 admissions are recorded, and then the only change possible must be the returning of the record to "0."

§ 101.21 *Signs to be posted.* In the case of every place, admission to which is subject to tax, the proprietor or manager must keep conspicuously posted at the outer entrance and near the box office one or more signs accurately stating each of the established prices of admission, and in the case of each such price the tax due and the sum total of the established price and the tax.

Example. The following is an example of such a sign:

	Admission	Tax	Total
Box seats	\$4.00	\$0.40	\$4.40
Orchestra	3.50	.35	3.85
Mezzanine	2.50	.25	2.75
Balcony	2.00	.20	2.20
Gallery	1.00	.10	1.10

In the case of free or reduced rate admissions which are subject to tax based on the established prices (see § 101.5) a sign similar to the following should be used:

Admission	Tax	Total	Free or reduced rate admissions valued at	Tax to be collected
\$3.00.....	\$0.35	\$3.35	\$3.00	\$0.35
\$2.00.....	.25	2.25	2.00	.25
\$10.00.....	1.00	11.00	10.00	1.00
\$10.00.....	4.00	14.00	10.00	4.00

SUBPART F—DUES AND INITIATION FEES

SEC. 1710. TAX. [As amended by section 543 (a) of the Revenue Act of 1941.]

(a) *Rate.* There shall be levied, assessed, collected, and paid—

(1) *Dues or membership fees.* A tax equivalent to 11 per centum of any amount paid as dues or membership fees to any social, athletic, or sporting club or organization, if the dues or fees of an active resident annual member are in excess of \$10 per year.

(2) *Initiation fees.* A tax equivalent to 11 per centum of any amount paid as initiation fees to such a club or organization, if such fees amount to more than \$10, or if the dues or membership fees, not including initiation fees, of an active resident annual member are in excess of \$10 per year.

(b) *By whom paid.* The taxes imposed by subdivision (a) shall be paid by the person paying such dues or fees.

SEC. 1712. DEFINITIONS. [As amended by section 543 (b) of the Revenue Act of 1941.]
As used in this subchapter—

(a) *Dues.* The term "dues" includes any assessment irrespective of the purpose for which made, and any charges for social privileges or facilities, or for golf, tennis, polo, swimming, or other athletic or sporting privileges or facilities, for any period of more than six days; and

(b) *Initiation fees.* The term "initiation fees" includes any payment, contribution, or loan, required as a condition precedent to membership, whether or not any such payment, contribution or loan is evidenced by a certificate of interest or indebtedness or share of stock, and irrespective of the person or

organization, to whom paid, contributed, or loaned.

§ 101.22. *Meaning of dues or membership fees.* The tax is imposed on all amounts paid as dues or membership fees if the dues or membership fees of an active resident annual member exceed \$10 a year. The term "dues or membership fees" includes (1) all assessments (2) all charges for social privileges or facilities and (3) all charges for golf, tennis, polo, swimming, or other athletic or sporting privileges or facilities for any period of more than six days.

If the total dues or membership fees, including (1) to (3) above, (but not including penalties for failure to pay promptly), of an active resident annual member exceed \$10 a year, such dues and fees (including any penalty for failure to pay promptly) are taxable and all dues and fees paid by other classes of members are subject to tax whether or not the dues and fees paid by such members exceed \$10 a year.

An "active resident annual member" is one who is not a life member but who enjoys full club privileges as distinguished from the privileges enjoyed by a person holding a nonresident membership, an associate membership or other partial or restricted membership.*

§ 101.23 *Rate and basis of tax.* The tax is 11 per cent of any amount paid as dues or membership fees or as initiation fees to clubs or organizations coming within the provisions of section 1710.

If the dues or membership fees (including all assessments and all charges for social privileges or facilities or for golf, tennis, polo, swimming or other athletic or sporting privileges or facilities, for any period of more than six days, but not including initiation fees) of an active resident annual member are in excess of \$10 per year, all amounts paid to the club as dues or membership fees, assessments, special charges, or initiation fees are taxable. Thus if the dues or membership fees of an active resident annual member are in excess of \$10 per year, such dues or membership fees are subject to tax and amounts paid by all other members are taxable even though the dues or membership fees of such members are not in excess of \$10 per year.

If the dues or membership fees (including assessments and all charges for social privileges or facilities or for golf, tennis, polo, swimming, or other athletic or sporting privileges or facilities, for any period of more than six days) of an active resident annual member are not in excess of \$10 per year, the tax does not attach to any amounts paid as dues or membership fees or assessments, except that the tax attaches to initiation fees if such fees amount to more than \$10.

Thus in the case of a club or organization the regular dues or membership fees of which are less than \$10 per year, but which levies an assessment on its active resident annual members, if the regular dues or membership fees, plus the assessment, exceed \$10 per year, the tax is ap-

plicable. The tax would likewise apply in the case of a club the regular dues of which are \$10 per year but which makes additional annual, monthly, or weekly charges for golf, tennis, polo, or swimming privileges, or other athletic or sporting privileges. If a club or organization collects no regular dues or membership fees but meets its expenses by levying assessments on its members as funds are required, the assessments are taxable provided the assessments aggregate more than \$10 per year for a member who enjoys the full privileges of the club or organization.

If the dues or membership fees, including assessments and all extra charges, determined in the manner herein outlined, of an active resident annual member are in excess of \$10 per year, dues or membership fees (including assessments, and all extra charges described above) paid by all other members, whether or not they are in excess of \$10 per year, are subject to the tax.

For tax on life memberships see § 101.29.

Examples. (1) A certain social club has "members," nonresident members, associate members, and junior members. "Members" pay an initiation fee of \$15 and dues of \$10 per year. Associate members pay an initiation fee of \$10 and dues of \$5 per year. Nonresident members and junior members pay still less. In the case of this club a "member" is clearly the "active resident annual member" specified in the Code. As a "member's" dues are not in excess of \$10 per year, none of the dues or membership fees paid by any member of the club are taxable. (The initiation fee of \$15 paid by a "member" is taxable.)

(2) A certain athletic club has members, dues, and fees precisely the same as those of this social club, except that the initiation fee of "members" is \$10 and the regular dues of "members" are \$30 per year. As these dues are in excess of \$10 per year, in this case the initiation fee and all dues paid to the club by members of any class are subject to tax.

(3) The same athletic club levies in a certain year, in addition to its regular dues, an assessment of \$10 on every associate member and provides a penalty of \$1 if it be not paid within a month after due. This assessment is taxable, and so is the penalty if it be imposed.

(4) A member of this same athletic club violates the house rules and is suspended until he pays a fine of \$15. As a fine is neither dues nor membership fees, this \$15 payment is not taxable.

(5) A certain golf club has two classes of members. Class A members pay \$40 per year dues and are entitled to the full privileges of the club, including the use of the golf course. Class B members pay \$10 per year dues and are entitled to the privileges of the clubhouse, but do not enjoy the privilege of the golf course. The total dues of \$40 paid by class A members are subject to tax, and since

the dues of such members are in excess of \$10 per year, the dues of \$10 paid by class B members are also subject to tax.

(6) A certain golf club charges a "green" fee of \$1 for each guest who uses the course. Such a fee is not paid "as dues or membership fees," and is, therefore, not taxable as such.

(7) A tennis club the annual dues of which are \$10 levies an assessment of \$2 per year on each member to cover cost of tennis balls. The dues, fees, and such assessments paid by members of this club are taxable.

(8) A certain social club, the dues and fees of which are taxable, passes a resolution providing that no membership dues or fees shall be collected from members who are in the military service of the United States. Such members thereafter pay no dues or fees and are therefore not liable for payment of tax with respect to membership in the club, but life members who are in the military service are not relieved from payment of the tax on their life memberships.*

§ 101.24 *Determination of character of club.* The purposes and activities of a club or organization and not its name determine its character for the purpose of the tax. Every club or organization having social, athletic, or sporting features is presumed to be included within the meaning of the phrase, "any social, athletic, or sporting club or organization," until the contrary has been proved, and the burden of proof is upon it. Every such club or organization, therefore, unless it falls within the express exemption of the Code (see § 101.30), must collect, return, and pay over the tax imposed by the Code, unless and until it has satisfied the Commissioner of Internal Revenue that it is not in fact "social, athletic, or sporting" within the meaning of the Code and as defined in these regulations. If any such club or organization claims that it is not in fact "social, athletic, or sporting," it shall submit to the collector a copy of its charter or constitution and by-laws, together with a statement showing its actual purposes, activities, practices, and facilities, the character of its expenditures, and such other evidence as may be requested. Upon consideration of the evidence submitted the collector will determine, if he can do so, whether or not such club or organization comes within the provisions of the Code. If, however, the collector is in doubt as to whether or not the club or organization is "social, athletic, or sporting," he will refer the statement and accompanying papers to the Commissioner for decision. When a club or organization has been held not to be a "social, athletic, or sporting" club or organization it need not thereafter make a return or any further showing with respect to its status under the law, unless it changes the character of its organization or operations or the purpose for which it was originally created. Collectors will keep a list of all clubs and

organizations held not to be "social, athletic, or sporting" clubs or organizations, to the end that they may occasionally inquire into their status and ascertain whether the conditions upon which their exemption was predicated remain unchanged. If the collector decides that the club or organization comes within the provisions of the Code and the club or organization is not satisfied with his decision, it may request that the matter be referred to the Commissioner for a ruling.*

§ 101.25 *Social clubs.* Any organization which maintains quarters or arranges periodical dinners or meetings, for the purpose of affording its members an opportunity of congregating for social intercourse, is a "social * * * club or organization" within the meaning of the Code, unless its social features are not a material purpose of the organization but are subordinate and merely incidental to the active furtherance of a different and predominant purpose, such as, for example, religion, the arts, or business. The tax does not attach to dues or fees of a religious organization, chamber of commerce, commercial club, trade organization, or the like, merely because it has incidental social features, but if the social features are a material purpose of the organization it is a "social * * * club or organization" within the meaning of the Code. An organization that has for its exclusive or predominant purpose religion or philanthropic social service (or the advancement of the business or commercial interests of a city or community) is clearly not a "social * * * club or organization." Most fraternal organizations are in effect social clubs, but if they are operating under the lodge system, or are local fraternal organizations among the students of a college or university, payments to them are expressly exempt (see § 101.30).

Examples. (1) Neither a Young Men's Christian Association nor a Young Men's Hebrew Association is a social club within the meaning of the Code, for the predominant purposes of each are religion and philanthropic social service.

(2) A social settlement which provides, among other things, dances and other social opportunities for a slum neighborhood is supported by contributions. Any person contributing \$30 a year is called a "member" of the settlement association. Such contributions are not taxable, for such a settlement is not a social club within the meaning of the Code, as its predominant purpose is philanthropic social service.

(3) An automobile dealers' association is organized and operated for the purpose of maintaining a social organization of persons residing in a certain city and engaged in the manufacture or sale of automobiles and accessories, affording its members opportunity to enjoy healthful games, and of promoting social welfare and social intercourse between the members and, by debates and discussions among themselves at their meetings, pro-

moting interest in automobile transportation, traffic, and knowledge of the industry in this city. This organization is a social club within the meaning of the Code.*

§ 101.26 *Athletic or sporting clubs.* Tennis, golf, boxing, boating, canoe, fishing, and hunting clubs, and any organization (the members of which are individuals) for the practice or promotion of athletics or sports, are included within the meaning of the words of the Code, "athletic, or sporting club or organization." A local, sectional, or national "athletic, or sporting" association, the membership of which is composed wholly or partly of member clubs, is not within the scope of the Code. The possession and use of a gymnasium, swimming pool, or other athletic facilities by an organization having religion or philanthropic social service for its exclusive or predominant purpose do not bring the organization within the class of athletic or sporting clubs or organizations.*

§ 101.27 *Foreign clubs.* Dues or fees paid to a club located outside of the United States and having no branch or organization in the United States are not taxable. If such a club has a branch or agency within the United States, the dues or fees paid to such branch or agency on behalf of the club are taxable.*

§ 101.28 *Initiation fees.* Any amount paid as initiation fees to a club or organization coming within the provisions of section 1710 is subject to the 11 per cent tax imposed by the Code as amended (a) if such fees amount to more than \$10, or (b) if the dues or membership fees (not including initiation fees) of an active resident annual member are in excess of \$10 per year.

Under the Code the term "initiation fees" includes any payment, contribution, or loan required as a condition precedent to membership, whether or not any such payment, contribution, or loan is evidenced by a certificate of interest or indebtedness or share of stock, and irrespective of the person or organization to whom paid, contributed, or loaned. It is not material whether the applicant has any hope or expectation of a return of his payment upon resignation, death, or other circumstances, nor is it material to whom he pays the money. For instance, if a golf club requires incoming members as a condition precedent to membership to purchase either from it or from retiring members a share of stock, the tax attaches to any such payment for the stock regardless of the fact that it represents a property interest in the assets of the club. Likewise, if the purchase of a share of stock in a land-holding corporation is a necessary precedent to membership in the club, the amount paid for such share of stock is taxable. In the case of a transfer of stock from a retiring member the club should collect the tax on the amount paid by the new member for the stock as well as tax on any transfer fee required from the new member.

If the initiation fee exceeds \$10, the tax attaches regardless of the amount of dues or membership fees paid by an active resident annual member. If the initiation fee does not exceed \$10, the tax does not apply unless the dues or membership fees, exclusive of initiation fees, of an active resident annual member are more than \$10 per year. If such dues or membership fees are in excess of \$10 per year any amount paid as an initiation fee is taxable whether the payment exceeds \$10 or not.

Where the application of the tax to initiation fees depends upon the amount paid as dues or membership fees by an active resident annual member all assessments, and all charges for social privileges or facilities or for golf, tennis, polo, swimming, or other athletic or sporting privileges or facilities, for any period of more than six days are to be included in ascertaining whether such dues or membership fees are in excess of \$10 per year.*

LIFE MEMBERSHIPS

[Sec. 1710. TAX.]

[(a) *Rate.* There shall be levied, assessed, collected, and paid—]

(3) *Life memberships.* In the case of life memberships, a tax equivalent to the tax upon the amount paid by active resident annual members for dues or membership fees other than assessments, but no tax shall be paid upon the amount paid for life membership. In such a case, the tax shall be paid annually at the time for the payment of dues by active resident annual members.

(b) *By whom paid.* The taxes imposed by subdivision (a) shall be paid by the person paying such dues or fees, or holding such life membership.

§ 101.29 *Life membership.* Amounts paid for life memberships are not taxable but life members are liable for an annual tax equivalent to tax on the amount paid by an active resident annual member as dues or membership fees other than assessments. The fact that a life member was admitted to the club prior to the enactment of the law does not relieve him of paying the annual tax. Some clubs provide that active resident annual members, who have regularly paid dues or membership fees as such, shall, after a specified period of time, for example, 10 years, automatically become life members without being required to pay further dues or membership fees. In such cases amounts paid as dues or membership fees during the period of active resident annual membership are not paid for life membership within the meaning of the Code. They are paid as dues or membership fees and are taxable, provided the dues or fees of an active resident annual member are in excess of \$10 per year. The tax likewise attaches to amounts paid for membership for more than one year but for less than life, such as 10-year or 20-year memberships. However, unless the holders of such memberships are required to pay annual dues or membership fees, or assessments, they are exempt from the annual tax imposed on active resident

annual members and life members. If any dues or membership fees or assessments are levied on such 10-year or 20-year members, the amounts so paid by them are taxable.

The annual tax imposed on life members is measured or determined by the tax paid by active resident annual members, on dues or membership fees (not including assessments) to be computed in the manner outlined in § 101.23. The annual tax must be paid by life members whether or not they are honorary life members and whether or not they actually avail themselves of the privileges of membership to which they are entitled. If a person is a life member, whether he is a resident or a nonresident, he must pay a tax equivalent to the tax on dues or fees paid by active resident annual members of the club, if such dues or fees are in excess of \$10 per year.*

EXEMPTIONS

SEC. 1711. EXEMPTIONS FROM TAX.

There shall be exempted from the provisions of section 1710 all amounts paid as dues or fees to a fraternal society, order, or association, operating under the lodge system, or to any local fraternal organization among the students of a college or university.

§ 101.30 *Exempt organizations.* Section 1711 expressly exempts from tax "all amounts paid as dues or fees to a fraternal society, order, or association, operating under the lodge system, or to any local fraternal organization among the students of a college or university." "Operating under the lodge system" means carrying on activities under a form of organization that comprises local branches, chartered by a parent organization and largely self-governing, called "lodges," "chapters," or the like.

Examples. (1) An organization, formed for purely social purposes by Masons of the higher-degrees, consisting of local "lodges" and a "grand lodge" falls within the exemption.

(2) Dues and fees paid to a "chapter" of a college fraternity are exempt from tax.

(3) Dues and fees paid to a "local" of a labor union are free from tax.

(4) A national organization, of a social, athletic, or sporting character, comprising no local bodies but organized as a single and nation-wide unit, to which each member belongs directly, does not fall within the exemption.

(5) Dues and fees paid by members of a local fraternal organization among the students of a college or university are exempt from tax.*

SUBPART G—MISCELLANEOUS PROVISIONS

ADMINISTRATIVE PROVISIONS

COLLECTION, RETURNS, AND PAYMENT OF TAX

SEC. 1715. PAYMENT OF TAX. [As amended by section 542 (b) of the Revenue Act of 1941]

(a) *Collection by recipient of admissions, dues, and fees.* Every person receiving any payments for admission, dues, or fees, subject to the tax imposed by section 1700 or 1710

shall collect the amount thereof from the person making such payments. Every club or organization having life members shall collect from such members the amount of the tax imposed by section 1710.

(b) *Place of payment.* The taxes collected under subsection (a), and the taxes required to be paid under section 1700 (c), (d), or (e), shall be paid to the collector of the district in which the principal office or place of business is located.

(c) *Time for payment.* The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time fixed for filing the return.

SEC. 1716. RETURNS. [As amended by section 542 (c) of the Revenue Act of 1941]

(a) *Requirement.* Every person required under subsection (a) of section 1715 to collect the taxes, or required under section 1700 (c), (d), or (e) to pay the taxes, imposed by this chapter shall make returns under oath, in duplicate, in such manner and containing such information as the Commissioner, with the approval of the Secretary, may, by regulation, prescribe.

(b) *Time for filing.* The returns required under this section shall be made at such times as the Commissioner, with the approval of the Secretary, may, by regulation, prescribe.

(c) *Place for filing.* The returns provided for in this section shall be filed with the collector of the district in which the principal office or place of business is located.

SEC. 1719. DISCRETIONARY METHOD ALLOWED COMMISSIONER FOR COLLECTING TAX.

Whether or not the method of collecting any tax imposed by this chapter is specifically provided herein, any such tax may, under regulations prescribed by the Commissioner, with the approval of the Secretary, be collected by stamp, coupon, serial-numbered ticket, or such other reasonable device or method as may be necessary or helpful in securing a complete and prompt collection of the tax. All administrative and penalty provisions of subchapters A, B, and C of chapter 11, in so far as applicable, shall apply to the collection of any tax which the Commissioner determines or prescribes shall be collected in such manner.

SEC. 1722. OTHER LAWS APPLICABLE.

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

LIABILITY FOR TAXES COLLECTED

SEC. 3661. ENFORCEMENT OF LIABILITY FOR TAXES COLLECTED.

Whenever any person is required to collect or withhold any internal-revenue tax from any other person and to pay such tax over to the United States, the amount of tax so collected or withheld shall be held to be a special fund in trust for the United States. The amount of such fund shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including penalties) as are applicable with respect to the taxes from which such fund arose.

SEC. 3658. FRACTIONAL PARTS OF A CENT.

In the payment of any tax under this title not payable by stamp a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

RECORDS, STATEMENTS, AND SPECIAL RETURNS

SEC. 1720. RECORDS, STATEMENTS, AND RETURNS.

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

SEC. 3603. NOTICE REQUIRING RECORDS, STATEMENTS, AND SPECIAL RETURNS.

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

SEC. 3634. EXTENSION OF TIME FOR FILING RETURNS.

If the failure to file a return (other than a return of income tax) or list at the time prescribed by law or by regulation made under authority of law is due to sickness or absence, the collector may allow such further time, not exceeding thirty days, for making and filing the return or list as he deems proper.

SEC. 3632. AUTHORITY TO ADMINISTER OATHS, TAKE TESTIMONY, AND CERTIFY.

(a) *Internal Revenue personnel.*—

(1) *Persons in charge of administration of internal revenue laws generally.* Every collector, deputy collector, internal revenue agent, and internal revenue officer assigned to duty under an internal revenue act, is authorized to administer oaths and to take evidence touching any part of the administration of the internal revenue laws with which he is charged, or where such oaths and evidence are authorized by law or regulation authorized by law to be taken.

(2) *Persons in charge of exports and drawbacks.*—Every collector of internal revenue and every superintendent of exports and drawbacks is authorized to administer such oaths and to certify to such papers as may be necessary under any regulation prescribed under the authority of the internal revenue laws.

(b) *Others.* Any oath or affirmation required or authorized by any internal revenue law or by any regulations made under authority thereof may be administered by any person authorized to administer oaths for general purposes by the law of the United States, or of any State, Territory, or possession of the United States, or of the District of Columbia, wherein such oath or affirmation is administered, or by any consular officer of the United States. This subsection shall not be construed as an exclusive enumeration of the persons who may administer such oaths or affirmations.

SEC. 3330. WITNESSING OF RETURNS IN LIEU OF OATH

The Commissioner, with the approval of the Secretary, may by regulation prescribe that any return required by any internal revenue law (except returns required under income or estate tax laws) to be under oath may, if the amount of the tax covered thereby is not in excess of \$10, be signed or acknowledged before two witnesses instead of under oath.

SEC. 3612. RETURNS EXECUTED BY COMMISSIONER OR COLLECTOR.

(a) *Authority of collector.* If any person fails to make and file a return or list at the time prescribed by law or by regulation made under authority of law, or makes, willfully or otherwise, a false or fraudulent return or list, the collector or deputy collector shall make the return or list from his own knowledge and from such information as he can obtain through testimony or otherwise.

(b) *Authority of Commissioner.* In any such case the Commissioner may, from his own knowledge and from such information as he can obtain through testimony or otherwise—

(1) *To make return.* Make a return, or

(2) *To amend collector's return.* Amend any return made by a collector or deputy collector.

(c) *Legal status of returns.* Any return or list so made and subscribed by the Commissioner, or by a collector or deputy collector and approved by the Commissioner, shall be

prima facie good and sufficient for all legal purposes.

EXAMINATIONS OF BOOKS AND WITNESSES

SEC. 3614. EXAMINATION OF BOOKS AND WITNESSES.

(a) To determine liability of the taxpayer. The Commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making a return where none has been made, is authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda bearing upon the matters required to be included in the return, and may require the attendance of the person rendering the return or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter required by law to be included in such return, with power to administer oaths to such person or persons.

§ 101.31 *Duty to collect, return, and pay tax; admissions.* Every person (1) receiving any taxable payment for admission must collect the tax from the person making such payment at the time it is made, or granting any taxable free admission, must collect the tax at the time of issuance of the ticket or if no ticket is issued, at the time the person is admitted; (2) being the proprietor or manager of an opera house or any other place of amusement in a case where any person has the permanent use or a lease for the use of a box or seat therein which is subject to tax must collect the tax from such person.

A theater issuing a ticket in exchange for a less expensive ticket and an additional payment must collect the admissions tax due on the basis of the full price of the ticket so issued in exchange, less any tax previously collected in connection with the lower priced ticket.

If the permanent use or lease for the use of a box or seat is paid for, then the time for the collection of the tax is the same as that in the case of any other paid admission. If the right to use is granted free or is otherwise enjoyed without being directly paid for, then the tax must be collected at the time the right is granted. If these rules prove insufficient, by reason of attempts at evasion or otherwise, to insure the collection of the full tax due in any such case, then the proprietor or manager of the opera house or other place of amusement in which such box or seat is located shall collect each month, from the person entitled to the use of such box or seat, any balance of tax due from such person for the right to the use of such box or seat during the preceding month.

In each case there rests on the respective person collecting the tax the corresponding duty of then paying such tax to the collector of internal revenue in accordance with the provisions of § 101.33. The amount of tax collected constitutes a special fund in trust for the United States. See section 3661.

Every person (1) receiving payment of charges made for admission, refreshment,

service, and merchandise at any roof garden, cabaret, or other similar place furnishing a public performance for profit, which entitle the patron to be present during any portion of such performance, or (2) selling or disposing of a ticket or card of admission at a price in excess of the established price of the admission for which such ticket or card is valid in a case where such excess is taxable shall make a monthly return and pay the tax due in accordance with the provisions of § 101.33. For penalties see § 101.44.

A broker may reimburse himself in an amount equal to the admissions tax imposed under the provisions of section 1700 (a) (1), which he has paid to the vendor from whom he purchased the ticket, provided the selling price and tax imposed thereon under such section are properly stamped, printed, or written on the ticket in accordance with the provisions of section 1702 of the Code and § 101.18 of the regulations in this part.*

§ 101.32 *Records; admissions.* (a) *Admissions subject to tax under section 1700 (a), (b), (c) and (d), as amended.* Every person required by the provisions of the Code to collect any tax on admissions must keep or cause to be kept an accurate daily record of admissions of all classes, including free or complimentary tickets or admissions and reduced rate admissions, even though certain classes are not taxable. The record must show as to each class of taxable admissions (1) all figures and other information necessary to determine the amount of tax due for the day, and (2) the amount of tax due for the day; and in the case of nontaxable admissions, the number of admissions of each class. The

proprietor or manager of the business must certify, over his signature, to the correctness of the daily record, and if any other person is directly interested in the proceeds of the amounts received for admission, he or his agent must also certify to its correctness.

Every person subject to tax on excess charges must keep or cause to be kept a classified daily record showing as to each class of tickets sold (1) all figures and other information necessary to determine the amount of tax due for the day, and (2) the amount due as taxes on charges in excess of established price for the day. The daily record must show with respect to each class separately (1) the place to which admission is granted by the ticket, (2) the established price (exclusive of admission tax) of the admission granted by the ticket, and (3) the actual price (exclusive of any amount representing an admission tax) at which that sale of the ticket is made.

Whenever in the course of the business a report is prepared by a treasurer or manager for the benefit of the proprietor, or by the proprietor, treasurer, or manager for the benefit of some other interested party, whether the report be made daily or at regular intervals or at any time, a sworn copy of the report must be attached to and made a part of the records for the period covered thereby.

The daily records, including the sworn copies of reports, must be kept on file at the place of business, or at some other convenient location, for a period of at least four years from the date the tax became due, in such a manner as to be readily accessible to internal revenue officers. The daily record must be substantially in the form outlined below:

Date	Theater (or other place)	Evening or matinee	Number of tickets	Established tax office price for each ticket	Selling price of each ticket	Excess charge on each ticket	Amount of tax	Customer's name—whom sold to broker or other person for resale
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(b) *Admissions subject to tax under section 1700 (e), as amended.* Every person required to pay the tax imposed by section 1700 (e), as amended on charges made for admission, refreshment, service, and merchandise, at any roof garden, cabaret, or other similar place furnishing a public performance for profit, must keep or cause to be kept adequate and sufficient records with respect to the operations for each day on which such public performances are held showing (1) the receipts from charges made for admission, refreshment, service, and merchandise paid by all patrons entitled to be present during any part of the performance; and (2) the tax due.

Such records shall contain sufficient information to enable the Commissioner

to determine whether the correct amount of tax has been paid. The records shall at all times be open for inspection by internal revenue officers, and shall be maintained for a period of at least four years from the date the tax became due.*

§ 101.33 *Returns and payments; admissions.* Every person required to collect tax on admissions or to pay tax on charges in excess of the established price or to pay tax on charges for admission, refreshment, service, and merchandise at any roof garden, cabaret, or other similar place furnishing a public performance for profit, shall make each month from the daily record required by § 101.32, a return in duplicate on Form 729, in accordance with the instructions

printed on the back of that form. The return must be made under oath unless the amount of the tax covered by the return is \$10 or less, in which case it may be signed or acknowledged before two witnesses instead of being under oath. The return, together with the amount of the tax, must be in the hands of the collector of internal revenue of the district in which is located the principal office or place of business of the person required to make the return, on or before the last day of the month following that for which it is made, except where otherwise prescribed. (See § 101.40.) When the last day of the month in which a return and payment are due falls on Sunday or a legal holiday, the return may be filed and payment made on the next secular or business day. If a person charged with the duty of collecting and paying over tax on taxable admission charges or paying tax on excess charges discontinues business for any reason, the last return to be filed should be marked "Final return."

The return shall include any tax due on free or reduced rate admissions. It must also be accompanied by an affidavit setting forth the names and addresses of all persons to whom nontaxable free or complimentary tickets or admissions were furnished for the purpose of performing special duties and the nature of the special duty performed by each. This affidavit should be prepared in triplicate. One copy should be retained by the taxpayer, and the other copies attached to the original and duplicate return forwarded to the collector.

Every person required to pay any tax on charges in excess of the established price of tickets sold for admission to theaters (or other places of amusement), shall prepare from the daily record, required by § 101.32, an information return in duplicate on Form 729-A for each theatre (or other place of amusement), in accordance with the instructions printed on the back of that form. If such person has more than one office, one consolidated information return for each theater (or other place of amusement), covering all branch offices should be filed. A copy of the information return for each theater (or other place of amusement) must be attached to the original and duplicate copies of the tax return on Form 729 filed for each calendar month. Any person who willfully fails to keep records as required by § 101.32, or to file the information returns prescribed herein, is liable to the penalties prescribed by law. For penalties see § 101.44.*

§ 101.34 *Application for and certificate of registry.* Every person (1) required by the provisions of the law to collect any tax on admissions or (2) being the owner or lessee of any place which he ordinarily or at times leases or subleases to other persons who impose charges for admissions to it or (3) required to pay any tax on charges in excess of established price, or (4) re-

quired to pay tax on charges for admission, refreshment, service, and merchandise at any roof garden, cabaret, or other similar place furnishing a public performance for profit, if not registered should make application for registry on Form 752.

In cases falling within classes (1) and (4) above (except such as are considered in § 104.35) such an application must be filed in the office of the collector of internal revenue of each district in which is located a place to which admissions are charged on account of which a duty to collect admission taxes is imposed on the person making such application. In cases falling within class (2) the application must be filed in the office of the collector of internal revenue of each district in which such a place is owned or leased. In cases falling within class (3) the application must be filed in the office of the collector of internal revenue of the district in which is located the principal place of business of the person making the application, or in which is located his residence, if he has no fixed place of business. The collector, if satisfied that all the statements made in the application for registry are correct, will issue a certificate of registry on Form 753 to the person who made the application. This certificate must be kept conspicuously posted in the principal place of business of the registrant, or be carried about with him if he has no fixed place of business. This certificate is not transferable from one person or firm to another, or, except in the case of a traveling show or similar organization, from one place of business to another.

Example. A certain hotel has a number of rooms which it rents from time to time for dances and other parties. This hotel falls within class (2) above and must be registered.*

§ 101.35 *Traveling shows.* The proprietor or manager of every show, circus, exhibition, Chautauqua, or other amusement enterprise, which is traveling or itinerant, shall file the application for registry required by § 101.34 with the collector of internal revenue of the district in which its headquarters, if it has any, are located. If it has no established headquarters, then the application shall be filed with the collector of the district in which the proprietor or manager resides. The certificate of registry, the daily record required by § 101.32, and a copy of each monthly return (see § 101.33) must be carried with the show and exhibited on request to collectors of other districts or to internal revenue agents.

This section applies only to shows, etc., which control the sale of tickets to their performances and the collection of tax. It does not apply, therefore, to traveling theatrical attractions, lyceum entertainers, or the like, who perform in theaters or other places where the local management controls the sale of tickets and the collection of the tax.

Examples. (1) A Chautauqua has its main office in a certain city. The lectures, entertainments, and other attractions which it furnishes constantly tour the country, moving from State to State. In this case the application for registry must be made with the collector of internal revenue of the district in which its main office is located.

(2) A certain theatrical company tours the country, playing in various theaters. All of these theaters have certificates of registry, and they take care of all matters connected with the sale of tickets, collection of tax, etc. Such a company does not fall within the provisions of § 101.34 and is not required to register.*

§ 101.36 *Leases of places.* Whenever a theater, hall, park, ballroom, or other place is leased for any occasion, there is imposed on the lessee the duty of collecting any taxes due on admissions to such place on that occasion. However, for the convenience of the parties and the safeguarding of the revenue, the lessor will be permitted, if properly registered in accordance with § 101.34 to assume responsibility for collection of the tax in such cases. If the lessor assumes such responsibility his tickets shall be used and the daily record required by § 101.32 kept as a part of the daily records of the lessor in the same manner and form as if there had been no lease of the place on that occasion, except that the name of the lessee must also appear on the daily record and he must certify to the correctness of such record. If the lessor, however, does not assume responsibility for the collection of the tax, the lessee, precisely like any other person collecting taxable admissions, must comply in all respects with these regulations, more particularly with §§ 101.31, 101.32, and 101.33. Every lessee or person who rents any theater, hall, park, ballroom, or other place (and every owner who operates such a place) for a term or period not exceeding 10 days, and who is charged with or assumes responsibility for collecting and making return on Form 729 of taxable admission charges, shall furnish immediately after each performance or occasion for which admission charges are collected, to the collector of the district in which such theater, hall, ballroom, or other place is located, a sworn statement on Form 827 showing the number of persons admitted, the amount paid for admission by each, the amount of tax collected, and the permanent address of the person responsible for making return on Form 729. It shall be the duty of every lessor or person who rents to any other person a theater, hall, park, ballroom, or other place to furnish him with a sufficient number of copies of Form 827 at the time of such lease or rental. Moreover, in such case the lessor, before or at the time of making the lease, must notify the collector of internal revenue of the district in which the place is located on Form 754 that such lease is being made.*

§ 101.37 *Duty to collect, return, and pay tax; dues and initiation fees.* Every

social, athletic, or sporting club or organization must collect tax of 11 per cent on taxable payments of dues and initiation fees, such tax to be collected at the time the dues or fees are paid. The tax so collected shall be paid to the collector of internal revenue on or before the last day of the month succeeding that in which collected, except where otherwise prescribed. (See § 101.40.)

In the event payment for shares of stock or the like is made by an incoming member to a retiring member, or to a person or organization distinct from the club, the club should collect the tax on such payments from the incoming member at the time of his admission to membership.

Every club or organization having life members must collect from such life members the tax imposed on them by the Code. Such life members must, on their part, promptly pay such tax. It shall be collected and paid "at the time for the payment of dues by active resident annual members." Thus, if the dues or membership fees of an active resident annual member or, if another designation is used, a member whose privileges correspond to those usually enjoyed by active resident annual members, are payable in periodical installments, the tax due from life members becomes due and shall be collected and paid as and when these installments are paid. (Life members are not liable to tax on assessments levied against and paid by active resident annual members.)

In the event a member refuses to pay the tax on dues or initiation fees, or if for any reason the tax can not be collected from such member, the club shall report to the collector the name and address of the member, the amount and date of the payment on which the tax is due, and the circumstances surrounding the transaction. In the case of a life member who fails or refuses to pay the tax, the collector shall be advised of the name and address of the member, the amount of tax due, and the period of delinquency. Upon receipt of such information the collector shall report the matter promptly to the Commissioner for direct assessment.

A monthly return and payment of all taxes collected must be made in accordance with the provisions of § 101.39.

The amount of tax collected constitutes a special fund in trust for the United States. (See section 3661.)*

§ 101.38 *Records; dues.* Every social, athletic, or sporting club or organization, unless expressly exempted from the tax on dues, or unless free from that tax because neither the initiation fees of any class of its members nor the annual dues or membership fees of an active resident annual member exceed \$10, shall keep an up-to-date record showing the names and addresses of its members of each class, the amounts they have paid as dues, membership fees, or assessments, the tax, and the dates paid, to the club or others as a prerequisite to membership. It shall

also keep a record in which shall be entered each day (a) under the head of "Life membership" (1) the number of life members from whom a life-membership tax has been collected on that day, and (2) the total amount of tax so collected; and (b) under the head of each other class of membership (1) the number of members of that class paying on that day dues or membership fees or initiation fees, (2) the total amount so paid by members of that class, and (3) the total amount of tax collected on such payments. These records shall be kept at the office of the club or organization, or some other convenient and safe location, for a period of at least four years from the date the tax became due, in such a manner as to be readily accessible to internal-revenue officers.*

§ 101.39 *Returns and payments; dues.* Every social, athletic, or sporting club or organization, unless expressly exempted from the tax on dues, or unless free from that tax because neither the initiation fees of any class of its members nor the annual dues or membership fees of an "active resident annual member" exceed \$10, shall prepare each month a return in duplicate on Form 729 in accordance with the instructions printed on the back of that form. The return must be made under oath, unless the amount of the tax is \$10 or less, in which case it may be signed or acknowledged before two witnesses instead of being under oath. The return together with the amount of the tax must be in the hands of the collector of internal revenue of the district in which is located the principal office or place of business of the person required to make the return, on or before the last day of the month following that for which it is made, except where otherwise prescribed. (See § 101.40.) When the last day of such month falls on Sunday or a legal holiday, the return may be filed and payment made on the next secular or business day. A return must be made for each month whether or not taxable dues or fees have been collected. Where a club or organization has no tax to report during any month, this fact should be noted on the return filed for that month. If a club or organization ceases to exist the last return should be marked "Final return."

Examples. (1) A member of a club the dues and fees of which are taxable fails to pay his dues and is carried for a specified time before being expelled. Such member is not liable for payment of tax with respect to unpaid dues so long as they remain unpaid, but should the club succeed in collecting dues covering the period during which the member was delinquent it must collect and account for the tax on such dues.

(2) A member of a club the dues and fees of which are taxable refuses to pay the tax to the club. The club should report the case to the collector of internal revenue for the district in accordance with § 101.37 of these regulations.*

JEOPARDY ASSESSMENT

SEC. 3690. JEOPARDY ASSESSMENT.

(a) If the Commissioner believes that the collection of any tax (other than income tax, estate tax, and gift tax) under any provision of the internal-revenue laws will be jeopardized by delay, he shall, whether or not the time otherwise prescribed by law for making return and paying such tax has expired, immediately assess such tax (together with all interest and penalties the assessment of which is provided for by law). Such tax, penalties, and interest shall thereupon become immediately due and payable, and immediate notice and demand shall be made by the collector for the payment thereof. Upon failure or refusal to pay such tax, penalty, and interest, collection thereof by distraint shall be lawful without regard to the period prescribed in section 3690.

(b) The collection of the whole or any part of the amount of such assessment may be stayed by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of the amount collection of which is stayed, at the time at which, but for this section, such amount would be due.

§ 101.40 *Jeopardy assessment.* Whenever in the opinion of the collector it becomes necessary to protect the interests of the Government by effecting immediate collection of tax, the matter shall be promptly reported to the Commissioner by telegram or letter showing the reasons therefor. The communication must state the full name and address of the person involved, the kind and amount of tax due, and the period involved, so that the Commissioner can immediately assess the tax, together with all penalties and interest due. Such tax, penalties, and interest will, upon assessment, become immediately due and payable, and the collector shall, without delay, issue a notice and demand for payment thereof in full.

The collection of the whole or any part of the amount of such assessment may be stayed by filing with the collector a bond in such amount, not exceeding double the amount with respect to which the stay is desired, and with such sureties as the collector deems necessary, conditioned upon the payment of the amount, collection of which is stayed, at the time at which such amount would normally be due.

Upon refusal to pay, or failure to pay or give bond, the collector shall proceed immediately to collect the tax, penalty, and interest, by distraint, without regard to the 10-day period after notice and demand prescribed in section 3690.*

CREDITS AND REFUNDS

[SEC. 1715. PAYMENT OF TAX.]

(d) *Excess payments.*—

(1) Any person making a refund of any payment upon which tax is collected under this section may repay therewith the amount of the tax collected on such payment; and the amount so repaid may be credited against amounts included in any subsequent return.

(2) In the case of any overpayment or overcollection of any tax imposed by this chapter, the person making such overpayment or overcollection may take credit therefor against taxes due upon any return, and shall make refund of any excessive amount collected by him upon proper application by the person entitled thereto.

SEC. 3770. AUTHORITY TO MAKE ABATEMENTS, CREDITS, AND REFUNDS. [As amended by section 508 (b) of the Second Revenue Act of 1940]

(a) To Taxpayers.—

(1) *Assessments and collections generally.* Except as otherwise provided by law in the case of income, war-profits, excess-profits, estate, and gift taxes, the Commissioner, subject to regulations prescribed by the Secretary, is authorized to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected.

(2) *Assessments and collections after limitation period.* Any tax (or any interest, penalty, additional amount, or addition to such tax) assessed or paid after the expiration of the period of limitation properly applicable thereto shall be considered an overpayment and shall be credited or refunded to the taxpayer if claim therefor is filed within the period of limitation for filing such claim.

(3) *Date of allowance.* Where the Commissioner has signed a schedule of overassessments in respect of any internal revenue tax imposed by this title, the Revenue Act of 1932, or any prior revenue Act, the date on which he first signed such schedule (if after May 28, 1928) shall be considered as the date of allowance of refund or credit in respect of such tax.

SEC. 3313. PERIOD OF LIMITATION UPON REFUNDS AND CREDITS.

All claims for the refunding or crediting of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty alleged to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected must, except as otherwise provided by law in the case of income, war-profits, excess-profits, estate, and gift taxes, be presented to the Commissioner within four years next after the payment of such tax, penalty, or sum. The amount of the refund (in the case of taxes other than income, war-profits, excess-profits, estate, and gift taxes) shall not exceed the portion of the tax, penalty, or sum paid during the four years immediately preceding the filing of the claim, or if no claim was filed, then during the four years immediately preceding the allowance of the refund.

SEC. 3771. INTEREST ON OVERPAYMENTS.

(a) *Rate.* Interest shall be allowed and paid upon any overpayment in respect of any internal revenue tax at the rate of 6 per centum per annum.

(b) *Period.* Such interest shall be allowed and paid as follows:

(1) *Credits.* In the case of a credit, from the date of the overpayment to the due date of the amount against which the credit is taken, but if the amount against which the credit is taken is an additional assessment of a tax imposed by the Revenue Act of 1921, 42 Stat. 227, or any subsequent Revenue Act, then to the date of the assessment of that amount.

(2) *Refunds.* In the case of a refund, from the date of the overpayment to a date preceding the date of the refund check by not more than thirty days, such date to be determined by the Commissioner, whether or not such refund check is accepted by the taxpayer after tender of such check to the taxpayer. The acceptance of such check shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon.

(c) *Additional assessment defined.* As used in this section the term "additional assessment" means a further assessment for a tax of the same character previously paid in part, and includes the assessment of a deficiency of any income or estate tax imposed by the Revenue Act of 1924, 43 Stat. 253, or by any subsequent Revenue Act.

SEC. 3772. SUITS FOR REFUND.

(a) *Limitations.*—

(1) *Claim.* No suit or proceeding shall be maintained in any court for the recovery of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected until a claim for refund or credit has been duly filed with the Commissioner, according to the provisions of law in that regard, and the regulations of the Secretary established in pursuance thereof.

(2) *Time.* No such suit or proceeding shall be begun before the expiration of six months from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of two years from the date of mailing by registered mail by the Commissioner to the taxpayer of a notice of the disallowance of the part of the claim to which such suit or proceeding relates.

(3) *Reconsideration after mailing of notice.*—Any consideration, reconsideration, or action by the Commissioner with respect to such claim following the mailing of a notice by registered mail of disallowance shall not operate to extend the period within which suit may be begun. This paragraph shall not operate (A) to bar a suit or proceeding in respect of a claim reopened prior to June 22, 1936, if such suit or proceeding was not barred under the law in effect prior to that date, or (B) to prevent the suspension of the statute of limitations for filing suit under section 3774 (b) (2).

(b) *Protest or duress.* Such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

SEC. 3774. REFUNDS AFTER PERIODS OF LIMITATION.

A refund of any portion of an internal revenue tax (or any interest, penalty, additional amount, or addition to such tax) shall be considered erroneous—

(a) *Expiration of period for filing claim.* If made after the expiration of the period of limitation for filing claim therefor, unless within such period claim was filed; or

(b) *Disallowance of claim and expiration of period for filing suit.* In the case of a claim filed within the proper time and disallowed by the Commissioner if the refund was made after the expiration of the period of limitation for filing suit, unless—

(1) within such period, suit was begun by the taxpayer, or

(2) within such period, the taxpayer and the Commissioner agreed in writing to suspend the running of the statute of limitations for filing suit from the date of the agreement to the date of final decision in one or more named cases then pending before the Board of Tax Appeals or the courts. If such agreement has been entered into, the running of such statute of limitations shall be suspended in accordance with the terms of the agreement.

SEC. 3775. CREDITS AFTER PERIODS OF LIMITATION.

(a) *Period against United States.* Any credit against a liability in respect of any taxable year shall be void if any payment in respect of such liability would be considered an overpayment under section 3770 (a) (2).

(b) *Period against taxpayer.* A credit of an overpayment in respect of any tax shall be void if a refund of such overpayment would be considered erroneous under section 3774.

§ 101.41 *Credit for overpayment.* The right to claim a credit exists only in the case of "overpayment or overcollection" and is confined in general to cases involving some clerical or mechanical error.

Credit for tax overpaid may be taken on a succeeding return, but a complete statement of the facts must be attached to the return on which the credit is claimed. If the amount overpaid was collected from other persons, there must be submitted a sworn statement showing repayment to the other persons. In the case of dues or initiation fees a complete list of the members making excess payments must be submitted, and it must be shown that no claim for refund has been filed by any member.

Complete and detailed records in support of a credit must be kept for a period of at least four years from the date the credit is taken.*

§ 101.42 *Abatement or refund of erroneous or illegal assessments or collections.* A claim for abatement or refund of taxes alleged to have been erroneously or illegally assessed or paid (or of any penalties assessed or collected without authority) must be filed by the person against whom they were assessed, or by whom they were in the first instance erroneously or illegally paid. The claim should be prepared on Form 843 and presented to the collector of internal revenue for the district in which the amount claimed was assessed or paid. (See section 3313 of the Code)

In any case where a club as agent of its members seeks a refund of tax collected by the club and paid over by it to the collector of internal revenue, since the members and not the club are the actual taxpayers, the claim must be accompanied by the following:

(a) An alphabetical list of the names of the taxpayers, showing the amount claimed in refund in behalf of each, and the dates on which the amounts were paid to the collector of internal revenue.

(b) A power of attorney executed by each person in whose behalf the claim is filed authorizing the organization to act as his agent. The power of attorney must be prepared in the usual form of such instruments; must be acknowledged before a notary public or signed in the presence of two witnesses, and must include a statement that any revocation thereof will not be effective until the Commissioner receives notification.

(c) A copy of the constitution and by-laws or other rules and regulations of the organization, together with a copy of each amendment thereto.

If a member files a refund claim himself there must be attached to the claim a statement of a responsible officer of the organization showing the date or dates when the amounts claimed were paid to the organization and the date or dates when the organization paid over such amounts to the collector.

If an amount claimed was collected by direct assessment against an individual member, the claim must be made in the name of the member and must set forth the date and place of payment and additional data sufficient to enable the Commissioner to pass upon its merits.

In the case of a deceased member, evidence of the authority to file the refund claim in his behalf must be submitted.*

§ 101.43 *Refund of overcollections.* Every person who makes an excess collection of tax under section 1700 or section 1710 shall upon proper application promptly refund such amount to the person entitled thereto, even though it has already been paid over to the collector of internal revenue and no corresponding credit or refund (see §§ 101.41 and 101.42) has yet been secured. As the tax on admission is based on the payment, not the admission, no refund of any part of such a tax is authorized merely because the person paying for admission does not actually make use of his right to admission. Where, however, an amount paid for admission is refunded it will be treated, as far as tax liability is concerned, as not having been paid, and the tax collected should be refunded to the taxpayer at the same time the payment for admission is refunded. As the tax on the permanent use or lease for the use of a box or seat is based on the right to use (see § 101.7), it is immaterial whether the box or seat is ever used or not, and, therefore, no refund can be granted on the ground that there was no actual use of the box or seat.*

PENALTIES AND INTEREST

SEC. 1717. ADDITION TO TAX IN CASE OF NON-PAYMENT.

If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 6 per centum per annum from the time when the tax became due until paid.

[SEC. 3612. RETURNS EXECUTED BY COMMISSIONER OR COLLECTOR.]

(d) Additions to tax.—

(1) *Failure to file return.* In case of any failure to make and file a return or list within the time prescribed by law, or prescribed by the Commissioner or the collector in pursuance of law, the Commissioner shall add to the tax 25 per centum of its amount, except that when a return is filed after such time and it is shown that the failure to file it was due to a reasonable cause and not to willful neglect, no such addition shall be made to the tax: *Provided,* That in the case of a failure to make and file a return required by law, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, if the last date so prescribed for filing the return is after August 30, 1935, then there shall be added to the tax, in lieu of such 25 per centum: 5 per centum if the failure is for not more than 30 days, with an additional 5 per centum for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 per centum in the aggregate.

(2) *Fraud.* In case a false or fraudulent return or list is willfully made, the Commissioner shall add to the tax 50 per centum of its amount.

(e) *Collection of additions to tax.* The amount added to any tax under paragraphs (1) and (2) of subsection (d) shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax.

SEC. 3655. NOTICE AND DEMAND FOR TAX.

(a) *Delivery.* Where it is not otherwise provided, the collector shall in person or by deputy, within ten days after receiving any list of taxes from the Commissioner, give notice to each person liable to pay any taxes

stated therein, to be left at his dwelling or usual place of business, or to be sent by mail, stating the amount of such taxes and demanding payment thereof.

(b) *Addition to tax for nonpayment.* If such person does not pay the taxes, within ten days after the service or the sending by mail of such notice, it shall be the duty of the collector or his deputy to collect the said taxes with a penalty of 5 per centum additional upon the amount of taxes, and interest at the rate of 6 per centum per annum from the date of such notice to the date of payment; except that in the case of income, estate or gift taxes, such penalties shall not apply and the interest for nonpayment of tax shall be such as is specifically provided by law with respect to such taxes.

SEC. 1718. PENALTIES.

(a) Any person required under this chapter to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this chapter, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

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

(c) Any person who willfully fails to pay, collect, or truthfully account for and pay over, any tax imposed by this chapter, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty of the amount of the tax evaded, or not paid, collected, or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected. No penalty shall be assessed under this subsection for any offense for which a penalty may be assessed under authority of section 3612.

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

§ 101.44 *Penalties and interest.* In case of failure to file a return within the prescribed time, a certain percentage of the amount of the tax is added to the tax unless the return is later filed and failure to file the return within the prescribed time is shown to the satisfaction of the Commissioner to be due to reasonable cause and not to willful neglect. The amount to be added to the tax is 5 percent if the failure is for not more than 30 days, with an additional 5 percent for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 percent in the aggregate.

Failure to pay tax within the time fixed for filing returns causes interest to accrue automatically, without assessment of the tax by the Commissioner or notice to the taxpayer, to the actual date

of payment or assessment, whichever is prior. The due date of the tax for the purpose of computing interest is the last day of the month within which the return is required to be filed and the tax paid.

Where assessment is made, and payment is not made within 10 days after the issuance of the first notice and demand (Form 17), there will accrue, under section 3655, a 5 percent penalty and interest at the rate of 6 per cent per annum computed upon the entire assessment from the date of issuance of Form 17 until date of payment. Where assessment is settled by partial payments, interest is computed at the above-prescribed rate from the date of the first 10-day notice through the date of first payment and on the balance from the next succeeding day to the date of the next payment until the assessment is paid in full.

If a claim for abatement is filed with the collector within 10 days after the date of the issuance of the first notice and demand, the 5 per cent penalty does not attach. If the assessment is not paid within 10 days after receipt of notice of rejection of the claim, the 5 per cent penalty applies. The filing of the claim does not stay the collection of interest, which continues to run for the full period that intervenes between the date of the first notice and demand and the date of payment.

If a false or fraudulent return is willfully made, the penalty under section 3612 (d) is 50 per cent of the total tax due for the entire period involved, including any tax previously paid.

Any person who willfully fails to pay or collect any tax due, file return, or keep records, or who attempts in any manner to evade or defeat the tax, is subject to a fine of \$10,000, or imprisonment, or both, with costs of prosecution, and is also liable to a penalty equal to the amount of the tax not collected or paid. These penalties apply to an officer or employee who, as such officer or employee, is under a duty to perform the act in respect of which the violation occurs, as well as to any other person who fails or refuses to perform any of the duties imposed by the Code, i.e., pay or collect the tax, make return, keep records, supply information, etc.*

SEC. 3710. SURRENDER OF PROPERTY SUBJECT TO DISTRAINT.

(a) *Requirement.* Any person in possession of property, or rights to property, subject to distraint, upon which a levy has been made, shall, upon demand by the collector or deputy collector making such levy, surrender such property or rights to such collector or deputy, unless such property or right is, at the time of such demand, subject to an attachment or execution under any judicial process.

(b) *Penalty for violation.* Any person who fails or refuses to so surrender any of such property or rights shall be liable in his own person and estate to the United States in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of the taxes (including penalties and interest (for the collection of which such levy has been made, together with costs and interest from the date of such levy.

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

[SEC. 3793. PENALTIES AND FORFEITURES.]

(b) *Fraudulent returns, affidavits, and claims.*

(1) *Assistance in preparation or presentation.* Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a false or fraudulent return, affidavit, claim, or document, shall (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document) be guilty of a felony, and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(2) *Person defined.* The term "person" as used in this subsection includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

SEC. 1703. PENALTIES.

(a) *Failure to print correct price on ticket.* Whoever sells an admission ticket or card on which the name of the vendor and price is not printed, stamped, or written, as provided in section 1702, or at a price in excess of the price so printed, stamped, or written thereon, is guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$100.

SEC. 35. CRIMINAL CODE OF THE UNITED STATES, AS AMENDED BY THE ACT APPROVED APRIL 4, 1938 (52 STAT., 197).

(A) Whoever shall make or cause to be made or present or cause to be presented, for payment or approval, to or by any person or officer in the civil, military, or naval service of the United States, or any department thereof, or any corporation in which the United States of America is a stockholder, any claim upon or against the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, knowing such claim to be false, fictitious, or fraudulent; or whoever shall knowingly and willfully falsify or conceal or cover up by any trick, scheme, or device a material fact, or make or cause to be made any false or fraudulent statements or representations, or make or use or cause to be made or used any false bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to contain any fraudulent or fictitious statement or entry in any matter within the jurisdiction of any department or agency of the United States or of any corporation in which the United States of America is a stockholder; or whoever shall enter into any agreement, combination, or conspiracy to defraud the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, by obtaining or aiding to obtain the payment or allowance of any false or fraudulent claim; * * * shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

MISREPRESENTATION OF TAX

SEC. 3325. PENALTIES FOR FALSE STATEMENTS TO PURCHASERS REGARDING TAX.

Whoever in connection with the sale or lease, or offer for sale or lease, of any article, or for the purpose of making such sale or lease, makes any statement, written or oral, (1) intended or calculated to lead any person

to believe that any part of the price at which such article is sold or leased, or offered for sale or lease, consists of a tax imposed under the authority of the United States, or (2) ascribing a particular part of such price to a tax imposed under the authority of the United States, knowing that such statement is false or that the tax is not so great as the portion of such price ascribed to such tax, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1,000 or by imprisonment not exceeding one year, or both.

AUTHORITY FOR REGULATIONS

SEC. 3791. RULES AND REGULATIONS.

(a) *Authorization.*

(1) *In general.* Except as provided in section 1928 (a), Cotton Futures, section 2599, Marihuana, section 2559, Narcotics, section 3176, Liquor, and section 1805, Silver, the Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title.

(2) *In case of change in law.* The Commissioner may make all such regulations, not otherwise provided for, as may have become necessary by reason of any alteration of law in relation to internal revenue.

(b) *Retroactivity of regulations or rulings.* The Secretary, or the Commissioner with the approval of the Secretary, may prescribe the extent, if any, to which any ruling, regulation, or Treasury Decision, relating to the internal revenue laws, shall be applied without retroactive effect.

§ 101.45 *Promulgation of regulations.* In pursuance of the provisions of the law, the foregoing regulations are hereby prescribed and Regulations 43, approved August 27, 1940, are superseded as of October 1, 1941.*

[SEAL] NORMAN D. CANN,
Acting Commissioner
of Internal Revenue.

Approved: October 17, 1941.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 41-7908; Filed, October 20, 1941;
3:25 p. m.]

[T. D. 5088]

SUBCHAPTER D—SOCIAL SECURITY AND
CARRIERS TAXES

PART 400—EXCISE TAX ON EMPLOYERS UNDER
TITLE IX OF THE SOCIAL SECURITY ACT

PART 403—EXCISE TAX ON EMPLOYERS UNDER
THE FEDERAL UNEMPLOYMENT TAX ACT

Regulations 90, such regulations as made applicable to the Internal Revenue Code by Treasury Decision 4885, and Regulations 107, amended to conform to section 701 of the Revenue Act of 1941

Credit against the tax imposed by Title IX of the Social Security Act for the calendar years 1936, 1937, and 1938, and the tax imposed by the Federal Unemployment Tax Act (subchapter C, chapter 9, of the Internal Revenue Code) for the calendar years 1939 and 1940, for contributions paid into State unemployment funds

Paragraph A—Credit against tax for 1936, 1937, and 1938. In order to conform Regulations 90 [Part 400, Title 26,

Code of Federal Regulations], relating to the excise tax on employers under Title IX of the Social Security Act (49 Stat. 639; 42 U.S.C., Sup. V, 1101 to 1110, inclusive), to section 701 of the Revenue Act of 1941, approved September 20, 1941 (Public Law 250—77th Congress), such regulations are amended as follows:

1. Immediately preceding article 211 [§ 400.211, Title 26, Code of Federal Regulations], as amended by Treasury Decision 4812 [§ 400.211 of such Title 26, 1938 Sup.], by Treasury Decision 4937 [§ 400.211 of such Title 26, 1939 Sup.], and by Treasury Decision 5022 [§ 400.211 of such Title 26, 1940 Sup.], relating to credit of contributions against the tax for the calendar years 1936, 1937, and 1938, the following is inserted:

SECTION 701 (a) OF THE REVENUE ACT OF 1941

Allowance of credit against tax for 1936, 1937, and 1938.—Against the tax imposed by section 901 of the Social Security Act for the calendar year 1936, 1937, or 1938, any taxpayer shall be allowed credit (if credit is not allowable under section 902 of such Act) for the amount of contributions paid by him into an unemployment fund under a State law—

(1) Before the sixtieth day after the date of the enactment of this Act, if such credit is claimed before the expiration of six months after such date of enactment;

(2) Without regard to the date of payment, with respect to wages paid after September 19, 1939;

(3) Without regard to the date of payment, if the assets of the taxpayer are, at any time during the fifty-nine-day period following such date of enactment, or were at any time during the period August 11, 1939, to October 8, 1939, inclusive, or the period October 9, 1940, to December 6, 1940, inclusive, in the custody or control of a receiver, trustee, or other fiduciary appointed by, or under the control of, a court of competent jurisdiction.

The provisions of the Social Security Act in force prior to February 11, 1939 (except the provision limiting the credit to amounts paid before the date of filing returns), shall apply to allowance of credit under this subsection; except that the amount of credit against the tax for the calendar year 1936, 1937, or 1938, for contributions paid after December 6, 1940, shall not (unless the credit is allowable on account of paragraph (2) or (3)) exceed 90 per centum of the amount which would have been allowable as credit on account of such contributions had they been paid before the last day upon which the taxpayer was required under section 905 of such Act to file a return for such year. The terms used in this subsection shall have the same meaning as when used in title IX of such Act prior to February 11, 1939. The total credit allowable against the tax imposed by section 901 of such Act for the calendar year 1936, 1937, or 1938 shall not exceed 90 per centum of such tax.

2. Article 211 [§ 400.211, Title 26, Code of Federal Regulations], as amended by Treasury Decision 4812 [§ 400.211 of such Title 26, 1938 Sup.], by Treasury Decision 4937 [§ 400.211 of such Title 26, 1939 Sup.], and by Treasury Decision 5022 [§ 400.211 of such Title 26, 1940 Sup.], relating to credit of contributions against the tax for the calendar years 1936, 1937, and 1938, is further amended to read as follows:

§ 400.211 *Credit against tax for calendar year 1936, 1937, or 1938 for contributions paid.*—(a) *In general.* Subject to the limitations hereinafter prescribed in paragraphs (b), (c), (d), and

(e), the taxpayer may credit against the tax for the calendar year 1936, 1937, or 1938 the total amount of his contributions under all State laws which have been found by the Social Security Board to contain the provisions specified in section 903 (a) of the Social Security Act; *Provided*, That no credit may be taken for a contribution under a State law if such State has not been duly certified for the calendar year to the Secretary by the Social Security Board. (See, however, article 503 (c) and (d) [§ 400.503 (c) and (d)] relating to the statutory period of limitations applicable to refunds and credits.)

(b) *Limitation on amount of credit allowable.* The total credit allowed to any taxpayer for contributions to State unemployment funds with respect to employment during any one year shall not exceed 90 percent of the tax against which such credit is applied.

(c) *Limitation on services with respect to which credit is allowable.* Contributions must have been paid with respect to employment as defined in section 907 (c) of the Social Security Act, that is, with respect to services performed by an employee within the United States and not excepted by such Act. (See articles 206 to 206 (7) [§§ 400.206 to 400.206 (7)], inclusive.)

(d) *Limitation on the taxable year in which services are performed.* Contributions must have been paid with respect to services performed during the calendar year covered by the return.

(e) *Limitation on the time within which contributions may be paid in order to be allowable as credit—(1) General rule.* Contributions must have been actually paid into a State unemployment fund before the last day upon which the return for the taxable year is required to be filed, except that under the conditions described in subparagraph (2), (3), (4), (5), or (6), below, credit may be allowed for contributions paid on or after such last day. (The last day for filing the return is January 31 next following the close of the taxable year unless the time for filing the return is extended. See article 303 (§ 400.303), article 304 (§ 400.304), and article 305 (§ 400.305).)

(2) *Exception when contributions are paid on or after the last day for filing the return but before December 7, 1940.* Contributions paid into a State unemployment fund on or after the last day upon which the return for the taxable year is required to be filed but before December 7, 1940, may be credited against the tax provided such credit is claimed before March 21, 1942. The amount of such credit is the same amount that would have been allowable as credit had such contributions been paid before such last day. (See article 503½ [§ 400.503½, Title 26, Code of Federal Regulations, 1941 Sup.], relating to refund, credit, or abatement based on credit for contributions paid.)

(3) *Exception when contributions are paid after December 6, 1940, but before November 19, 1941.* Contributions paid into a State unemployment fund after

December 6, 1940, but before November 19, 1941, may be credited against the tax, provided such credit is claimed before March 21, 1942. The amount of such credit shall not exceed 90 percent of the amount which would have been allowable as credit on account of such contributions had they been paid before the last day upon which the return for the taxable year was required to be filed. (See article 503½ [§ 400.503½, Title 26, Code of Federal Regulations, 1941 Sup.], relating to refund, credit, or abatement based on credit for contributions paid.)

(4) *Exception when taxpayers' assets are in custody or control of certain fiduciaries.* Contributions of a taxpayer whose assets, at any time during the period August 11, 1939, to October 8, 1939, inclusive, or the period October 9, 1940, to December 6, 1940, inclusive, or the period September 21, 1941, to November 18, 1941, inclusive, are in the custody or control of a receiver, trustee, or other fiduciary appointed by, or under the control of, a court of competent jurisdiction, may be paid into a State unemployment fund at any time, and upon such payment may be credited against the tax in the same amount that would have been allowable as credit had the contributions been paid before the last day upon which the return for the taxable year was required to be filed.

(5) *Exception when wages are paid after September 19, 1939, for employment during 1936, 1937, or 1938.* Contributions with respect to wages paid after September 19, 1939, for employment during the calendar year 1936, 1937, or 1938, may be paid into a State unemployment fund at any time, and upon such payment may be credited against the tax in the same amount that would have been allowable as credit had the contributions been paid before the last day upon which the return for such year was required to be filed.

(6) *Exception when contributions are paid to wrong State.* Contributions paid into the unemployment fund of a State which are required under the unemployment compensation law of that State, with respect to remuneration on the basis of which the taxpayer had, prior to such payment, erroneously paid an amount as contributions under another unemployment compensation law, shall be deemed to have been made at the time of the erroneous payment. If, by reason of such other law, the taxpayer was entitled to cease paying contributions with respect to services subject to such other law, the payment into the proper fund shall be deemed to have been made on the date the return for the taxable year was actually filed under section 905 of the Social Security Act.

(f) *Contributions.* The term "contributions" for purposes of credit against the tax means payments required to be made by an employer pursuant to a State law into the unemployment fund of such State, to the extent that such payments are made by the employer without any part thereof being deducted or deductible from the wages of individuals in his em-

ploy. Notwithstanding the provision limiting the term to payments required by a State law, the term also includes so much of any payments made as contributions for the calendar year 1936 or 1937 into the unemployment fund of a State which payments are held by the highest court of such State not to be required payments under the unemployment compensation law of such State, as are not returned to the taxpayer.

(g) *Refund of State contributions.* If, subsequent to the filing of the return, a refund is made by a State to the taxpayer of any part of his contributions which had been credited against the tax, the taxpayer is required to advise the Commissioner under oath of the date and amount of such refund and the reason therefor, and to pay the tax, if any, due as a result of such refund, together with interest from the date when the tax was due. [Art. 211]

3. Immediately preceding article 503½, added by Treasury Decision 4812 [§ 400.503½, Title 26, Code of Federal Regulations, 1938 Sup.], as amended by Treasury Decision 4937 [§ 400.503½ of such Title 26, 1939 Sup.], and by Treasury Decision 5022 [§ 400.503½ of such Title 26, 1940 Sup.], relating to certain refunds of the tax for the calendar years 1936, 1937, and 1938, the following is inserted:

SECTION 701 (c) OF THE REVENUE ACT OF 1941

Refund.—Refund, credit, or abatement of the tax (including penalty and interest assessed or collected with respect thereto, if any), based on any credit allowable under subsection (a) . . . , may be made in accordance with the provisions of law applicable in the case of erroneous or illegal assessment or collection of the tax (including statutes of limitations). No interest shall be allowed or paid on the amount of any such credit or refund. On and after the date of the enactment of this Act no refund, credit, or abatement shall be allowed based on any credit allowable under section 810 of the Revenue Act of 1938, section 932 (a) of the Social Security Act Amendments of 1939, or section 701 of the Second Revenue Act of 1940.

4. Article 503½, added by Treasury Decision 4812 [§ 400.503½, Title 26, Code of Federal Regulations, 1938 Sup.], as amended by Treasury Decision 4937 [§ 400.503½ of such Title 26, 1939 Sup.], and by Treasury Decision 5022 [§ 400.503½ of such Title 26, 1940 Sup.], relating to certain refunds of the tax for the calendar years 1936, 1937, and 1938, is amended to read as follows:

§ 400.503½ *Refund, credit, or abatement of tax for calendar year 1936, 1937, or 1938, based on credit against such tax for contributions paid.* If the tax for the calendar year 1936, 1937, or 1938, against which an amount is allowable as credit, for contributions paid, under section 701 of the Revenue Act of 1941, has been paid without the benefit of such credit, the taxpayer shall be entitled to a refund or credit of the tax equal to the amount of such allowable credit for contributions paid. (See section 701 (a) (1) of the Revenue Act of 1941, which requires as a condition of the allowance of credit thereunder that the credit be claimed before March 21, 1942.) The taxpayer shall also be entitled to a refund or credit of the amount of interest

or penalty, if any, collected from him with respect to the tax refunded or credited. No interest, however, shall be allowed or paid by the Government on the amount of any such refund or credit. Every claim for such refund or credit shall be made on Form 843 in accordance with the provisions of this article and article 503 [§ 400.503, Title 26, Code of Federal Regulations], relating to refund and credit of taxes erroneously collected. A claim which does not comply with these requirements will not be considered for any purpose as a claim for refund or credit.

On and after September 20, 1941, no refund, credit, or abatement shall be allowed based on any credit allowable under section 810 of the Revenue Act of 1938, section 902 (a) of the Social Security Act Amendments of 1939, or section 701 of the Second Revenue Act of 1940. [Art. 503½]

Paragraph B—Credit against tax for 1939. In order to conform Regulations 90 [Part 400, Title 26, Code of Federal Regulations], only as made applicable to the Internal Revenue Code (53 Stat., Part 1; 26 U.S.C., Sup. V) by Treasury Decision 4885 [Chapter I, note, Title 26, Code of Federal Regulations, 1939 Sup.], to section 701 of the Revenue Act of 1941, approved September 20, 1941 (Public Law 250—77th Congress), such regulations are amended as follows:

1. Immediately preceding article 211 (1), added by Treasury Decision 4953 [§ 400.211 (1), Title 26, Code of Federal Regulations, 1939 Sup.], as amended by Treasury Decision 5022 and by Treasury Decision 5028 [§ 400.211 (1) of such Title 26, 1940 Sup.], relating to credit against the tax for the calendar year 1939 for contributions paid, the following is inserted:

SECTION 701 (b) OF THE REVENUE ACT OF 1941

Allowance of credit against tax for 1939 * * *. Against the tax imposed by the Federal Unemployment Tax Act for the calendar year 1939 * * *, any taxpayer shall be allowed credit (if credit is not allowable under section 1601 of such Act) for the amount of contributions paid by him into an unemployment fund under a State law—

(1) Before the sixtieth day after the date of the enactment of this Act, if such credit is claimed before the expiration of six months after such date of enactment;

(2) Without regard to the date of payment, if the assets of the taxpayer are, at any time during the fifty-nine-day period following such date of enactment, or were at any time during the period from the last day upon which the taxpayer was required under section 1604 of the Federal Unemployment Tax Act to file a return of the tax against which credit is claimed to June 30 next following such last day, inclusive, or (in the case of credit against the tax for the calendar year 1939) the period October 9, 1940, to December 6, 1940, inclusive, in the custody or control of a receiver, trustee, or other fiduciary appointed by, or under the control of, a court of competent jurisdiction. The provisions of the Federal Unemployment Tax Act (except section 1601 (a) (3)) * * * shall apply to allowance of credit under this subsection. The amount of such credit against the tax for the calendar year 1939 * * *, in the case of contributions paid after the last day upon which the taxpayer was required under section 1604 of the Federal Unemployment Tax Act to file a return for such year, shall not (unless the

credit is allowable on account of paragraph (2)) exceed 90 per centum of the amount which would have been allowable as credit on account of such contributions had they been paid on or before such last day. The terms used in this subsection shall have the same meaning as when used in the Federal Unemployment Tax Act. The total credit allowable against the tax imposed by such Act for the calendar year 1939 * * * shall not exceed 90 per centum of such tax.

2. Article 211 (1), added by Treasury Decision 4953 [§ 400.211 (1), Title 26, Code of Federal Regulations, 1939 Sup.], as amended by Treasury Decision 5022 and by Treasury Decision 5028 [§ 400.211 (1) of such Title 26, 1940 Sup.], relating to credit against the tax for the calendar year 1939 for contributions paid, is further amended to read as follows:

§ 400.211 (1) *Credit against tax for calendar year 1939 for contributions paid*—(a) *In general.* Subject to the limitations hereinafter prescribed in paragraphs (b), (c), and (d), the taxpayer may credit against the tax for the calendar year 1939 the total amount of contributions paid by him under all State laws which have been found by the Social Security Board to contain the provisions specified in section 1603 (a) of the Federal Unemployment Tax Act: *Provided*, That no credit may be taken for a contribution under a State law if such State has not been duly certified for the calendar year to the Secretary by the Social Security Board. (See, however, article 503 (c) and (d) [§ 400.503 (c) and (d)], relating to the statutory period of limitations applicable to refunds and credits.) The contributions may be credited against the tax whether or not they are paid with respect to employment as defined in the Federal Unemployment Tax Act.

(b) *Limitation on a m o u n t of credit allowable.* The total credit allowed to any taxpayer for contributions to State unemployment funds shall not exceed 90 percent of the tax against which such credit is applied.

(c) *Limitation on the taxable year with respect to which contributions are allowable.* Contributions must have been paid with respect to the calendar year 1939.

(d) *Limitation on the time within which contributions may be paid in order to be allowable as credit*—(1) *General rule.* Contributions must have been actually paid into a State unemployment fund on or before the last day upon which the return for the taxable year is required to be filed, except that under the conditions described in subparagraph (2), (3), (4), or (5), below, credit may be allowed for contributions paid after such last day. (The last day for filing the return is January 31, 1940, unless the time for filing the return is extended. See article 303 [§ 400.303], article 304 [§ 400.304, Title 26, and 1939 Sup.], and article 305 [§ 400.305].)

(2) *Exception when contributions are paid after the last day for filing a return but before July 1, 1940.* Contributions may be paid into a State unemployment fund after the last day upon which the return for the taxable year is required to

be filed but before July 1, 1940, and, in such case, may be credited, under section 1601 (a) (3) of the Federal Unemployment Tax Act, against the tax in an amount not to exceed 90 percent of the amount which would have been allowable as credit on account of such contributions had they been paid into the State unemployment fund on or before such last day.

(3) *Exception when contributions are paid after June 30, 1940, but before November 19, 1941.* Contributions may be paid into a State unemployment fund after June 30, 1940, but before November 19, 1941, and, in such case, may be credited, under section 701 of the Revenue Act of 1941, against the tax, provided such credit is claimed before March 21, 1942. The amount of such credit shall not exceed 90 percent of the amount which would have been allowable as credit on account of such contributions had they been paid into the State unemployment fund on or before the last day upon which the return for the taxable year was required to be filed. (See article 503 5/6 [§ 400.503 5/6, Title 26, Code of Federal Regulations, 1941 Sup.], relating to refund, credit, or abatement based on credit with respect to contributions.)

(4) *Exception when taxpayers' assets are in the custody or control of certain fiduciaries.* Contributions of a taxpayer whose assets, at any time during the period from the last day upon which the return for the calendar year 1939 is required to be filed to June 30, 1940, inclusive, or the period October 9, 1940, to December 6, 1940, inclusive, or the period September 21, 1941, to November 18, 1941, inclusive, are in the custody or control of a receiver, trustee, or other fiduciary appointed by, or under the control of, a court of competent jurisdiction, may be paid into a State unemployment fund at any time, and upon such payment may be credited against the tax in the same amount that would have been allowable as credit had the contributions been paid on or before the last day upon which the return for the taxable year was required to be filed.

(5) *Exception when contributions are paid to wrong State.* Contributions for the calendar year 1939 paid into the unemployment fund of a State which are required under the unemployment compensation law of that State, but which are paid with respect to remuneration on the basis of which the taxpayer had, prior to such payment, erroneously paid an amount as contributions under another unemployment compensation law, shall be deemed for purposes of credit to have been paid at the time of the erroneous payment. If, by reason of such other law, the taxpayer was entitled to cease paying contributions with respect to services subject to such other law, the payment into the proper fund shall be deemed for purposes of credit to have been made on the date the return was actually filed under section 1604 of the Federal Unemployment Tax Act.

(See, however, section 7 (b) of the Act approved August 13, 1940 (Public, No.

764, 76th Cong., 3d sess.), for a special provision relating to credit for certain contributions paid with respect to certain services affected by such Act; and see sections 1, 3, 4, and 6 of such Act quoted immediately preceding article 206 (8) [§ 400.206 (8), Title 26, Code of Federal Regulations, 1940 Sup.], relating to such services.)

(e) *Refund of State contributions.* If, subsequent to the filing of the return for the calendar year 1939, a refund is made by a State to the taxpayer of any part of his contributions for such year which had been credited against the tax, the taxpayer is required to advise the Commissioner under oath of the date and amount of such refund and the reason therefor, and to pay the tax, if any, due as a result of such refund, together with interest from the date when the tax was due."

3. Immediately preceding article 503 5/6, added by Treasury Decision 4953 [§ 400.503 5/6, Title 26, Code of Federal Regulations, 1939 Sup.], as amended by Treasury Decision 5022 [§ 400.503 5/6, Title 26, 1940 Sup.], relating to certain refunds of the tax for the calendar year 1939, the following is inserted:

SECTION 701 (c) OF THE REVENUE ACT OF 1941

Refund.—Refund, credit, or abatement of the tax (including penalty and interest assessed or collected with respect thereto, if any), based on any credit allowable under subsection * * * (b), may be made in accordance with the provisions of law applicable in the case of erroneous or illegal assessment or collection of the tax (including statutes of limitations). No interest shall be allowed or paid on the amount of any such credit or refund. On and after the date of the enactment of this Act no refund, credit, or abatement shall be allowed based on any credit allowable under * * * section 701 of the Second Revenue Act of 1940.

4. Article 503 5/6, added by Treasury Decision 4953 [§ 400.503 5/6, Title 26, Code of Federal Regulations, 1939 Sup.], as amended by Treasury Decision 5022 [§ 400.503 5/6, Title 26, 1940 Sup.], relating to certain refunds of the tax for the calendar year 1939, is amended to read as follows:

§ 400.503 5/6. *Refund, credit, or abatement of tax for calendar year 1939, based on credit against such tax with respect to contributions.* If the tax for the calendar year 1939, against which an amount is allowable as credit under section 1601 of the Federal Unemployment Tax Act or section 701 of the Revenue Act of 1941, has been paid without the benefit of such credit, the taxpayer shall be entitled to a refund or credit of the tax equal to the amount of such allowable credit. (See section 701 (b) (1) of the Revenue Act of 1941, which requires as a condition of the allowance of credit thereunder that the credit be claimed before March 21, 1942.) The taxpayer shall also be entitled to a refund or credit of the amount of interest or penalty, if any, collected from him with respect to the amount of tax refunded or credited.

No interest, however, shall be allowed or paid by the Government on the amount of any such refund or credit. Every claim for such refund or credit shall be made on Form 843 in accordance with the provisions of this article and article 503 [section 400.503, Title 26, Code of Federal Regulations], relating to refund and credit of taxes erroneously collected. A claim which does not comply with these requirements will not be considered for any purpose as a claim for refund or credit.

On and after September 20, 1941, no refund, credit, or abatement shall be allowed based on any credit allowable under section 701 of the Second Revenue Act of 1940. [Art. 503½]

Paragraph C—Credit against tax for 1940. In order to conform Regulations 107 [Part 403, Title 26, Code of Federal Regulations, 1940 Sup.], relating to the excise tax on employers under the Federal Unemployment Tax Act (53 Stat. 183, 1387; 26 U.S.C., Sup. V, 1600 to 1611, inclusive), to section 701 of the Revenue Act of 1941, approved September 20, 1941 (Public Law 250—77th Congress), such regulations are amended as follows:

1. Immediately preceding § 403.401, relating to credit against the tax for the calendar year 1940 and subsequent years for contributions paid, the following is inserted:

SECTION 701 (b) OF THE REVENUE ACT OF 1941

Allowance of credit against tax for 1940. Against the tax imposed by the Federal Unemployment Tax Act for the calendar year * * * 1940, any taxpayer shall be allowed credit (if credit is not allowable under section 1601 of such Act) for the amount of contributions paid by him into an unemployment fund under a State law—

(1) Before the sixtieth day after the date of the enactment of this Act, if such credit is claimed before the expiration of six months after such date of enactment;

(2) Without regard to the date of payment, if the assets of the taxpayer are, at any time during the fifty-nine-day period following such date of enactment, or were at any time during the period from the last day upon which the taxpayer was required under section 1604 of the Federal Unemployment Tax Act to file a return of the tax against which credit is claimed to June 30 next following such last day, inclusive, * * * in the custody or control of a receiver, trustee, or other fiduciary appointed by, or under the control of, a court of competent jurisdiction. The provisions of the Federal Unemployment Tax Act (except section 1601 (a) (3)), including such provisions as modified by section 902 (e) of the Social Security Act Amendments of 1939, shall apply to allowance of credit under this subsection. The amount of such credit against the tax for the calendar year * * * 1940, in the case of contributions paid after the last day upon which the taxpayer was required under section 1604 of the Federal Unemployment Tax Act to file a return for such year, shall not (unless the credit is allowable on account of paragraph (2)) exceed 90 per centum of the amount which would have been allowable as credit on account of such contributions had they been paid on or before such last day. The terms used in this subsection shall have the same meaning as when used in the Federal Unemployment Tax Act. The total credit allowable against the tax imposed by such Act for the calendar year * * * 1940 shall not exceed 90 per centum of such tax.

2. Section 403.401 (c), relating to the limitation on the time within which contributions may be paid in order to be allowable as credit, is amended by adding at the end of subparagraph (1) thereof the following new sentence: "See also subparagraphs (5) and (6), below, for special provisions relating to credit, against the tax for the taxable year 1940 only, for contributions paid."

3. Section 403.401 (c), relating to the limitation on the time within which contributions may be paid in order to be allowable as credit, is amended by adding at the end thereof the following new subparagraphs:

(5) *Credit, against tax for taxable year 1940 only, for contributions paid after June 30, 1941, but before November 19, 1941.* Notwithstanding the preceding provisions of paragraph (c), contributions may be paid into a State unemployment fund after June 30, 1941, but before November 19, 1941, and in such case may be credited, against the tax for the taxable year 1940 only, in an amount not to exceed 90 percent of the amount which would have been allowable as credit on account of such contributions had they been paid into the State unemployment fund on or before the last day upon which the return for the taxable year 1940 is required to be filed, provided such credit is claimed before March 21, 1942.

(6) *Credit, against tax for taxable year 1940 only, when taxpayers' assets are in custody or control of certain fiduciaries.* Contributions of a taxpayer whose assets, at any time during the period prescribed in subparagraph (3), above, or during the period September 21, 1941, to November 18, 1941, both dates inclusive, are in the custody or control of a receiver, trustee, or other fiduciary appointed by, or under the control of, a court of competent jurisdiction, may be paid into the State unemployment fund at any time (subject, however, to the provisions of § 403.602 (c), relating to the statutory period of limitations applicable to credits), and upon such payment, may be credited, against the tax for the taxable year 1940 only, in the same amount that would have been allowable as credit had the contributions been paid on or before the last day upon which the return for such year was required to be filed."

4. Immediately following the provisions of law under the caption "Section 1601 (a) (5) of the Act" preceding § 403.602, the following is inserted:

SECTION 701 (c) OF THE REVENUE ACT OF 1941

Refund.—Refund, credit, or abatement of the tax (including penalty and interest assessed or collected with respect thereto, if any), based on any credit allowable under subsection * * * (b), may be made in accordance with the provisions of law applicable in the case of erroneous or illegal assessment or collection of the tax (including statutes of limitations). No interest shall be allowed or paid on the amount of any such credit or refund. * * *

(5) Section 403.602, relating to claims for refund, credit, or abatement, is

amended by adding at the end thereof the following new paragraph:

(g) *Refund, credit, or abatement of tax for calendar year 1940, based on credit against such tax for contributions paid.* The provisions of this section of these regulations shall apply in the case of claims for refund, credit, or abatement, based on credit, for contributions paid, allowable under section 701 of the Revenue Act of 1941. (See section 701 (b) (1) of the Revenue Act of 1941, which requires as a condition of the allowance of credit thereunder that the credit be claimed before March 21, 1942.)

(Paragraph A of this Treasury Decision is issued under the authority contained in sections 902 and 908 of the Social Security Act (49 Stat. 639, 643; 42 U.S.C., Sup. V, 1102, 1108); section 902 (b), (c), (d), and (h) of the Social Security Act Amendments of 1939 (53 Stat. 1399; 42 U.S.C., Sup. V, 1102, note); and section 701 of the Revenue Act of 1941 (Public Law 250—77th Congress). Paragraphs B and C of this Treasury Decision are issued under the authority contained in section 1601 of the Internal Revenue Code, as amended by section 609 of the Social Security Act Amendments of 1939 (53 Stat. 1387; 26 U.S.C., Sup. V, 1601); section 1609 of the Internal Revenue Code (53 Stat. 188; 26 U.S.C., Sup. V, 1609); and section 701 of the Revenue Act of 1941 (Public Law 250—77th Congress).)

[SEAL] NORMAN D. CANN,
Acting Commissioner
of Internal Revenue.

Approved: October 17, 1941.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 41-7932; Filed, October 21, 1941;
11:33 a. m.]

TITLE 30—MINERAL RESOURCES
CHAPTER III—BITUMINOUS COAL
DIVISION

[Docket No. A-441]

PART 321—MINIMUM PRICE SCHEDULE,
DISTRICT NO. 1

ORDER CONCERNING FINAL RELIEF IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 1 FOR REVISION OF THE MINIMUM PRICES FOR CERTAIN TRUCK COALS PRODUCED IN SUBDISTRICTS NOS. 3 AND 18 OF DISTRICT NO. 1

This proceeding having been instituted upon a petition filed with the Bituminous Coal Division by Bituminous Coal Producers Board for District No. 1, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, praying for preliminary and permanent orders revising upward the minimum prices for coals for shipment by truck produced at the mines of four code members in Tioga County, of eleven code members in Lycoming County, and of one code member in Cambria County, all in District 1;

A petition of intervention having been filed by Smith and Butler Coal Com-

pany, a code member produced in Lycoming County, and an informal protest having been filed on behalf of English Centre Coal Company, also a code member in Lycoming County;

Temporary relief having been granted in part by an Order of January 29, 1941: 6 F.R. 695, a hearing having been held, pursuant to Orders of the Director, and after due notices to all interested parties, before D. C. McCurtain, a duly designated Examiner of the Division, in Washington, D. C.; the Examiner's report having been waived and the matter having thereupon been submitted to the undersigned, the undersigned having made and entered Findings of Fact, Conclusions of Law and having rendered an Opinion in this matter, which are filed herewith, in which it was concluded that

the f. o. b. mine prices of Mine Index Nos. 2326, 2351, 2390, and 2398 should be increased by 67 cents per ton; the prices of the coals produced by the Holcomb Coal Company Mine (Mine Index No. 1519) should be increased to \$2.30 per ton; and the requested relief with respect to the eleven Lycoming County mines be denied;

Now, therefore, it is ordered, That § 321.24 (General prices) in the Schedule of Effective Minimum Prices for District No. 1 for Truck Shipments be and it hereby is amended in accordance with Supplement "T" annexed hereto and made a part hereof.

Dated: September 25, 1941.

[SEAL] H. A. GRAY,
Director.

PERMANENT SUPPLEMENT FOR DISTRICT NO. 1

NOTE: The material contained in this Permanent Supplement is to be read in the light of the classifications, prices, instructions, exceptions, and other provisions contained in Part 321, Minimum Price Schedule for District No. 1 and Supplements thereto.

FOR TRUCK SHIPMENTS

§ 321.24 General prices—Supplement T

[Prices in cents per net ton for shipment into all market areas]

Code member index	Mine index No.	Mine	Subdistrict No.	County	Seam	All lump coal double screened, top size 2' and over		Double screened, top size 2' and under	Run of mine, modified R/M	2' and under stack	3/4" and under stack
						1	2				
Holcomb Coal Co.....	1519	Holcomb Coal Co.	18	Cambria..	B.....				230		
Hunter & Son, Alex.....	2326	Hunter.....	3	Tioga.....	Bloss.....				302		
Mitchell, Mike.....	2351	Mitchell.....	3	Tioga.....	Bloss.....				302		
Waldron, Joseph & Walter Hunter.....	2390	Waldron & Hunter.....	3	Tioga.....	Bloss.....				302		
Williams, William, Sr.....	2398	Williams.....	3	Tioga.....	Bloss.....				302		

[F. R. Doc. 41-7889; Filed, October 20, 1941; 10:21 a. m.]

PART 321—MINIMUM PRICE SCHEDULE,
DISTRICT NO. 1

ORDER GRANTING TEMPORARY RELIEF AND CONDITIONALLY PROVIDING FOR FINAL RELIEF IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 1 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 1

[Docket No. A-1015]

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, requesting the establishment, both temporary and permanent, of price classifications and minimum prices for the coals of certain mines in District No. 1; and

The Director finding that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and

No petitions of intervention having been filed with the Division in the above-entitled matter; and

The Director deeming this action necessary in order to effectuate the purposes of the Act;

It is ordered, That, pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith, § 321.7 (Alphabetical list of code members) is amended by adding thereto Supplement R, and § 321.24 (General prices) is amended by adding thereto Supplement T, which supplements are hereinafter set forth and hereby made a part hereof.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this Order, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief herein granted shall become final sixty (60) days from the date of this Order, unless the Director shall otherwise order.

No relief is granted herein for all Shipments Except Truck for the coals of Huber Street Coal Company, Mine Index No. 1540; Leroy Huber (Alder Run Mining Co.), Mine Index No. 878, and F. J. Troutman, Mine Index No. 848, and the mixing of the coals of Brown & Lawrence (Melvin L. Brown), Mine Index Nos. 863

H. A. GRAY,
Director.

[SEAL]

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 1
NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 821, Minimum Price Schedule for District No. 1 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 321.7 Alphabetical list of code members—Supplement R

Alphabetical listing of code members having railway loading facilities, showing price classification by size group No. 1

Mine Index No.	Code member	Mine name	Seam	Shipping point	Railroad	Size group No. 1	Size group No. 2	Size group No. 3	Size group No. 4	Size group No. 5
1015	Anderson, Vernon	Anderson	E	Lanes Mills, Pa.	B. & O.	13	13	13	13	13
1076	Berkshire Brothers (Greenman Berkshire)	Berkshire Bros	C' & D	Stoyestown, Pa.	B. & O.	100	100	100	100	100
822	Braugher & Manner (D. B. Manner)	Harz #1	B	Windler, Pa.	P. R. R.	49	49	49	49	49
823	Brown & Lawrence (Melvin L. Brown)	No. 1	Bakerstown	Barnum, W. Va.	W. M.	68	68	68	68	68
824	Brown & Lawrence (Melvin L. Brown)	No. 2	Big Vein	Barnum, W. Va.	W. M.	68	68	68	68	68
849	Cramer, P. B.	Cramer	B	Sprankles Mills, Pa.	P. & S.	110	110	110	110	110
1377	Flick Brothers (John H. Flick)	Flick Bros	C'	Stoyestown, Pa.	B. & O.	100	100	100	100	100
877	Hastings Fuel Com.	Hastings #2	C'	Hactings, Pa.	P. R. R.	49	49	49	49	49
471	Hay, J. Wilbur & M. E. (J. Wilbur Hay)	Hay & Retch	B	Myersdale, Pa.	W. M.	102	102	102	102	102
876	Naughton, Harvey	Harvey Naughton	B	Windler, Pa.	P. R. R.	49	49	49	49	49
880	Producers Economy Coal, Inc., c/o C. P. Lovejoy	Producers	C'	Karthaus, Pa.	N. Y. C. R. R.	40	40	40	40	40
2223	Richter, Myrtle B. (Mrs.) c/o Samuel P. Miller	Miller	B	W. Salisbury, Pa.	B. & O.	100	100	100	100	100
831	Ringer, Myrtle B. (Mrs.) c/o Samuel P. Miller	Miller & Ringer	B	W. Salisbury, Pa.	B. & O.	100	100	100	100	100
2033	St. Clair, Rinn & Co. (G. L. Smith)	Small #2	B	Indiana, Pa.	B. & O.	112	112	112	112	112
702	Small Company, J. L.	Small #2	B	Colwell, Pa.	P. & S.	110	110	110	110	110
2121	Sutter, J. L.	Sutter's	D	Sprankles Mills, Pa.	P. & S.	110	110	110	110	110

*Indicates coal in this size group previously classified and priced.

†Indicates no classifications effective for these size groups.

No. 200—5

FOR TRUCK SHIPMENTS

§ 321.24 General prices—Supplement T

Prices in cents per net ton for shipment into all market areas

Code member index	Mine Index No.	Mine	Subdistrict No.	County	Seam	All lump coal double screened top size 24 and over	Double screened top size 24 and under	Run of mine mod. R/V	24 and under slack	34 and under slack
Bloom, J. Wade (Brookway Coal Co.)	874	Lanimer #2	6	Jefferson	E	245	220	220	210	200
Braugher & Manner (D. B. Manner)	822	Harz #1	33	Somerset	B	216	216	216	216	216
Brown & Lawrence (Melvin L. Brown)	803	No. 1	44	Mineral	Bakerstown	210	210	210	210	210
Brown & Lawrence (Melvin L. Brown)	804	No. 2	44	Mineral	Big Vein	230	230	230	230	230
Cramer, P. B.	849	Cramer	6	Jefferson	B	226	226	226	226	226
Davis, Lyton	847	Davis	8	Clearfield	B	226	226	226	226	226
Fike & Forrest (G. Walter Fike)	801	Slipple	41	Somerset	D	220	220	220	220	220
Hastings Fuel Company	877	Hastings #2	17	Cambria	O'	220	220	220	220	220
Hay, J. Wilbur & M. E. (J. Wilbur Hay)	471	Hay & Retch	41	Somerset	Mahoning	225	225	225	225	225
Huber, Leroy (Alder Run Mining Co.)	878	Shannon #2	8	Clearfield	B	223	223	223	223	223
Naughton, Harvey	876	Harvey Naughton	33	Somerset	B	216	216	216	216	216
Producers Economy Coal, Inc., c/o C. P. Lovejoy	880	Producers	6	Jefferson	C'	225	225	225	225	225
Richter, Myrtle B. (Mrs.) c/o Samuel P. Miller	2223	Miller	41	Clearfield	C'	225	225	225	225	225
Ringer, Myrtle B. (Mrs.) c/o Samuel P. Miller	831	Miller & Ringer	41	Somerset	Redstone	220	220	220	220	220
St. Clair, Rinn & Co. (G. L. Smith)	2033	Small #2	23	Indiana	F	216	216	216	216	216
Sutter, J. L.	2121	Sutter's	37	Somerset	D	223	223	223	223	223

* Indicates coal in this size group previously classified and priced.

[P. R. Doc. 41-7898; Filed, October 20, 1941; 10:31 a. m.]

[Docket No. A-1058]

PART 327—MINIMUM PRICE SCHEDULE, DISTRICT NO. 7

ORDER GRANTING TEMPORARY RELIEF AND CONDITIONALLY PROVIDING FOR FINAL RELIEF IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 7 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 7

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, requesting the establishment, both temporary and permanent, of price classifications and minimum prices for the coals of certain mines in District No. 7; and

The Director finding that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and

No petitions of intervention having been filed with the Division in the above-entitled matter; and

The Director deeming that this action is necessary in order to effectuate the purposes of the Act;

Now, therefore, it is ordered, That, pending final disposition of the above-

entitled matter, temporary relief be, and the same hereby is, granted as follows: Commencing forthwith, § 327.11 (*Low Volatile coals: Alphabetical list of code members*) is amended by adding thereto Supplement R, and § 327.34 (*General prices in cents per net ton for shipment into any market area*) is amended by adding thereto Supplement T, which supplements are hereinafter set forth and hereby made a part hereof.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this Order, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief herein granted shall become final sixty (60) days from the date of this Order, unless the Director shall otherwise order.

Dated: September 25, 1941.

[SEAL]

H. A. GRAY,
Director.

[Docket No. A-1054]

PART 328—MINIMUM PRICE SCHEDULE, DISTRICT NO. 8

ORDER GRANTING TEMPORARY RELIEF AND CONDITIONALLY PROVIDING FOR FINAL RELIEF IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 8 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 8

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, requesting the establishment, both temporary and permanent, of price classifications and minimum prices for the coals of certain mines in District No. 8; and

The Director finding that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and

No petitions of intervention having been filed with the Division in the above-entitled matter; and

The Director deeming his action necessary in order to effectuate the purposes of the Act;

Now, therefore, it is ordered, That, pending final disposition of the above-entitled matter, temporary relief be, and the same hereby is, granted as follows: Commencing forthwith, § 328.11 (*Alphabetical list of code members*) is amended by adding thereto Supplement R, and § 328.34 (*General prices for high volatile coals in cents per net ton for shipment into all market areas*) is amended by adding thereto Supplement T, which supplements are hereinafter set forth and hereby made a part hereof.

No relief is granted herein to the Number 9 Mine of the Carbon Fuel Company (Mine Index No. 3661) as this mine is affected by unique considerations set forth in an Order designating that portion of Docket No. A-1054 which relates to it as Docket No. A-1054 Part II and granting temporary relief.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this Order, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief herein granted shall become final sixty (60) days from the date of this Order, unless the Director shall otherwise order.

Dated: October 7, 1941.

[SEAL]

H. A. GRAY,
Director.

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 7

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 327, Minimum Price Schedule for District No. 7 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 327.11 *Low volatile coals: Alphabetical list of code members*—Supplement R

[Alphabetical list of code members having railway loading facilities, showing price classifications by size groups for all uses except as separately shown]

Mine Index No.	Code member	Mine name	Subdistrict No.	Low volatile seam	Shipping point	Railroad	Freight origin group No.	Price classifications by size group Nos.											
								1	2	3	4	5	6	7	8	9	10		
502	Atwell & Son, Cleveland	Cleve. Atwell	4	Fire Creek	War, W. Va.	N. & W.	30	†	†	†	†	†	†	†	C	C	†	†	†
243	Drumheller Coal Company % W. I. Beavins	Drumheller	5	Beckley	Laurel Siding, W. Va.	C. & O-VGN.	18	†	†	†	†	†	†	†	B	B	†	†	†
536	Fink, O. D.	Fink	2	Fire Creek	Clifftop (Sewell, W. Va.)	C. & O.	10	A	A	A	A	A	A	A	A	B	B	B	B

† Indicates no classifications effective for these size groups.

FOR TRUCK SHIPMENTS

§ 327.34 *General prices in cents per net ton for shipment into any market area*—Supplement T

[Prices in cents per net ton for shipment into all market areas]

Code member index	Mine Index No.	Mine	Subdistrict No.	County	Seam	All lump 3/4" or larger, all egg and stove		All nut or pea, 1 1/4" top size or smaller		Screened M/R	Straight mine run	1 1/4" screenings	3/4" screenings
						1	2	3	4				
Drumheller Coal Company, c/o W. I. Beavins.	243	Drumheller	5	Raleigh	Beckley	-----	-----	-----	-----	280	215	-----	-----

[F. R. Doc. 41-7884; Filed, October 20, 1941; 10:20 a. m.]

FOR TRUCK SHIPMENTS
 § 328.34 General prices for high volatile coals in cents per net ton for shipment into all market areas—Supplement T
 (Prices in cents per net ton for shipment into all market areas)

Code member index	Mine	Mine Index No.	Seam	Base sizes								
				Lump 4" over egg	Lump 3" and under egg	Lump 3" and under egg	Lump 2" and under egg	Lump 2" x 4" egg	Stove 3" and under nut	Straight mine run	3/4" and under slack	
SUBDISTRICT NO. 4—KANAWHA FAYETTE COUNTY, W. VA. American Rolling Mill Company, The	Martins	3602	Eglo.	200	240	225	220	205	215	185	180	
SUBDISTRICT NO. 5—LOGAN LOGAN COUNTY, W. VA. Monitor Coal & Coke Company, Norfolk & Chesapeake Coal Company.	Monitor No. 2 Wilson No. 4	907 908	Alma.	245	225	215	215	200	205	160	155	
SUBDISTRICT NO. 6—SOUTH- EEN APPALACHIAN WHITLEY COUNTY, KY. Holt & Sons, L. O.	Holt-Blue Gem No. 2	909	Blue Gem	335	315	235	260	225	225	145	140	
Peerless Banner Coal Corporation, LEE COUNTY, VA. Kemper Gem Coal Company.	Peerless Banner No. 3	847 892	Lower Banner No. 5	(1)	(1)	220	(1)	(1)	210	(1)	(1)	(1)
SUB-DISTRICT NO. 8— WILLIAMSON MINGO COUNTY, W. VA. Crystal Block Mining Company.	No. 2	921	Alma.	255	235	230	215	205	220	150	175	175

†Indicates no classification effective for these size groups.

[F. R. Doc. 41-7886; Filed, October 20, 1941; 10:20 a. m.]

[Docket No. A-1031]
 PART 329—MINIMUM PRICE SCHEDULE,
 DISTRICT NO. 9
 ORDER GRANTING TEMPORARY RELIEF AND
 CONDITIONALLY PROVIDING FOR FINAL RE-
 LIEF IN THE MATTER OF THE PETITION OF
 DISTRICT BOARD NO. 9 FOR THE ESTABLISH-
 MENT OF PRICE CLASSIFICATIONS AND
 MINIMUM PRICES FOR THE COALS OF CER-
 TAIN MINES IN DISTRICT NO. 9, FOR RAIL
 SHIPMENTS

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, requesting the establishment, both temporary and permanent, of price classifications and minimum prices for the coals of certain mines in District No. 9, for rail shipments; and
 The Director finding that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and
 No petitions of intervention having been filed with the Division in the above-entitled matter; and
 The Director deeming his action necessary in order to effectuate the purposes of the Act:
 It is ordered, That, pending final disposition of the above-entitled matter,

temporary relief is granted as follows: Commencing forthwith, § 329.5 (Alphabetical list of code members) is amended by adding thereto Supplement R, which supplement is hereinafter set forth and hereby made a part hereof.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this Order, pursuant to the Rules and Regulations governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief herein granted shall become final sixty (60) days from the date of this Order, unless the Director shall otherwise order. No relief is granted herein for the coals of the Green River Coal Mine (Mine Index No. 230) for the reason set forth in the Order designating that portion of Docket No. A-1031 relating to such coals as Docket No. A-1031 Part II.
 Dated: October 3, 1941.

H. A. GRAY,
 Director.

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 9
 NOTE: The material contained in this supplement is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 329, Minimum Price Schedule for District No. 9 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 329.5 Alphabetical list of code members—Supplement R

Mine Index No.	Code member	Mine	Seam	Shipping point	Railroad
405	Falze & Son (L. C. Falze)	Bradley Coal Company.	No. 2	Beaver Dam	I. C.
839	Reednell Brothers (G. D. Reednell)	Reednell #2	No. 2	Depoy	I. C.
916	Browder Hill Coal Co. (A. E. Hinton)	Browder Hill	No. 1	Newcoal	L. & N.

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 20

NOTE: The material contained in this supplement is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 340, Minimum Price Schedule for District No. 20 and supplements thereto.

FOR ALL SHIPMENTS

The following price classification and minimum prices shall be inserted in Price Schedule No. 1 for District No. 20.

§ 340.4 Code member price index—Supplement R. Insert the following in proper alphabetical order:

Producer	Mine	Mine Index No.	County	Sub-district price group	Prices per ton	
					Rail	Truck
Bills & Kilgore (Elvin Bills)		195	Carbon	1	6	8

§ 340.21 General prices in cents per net ton for shipment into all market areas—Supplement T. Insert the following code member name, county and prices in proper alphabetical order under Sub-district No. 1:

Code member mine name	County	Size groups														
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
SUBDISTRICT NO. 1																
Bills & Kilgore (Elvin Bills)	Carbon	404	364	349	329	334	374	249	209	199	109	129	134	224	224	199

[F. R. Doc. 41-7887; Filed, October 20, 1941; 10:21 a. m.]

[Docket No. A-439]

PART 342—MINIMUM PRICE SCHEDULE, DISTRICT NO. 22

FINDINGS OF FACT, CONCLUSIONS OF LAW, MEMORANDUM OPINION AND ORDER IN THE MATTER OF THE PETITION OF DISTRICT BOARD 22 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR COALS PRODUCED IN DISTRICT NO. 22 FOR WHICH PRICE CLASSIFICATIONS AND MINIMUM PRICES HAVE NOT HERETOFORE BEEN ESTABLISHED

This proceeding was instituted upon petition filed with the Bituminous Coal Division by District Board 22, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, proposing and seeking temporary and permanent price classifications and minimum prices for coals of certain code member producers therein for shipment by truck, for which no minimum prices have been heretofore established. By an Order dated December 22, 1940, 6 F.R. 7, temporary relief was granted in accordance with the petitioner's requests herein, except in the following respects:¹

No prices were established for the Larson Mine of O. E. Larson because it appeared from the records of the Division that there was some doubt as to whether

¹Due to a clerical error, the temporary minimum price of the Size Group 2 coals produced at the Calvert Mine of Mert Calvert was established as \$2.75 instead of \$3.75. This error was corrected by "Notice Correcting Clerical Error," dated January 13, 1941, 6 F.R. 399.

he was a code member in good standing,² and no listing was made of the ten code members operating mines whose coals were classified and priced when operated by former code members.

Pursuant to the Order of December 22, 1940, a hearing was held on this matter before Thurlow Lewis, a duly designated Examiner of the Division, Salt Lake City, Utah. Appearances were entered at the hearing on behalf of District Board No. 22 and the Consumers' Counsel Division. At the hearing all interested parties were afforded an opportunity to be present, adduce evidence, cross-examine witnesses and otherwise to be heard.

Waivers of a report of the Examiners were filed by the interested parties and the matter was thereupon submitted to the undersigned.

To support its requests for relief herein, the petitioner adduced the testimony of D. F. Buckingham, Secretary of the District Board 22. He testified concerning the three purposes of the petition herein as follows: (a) To establish classifications and minimum prices for four new code members in District 22 whose coals have not been previously classified or priced; (b) To establish classifications and minimum prices of the coals of the three District 22 code members which have been heretofore proposed by the petitioner but never es-

²Division records show that O. E. Larson is now a code member in good standing since March 19, 1941.

tablished by the Division;³ and (c) To amend the Schedule of Effective Minimum Prices for District No. 22 so as to include the names of ten code members in District 22 who are operating mines but whose coals were previously classified when the mines were operated by former code members.²

The new code members whose coals have not been previously classified or priced are the following:—William C. Rice, operator of the Rice Mine in Sub-district No. 1 at Roundup, Montana; Frank Danichek (Superior Coal Company) operator of the Superior Mine in Sub-district No. 2 at Bear Creek, Montana; Mert Calvert, operator of the Calvert Mine, in Sub-district No. 7 at Arming-ton, Montana; and David A. Stokes, operator of the Blair Mine in Sub-district No. 12 near Valler, Montana. With respect to these producers, the witness testified that the coals were similar to coals produced by other mines in the immediate vicinity and should be priced accordingly.

Upon the basis of the uncontroverted evidence, I find that the petitioner's requests for the establishment of classifications and minimum prices of District 22 code members are reasonable and proper. It does not appear that any code members or consumers would be prejudiced, if the relief requested herein were granted.

The price classifications and minimum prices established in my Order dated December 22, 1940, and the requested classifications and minimum prices set forth in the petition herein with respect to those mines which were not covered by this Order, comply with all the applicable standards of the Bituminous Coal Act of 1937, and their establishment as the effective classifications and minimum prices for the coals in question is necessary in order to effectuate the purposes of Section 4 II (a) and (b).

Now, therefore, it is ordered, That § 342.4 (Code member price index) is amended by adding thereto Supplement R-I, § 342.5 (General prices; minimum prices for shipment via rail transportation) is amended by adding thereto Supplement R-II, and § 342.21 (General prices) is amended by adding thereto Supplement T, which supplements are hereinafter set forth and hereby made a part hereof.

Dated: October 2, 1941.

[SEAL]

H. A. GRAY,
Director.

¹The coals of one of the three, O. E. Larson, have already been priced in Docket No. A-702. The coals of the other two, Red Ledge Coal Company (Guy McClelland) and Sunset Coal Company have been given temporary prices in this Docket.

²Nine of these mines have already been given listings. The tenth mine (Brophy, James R., S. & S. Mine) will be given a listing in the schedule accompanying this opinion and order.

SUPPLEMENTS, DISTRICT No. 22

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 342, Minimum Price Schedule for District No. 22 and supplements thereto.

FOR ALL SHIPMENTS

The following changes shall be made in Price Schedule No. 1 for District No. 22:

§ 342.4 Code member price index—Supplement R-I. Insert the following Code member listings in proper alphabetical order:

Producer	Mine	Mine index No.	County	Subdistrict price group	Prices page	
					Rail	Truck
Brophy, James R.....	S. & S.....	15	Carbon.....	2	8	10
Calvert, Merton.....	Calvert.....	284	Cascade.....	7		12
Danichek, Frank (Superior Coal Co.).....	Superior.....	285	Carbon.....	2		10
Red Lodge Coal Co. (Guy McClelland).....	Red Lodge.....	275	Carbon.....	2		11
Rice, William C.....	Rice Coal.....	283	Musselshell.....	1		10
Stokes, David A.....	Blair.....	282	Pondera.....	12		15
Sunset Coal Company (Stephen T. Hudak).....	Sunset.....	204	Carbon.....	2		11

§ 342.5 General prices; minimum prices for shipment via rail transportation—Supplement R-II. Subdistrict 2—Red Lodge, rail prices for James R. Brophy, S & S Mine shall apply as shown.

§ 342.21 General prices—Supplement T. Insert the following listing and prices in proper alphabetical order according to subdistrict:

Code member and mine name	County	Size groups											
		1	2	3	4	5	6	7	8	9	10	11	12
SUBDISTRICT No. 1													
Rice, William C. Rice Mine.....	Musselshell.....	400	375	400		375		275	250	175	110	95	75
SUBDISTRICT No. 2													
Brophy, James R. S & S Mine.....	Carbon.....	400	375	400		350		250	225	150	110	95	75
Danichek, Frank (Superior Coal Co.) Superior Mine.....	Carbon.....	400	375	400		350		250	225	150	110	95	75
Red Lodge Coal Co. (Guy McClelland) Red Lodge Mine.....	Carbon.....	400	375	400		350		250	225	150	110	95	75
Sunset Coal Company (Stephen T. Hudak) Sunset Mine.....	Carbon.....	400	375	400		350		250	225	150	110	95	75
SUBDISTRICT No. 7													
Calvert, Merton Calvert Mine.....	Cascade.....	400	375	375	350	350	325	300	225	150		100	80
SUBDISTRICT No. 12													
Stokes, David A. Blair Mine.....	Pondera.....		800							250	100		

[F. R. Doc. 41-7891; Filed, October 20, 1941; 10:22 a. m.]

facture in 1940, then during the period between October 15 and December 31, 1941, he may use in the manufacture of such Item Copper or Copper Base Alloy to a total amount not exceeding 50% of the total amount used by him in the manufacture of such Item during the period between August 1, and September 30, 1941.

(2) Prohibitions after January 1, 1942. Except as provided in paragraph (a) (3) and in paragraph (c) hereof, after January 1, 1942, no Manufacturer of any Item on List "A" attached, may use in the manufacture of any such Item any Copper or Copper Base Alloy.

(3) Substitution of Plating in Limited Cases. Nothing contained in this paragraph (a), however, shall prevent the use of Copper or Copper Base Alloy for plating any Item included on List "A", provided:

(i) That such plating is not primarily for decorative purposes, and

(ii) That the use of or the normal wear on such Item would make impractical any other form of coating, and

(iii) That such Item was formerly plated with Copper or Copper Base Alloy, or if such Item was not formerly so plated, then provided that the total amount of Copper or Copper Base Alloy to be used in the plating of each such Item is less than 5% of the amount that was used in the manufacture of each such Item immediately preceding the effective date of this Order.

(b) Restrictions on use of copper sheet, strip and screening. Except as provided in paragraph (c) hereof, after November 1, 1941, no person may use or apply Copper or Copper Base Alloy sheet, strip or screening for any purpose in connection with building construction except for minor repairs or maintenance (but not replacement) on existing buildings where the existing installation is Copper or Copper Base Alloy and no substitute can be used.

(c) General exception. The prohibitions and restrictions contained in paragraphs (a) and (b) shall not apply to the use of Copper or Copper Base Alloy in articles which are being produced:

(1) Under a specific contract or subcontract for the Army or Navy of the United States, the United States Maritime Commission, the Panama Canal, the Coast and Geodetic Survey, the Coast Guard, the Civil Aeronautics Authority, the National Advisory Commission for Aeronautics, the Office of Scientific Research and Development, or for any foreign country pursuant to the Act of March 11, 1941, entitled "An Act to Promote the Defense of the United States," (Lend-Lease Act) if in any such case the use of Copper or Copper Base Alloy to the extent employed is required by the specifications of the prime contract, or

(2) For use to comply with Underwriters Regulations, or Safety Regulations issued under Governmental authority,

TITLE 32—NATIONAL DEFENSE
CHAPTER IX—OFFICE OF PRODUCTION MANAGEMENT
SUBCHAPTER B—PRIORITIES DIVISION
PART 933—COPPER

Conservation Order No. M-9-c Curtailing the Use of Copper in Certain Items

Whereas national defense requirements have created a shortage of Copper for the combined needs of defense, private account, and export; action has already been taken to increase and conserve the supply and to direct the distribution of Copper to insure deliveries for defense and essential civilian requirements; and the supply of Copper now is and will be insufficient for defense and essential civilian requirements unless the use of Copper in the manufacture of many products where such use is not absolutely necessary for the defense or essential civilian requirements is cur-

tailed or prohibited;
Now, therefore, it is hereby ordered, That:

§ 933.4 Conservation order M-9-c—(a) Restrictions on use of copper in articles appearing on list "A"—(1) Curtailment to January 1, 1942. Except as provided in paragraph (c) hereof, curtailment to January 1, 1942. Except as provided in paragraph (c) hereof, during the period between October 15 and December 31, 1941, no Manufacturer may use in the aggregate in the manufacture of any Item on List "A" attached, more Copper or Copper Base Alloy than the greater of the following two limits:

(i) One-half of the total amount of Copper or Copper Base Alloy, respectively, used by him in the manufacture of such Item during the last three months of 1940, or

(ii) One-eighth of the total amount of Copper or Copper Base Alloy, respectively, used by him in the manufacture of such Item during the year 1940.

If any Manufacturer is manufacturing any such Item which he did not manu-

provided the pertinent provisions of such Regulations were, in either case, in effect both on October 1, 1941 and on the date of such use, and specifically and exclusively require the use of Copper or Copper Base Alloy to the extent employed, or

(3) Primarily as conductors of electricity, but this exception shall be applicable only to the extent necessary to permit the conducting of the electricity required, or

(4) For use in chemical plants to the extent that corrosive action makes the use of any other material impractical, or

(5) For use in research laboratories where and to the extent that the physical and chemical properties make the use of any other material impractical, or

(6) For use as condenser tubes, heat exchanger tubes (other than radiators which are used to control air temperature) and tube sheets in oil refining plants, in plants generating steam for public or industrial use and in plants generating electric power for public or industrial use, where and to the extent that corrosive action makes the use of any other material impractical.

(7) For use as part of the motive power or mechanical and electrical equipment of vessels other than pleasure craft where corrosive action makes the use of any other material impractical.

(d) *Restrictions on use of copper in all other articles.* During the period between October 15 and December 31, 1941, and during each three months' period thereafter, until further action by the Director of Priorities, no Manufacturer may use in the aggregate in the manufacture of any article not on List "A" attached, more Copper and Copper Base Alloy than the greater of the following two limits:

(i) 70% of the total amount of Copper or Copper Base Alloy, respectively, used by him in the manufacture of such article during the last three months of 1940, or

(ii) 17½% of the total amount of Copper or Copper Base Alloy, respectively, used by him in the manufacture of such article during the year 1940;

plus in either such case, the amount of Copper or Copper Base Alloy necessary to manufacture articles which are being produced pursuant to the exceptions of paragraph (c) hereof.

If any Manufacturer is manufacturing an article not on List "A" which he did not manufacture in 1940, then during the period between October 15 and December 31, 1941, and during each three months' period thereafter until further action by the Director of Priorities, he may use in the manufacture of such article Copper and Copper Base Alloy to a total amount not exceeding 50% of the total amount used by him in the manufacture of such article during the period between July 1 and September 30, 1941.

(e) *Prohibitions against sales or deliveries of copper or copper base alloy.* No person shall hereafter sell or deliver Copper or Copper Base Alloy, to any person if he knows, or has reason to believe such material is to be used in violation of the terms of this Order.

(f) *Limitation of inventories.* No Manufacturer shall accumulate an Inventory of Copper, or Copper Base Alloy or products thereof, in the form of raw materials, semiprocessed materials, finished parts or sub-assemblies in quantities in excess of a minimum practicable working Inventory, taking into consideration the limitations placed upon the production of Copper products by this Order. A minimum practicable working Inventory shall in no event exceed that amount of material necessary to maintain operations for sixty days. Any Manufacturer who has an Inventory in excess of a minimum practicable working Inventory is prohibited from receiving additional Copper or Copper Base Alloy or products thereof, beyond the extent necessary to maintain such minimum practicable working Inventory.

(g) *Miscellaneous provisions — (1) Priorities regulation No. 1.* All of the provisions and definitions of Priorities Regulation No. 1 issued by the Director of Priorities on August 27, 1941 (Part 944), as amended from time to time, are hereby included as a part of this Order with the same effect as if specifically set forth herein, except as otherwise specifically provided herein.

(2) *Appeal.* Any person affected by this Order who considers that compliance therewith would work an exceptional and unreasonable hardship upon him, or that it would result in a degree of unemployment which would be unreasonably disproportionate compared with the amount of Copper conserved, or that compliance with this Order would disrupt or impair a program of conversion from non-defense to defense work, may appeal to the Director of Priorities, by addressing a letter to the Director of Priorities, Ref: M-9-c, Office of Production Management, Social Security Building, Washington, D. C., setting forth the pertinent facts and the reasons he considers he is entitled to relief. The Director of Priorities may thereupon take such action as he deems appropriate.

(3) *Applicability of order.* The prohibitions and restrictions contained in this Order shall apply to the use of material in all articles hereafter manufactured irrespective of whether such articles are manufactured pursuant to a contract made prior or subsequent to the effective date hereof, or pursuant to a contract supported by a preference rating. Insofar as any other Order of the Director of Priorities may have the effect of limiting or curtailing to a greater extent than herein provided, the use of Copper or Copper Base Alloy in the production of any article, the limitation of such other Order shall be observed.

(4) *Violations or false statements.* Any person who violates this Order, or who wilfully falsifies any records which he is required to keep by the terms of this Order, or by the Director of Priorities, or who otherwise wilfully furnishes false information to the Director of Priorities or to the Office of Production Management may be deprived of priorities assistance or may be prohibited by the Director of Priorities from obtaining any further deliveries of materials subject to allocation. The Director of Priorities may also take any other action deemed appropriate, including the making of a recommendation for prosecution under section 35A of the Criminal Code (18 U.S.C. 80).

(5) *Definitions.* For the purposes of this Order:

(i) "Copper" means Copper metal which has been refined by any process of electrolysis or fire refining to a grade and in a form (cathodes, wire bars, ingot bars, ingots, cakes, billets, wedge bars or other refined shapes) suitable for fabrication, or in any stage of fabrication. It shall include Copper metal produced from scrap.

(ii) "Copper base alloy" means any alloy in the composition of which the percentage of Copper metal by weight equals or exceeds the percentage of all other metals.

(iii) "Inventory" of a Person includes the Inventory of affiliates and subsidiaries of such Person, and the Inventory of others where such Inventory is under the control of or under common control with or available for the use of such Person.

(iv) "Manufacturer" means one who manufactures, fabricates, assembles, melts, casts, extrudes, rolls, turns, spins or processes in any other way.

(v) "Item" means any article or any component part thereof.

(6) *Effective date.* This Order shall take effect upon the date of issuance and shall continue in effect until revoked by the Director of Priorities. (P.D. Reg. 1, Aug. 27, 1941, 6 F.R. 4489; O.P.M. Reg. 3 Amended Sept. 2, 1941, 6 F.R. 4865; E.O. 8629, Jan. 7, 1941, 6 F.R. 191; E.O. 8875, Aug. 28, 1941, 6 F.R. 4483; sec. 2 (a), Public No. 671, 76th Congress, Third Session, as amended by Public No. 89, 77th Congress, First Session; sec. 9, Public No. 783, 76th Congress, Third Session)

Issued this 21st day of October 1941.

DONALD M. NELSON,
Director of Priorities.

LIST "A"

The Use of Copper or Copper Base Alloy in the items listed below and in all component parts thereof is prohibited except to the extent permitted by the foregoing Conservation Order M-9-c. (Electrical conducting parts are excepted to the extent provided in paragraph (c) (3) of Conservation Order M-9-c)

Automotive, Trailer and Tractor Equipment
Garage and automotive repair equipment.
Headlamp and headlamp parts.
Heaters.

Horns.
Hub and gas tank caps.
Miscellaneous fittings and trim.
Mouldings.
Rear view mirrors and hardware.

Building Supplies and Hardware

Air conditioning equipment (except small, moving parts and bearings).
Blinds, including fixture fittings and trimmings.
Builders' finish hardware.
Conduits and tubing.
Decorative hardware—including house numbers.
Door knockers, checks, pulls and stops.
Doors, door and window frames, sills and parts.
Elevators and Escalators, except bearings.
Gravel stops and snow guards.
Grilles.
Gutters, leaders, down spouts, and expansion joints.
Incinerator hardware and fittings.
Letter boxes and mail chutes.
Lightning rods (except for electric power stations and industrial stacks).
Lighting fixtures.
Ornamental metal work.
Pile butt protection.
Plumbing and Heating Supplies:
Bands on pipe covering.
Convectors and local heaters.
Fixture fittings and trimmings (excluding valve seats).
Hot Water heaters, tanks, and coils (except as provided in Defense Housing Critical List issued by Director of Priorities, September 12, 1941, as the same may be amended).
Pipe and fittings (except as provided in Defense Housing Critical List issued by Director of Priorities, September 12, 1941, as the same may be amended).
Shower rods, heads and pans.
Sinks and drainboards.
Toilet floats, cistern and low water floats.
Towel racks.
Push, kick, switch, floor and all other device plates.
Roofing and flashing.
Screening and screens.
Screws, nuts, bolts and hooks.
Shelves.
Stair and threshold treads.
Termite shields.
Terrazzo strips, reglets, and mouldings.
Ventilators and skylights.
Water containers for humidification.
Weather stripping and insulation.

Burial Equipment

Burial vaults.
Casket hardware.
Caskets.
Memorial tablets.
Morticians' supplies.

Dress Accessories

Buckles.
Buttons.
Dress ornaments.
Handbag fittings.
Metal cloths.

House Furnishings and Equipment (including office and institutional)

Andirons, screens, and fire place fittings.
Candlesticks.
Cooking and table utensils.
Curtain fasteners, rods, and rings.
Cuspidors.
Furniture.
Furniture hardware.
Household appliances:
Fans.
Heaters.
Stoves and Ranges.
Lamp standards, shades, shade holders, and stems.
Trays.
Upholsterers' supplies, including nails and tacks.
Vases, pitchers, bowls and artcraft.
Waste baskets, hat trees, humidors, and similar items.

Jewelry, Gifts and Novelties

All jewelry, gifts and novelties, including:
Advertising specialties.
Atomizers—except medical.
Bar fittings.
Book ends.
Cosmetic containers.
Lighters.
Napkin rings.
Picture frames.
Smokers' accessories.
Souvenirs.

Miscellaneous

All Plating primarily for decorative purposes.
Barrel hoops.
Beauty parlor equipment and barber shop supplies.
Beverage dispensing units and parts thereof.
Bicycles, motorcycles and similar vehicles.
Boxes, cans, jars and other containers.
Branding, marking and labelling devices, and stock for same.
Chimes and bells.
Fire extinguishers.
Fire fighting apparatus and hydrants (all decorative and all nonfunctional parts).
Fire hose, couplings and fittings (except brass expansion joints and valve trim).
Keys and locks (except barrels).
Ladders and hoists, including fittings.
Lanterns and lamps.
Livestock and poultry equipment.
Luggage fittings.
Match and pattern plates, matrices and flasks.
Name, identification and medal plates.
Non-operating or decorative uses or parts of installations and mechanical equipment, including frames, bases, standards and supports.
Paint (except for ship bottoms).
Photographic equipment and supplies.
Pleasure boat fittings, hardware and motors.
Pole line hardware.
Powder and paste.
Radios.
Reflectors.
Saddlery hardware and harness fittings.
Signs, including street signs.
Slot, game, and vending machines.
Stationery supplies:
Desk accessories.
Office supplies.
Pencils.
Pens and penholders.
Statues.
Sundials.
Toys.
Valve handles.
Weathervanes.

[F. R. Doc. 41-7910; Filed, October 21, 1941; 9:22 a. m.]

PART 994—MOTOR FUEL

Amendment No. 1 to Limitation Order L-8¹ To Limit the Distribution of Motor Fuel in the Atlantic Coast Area

Section 994.1 (b) (1) is hereby amended to read as follows:

§ 994.1 General limitation order L-8.

(b) *Limitations on delivery of motor fuel.* (1) No Primary or Secondary Supplier shall, directly or indirectly, deliver or cause to be delivered, Motor Fuel from any point within the Atlantic Coast Area to any point in the United States outside the Atlantic Coast Area: *Provided, however,* That this restriction shall not apply to motor fuel produced in the so-called Appalachian Refinery District in West Virginia and in Western Pennsylvania and New York, herein de-

¹ 6 F.R. 5009.

finied as including all of the aforesaid states lying west of the seventy-eighth meridian.

This Order shall take effect immediately. (P.D. Reg. 1, Aug. 27, 1941, 6 F.R. 4489; O.P.M. Reg. 3, March 8, 1941, 6 F.R. 1596; as amended Sept. 12, 1941, 6 F.R. 4865; E.O. 8629, Jan. 7, 1941, 6 F.R. 191; E.O. 8875, Aug. 28, 1941, 6 F.R. 4483; sec. 2 (a), Public No. 671, 76th Congress, Third Session, as amended by Public No. 89, 77th Congress, First Session; sec. 9, Public No. 783, 76th Congress, Third Session)

Issued this 21st day of October 1941.

DONALD M. NELSON,
Director of Priorities.

[F. R. Doc. 41-7909; Filed, October 21, 1941; 9:22 a. m.]

TITLE 47—TELECOMMUNICATION

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 35—UNIFORM SYSTEM OF ACCOUNTS FOR WIRE-TELEGRAPH AND OCEAN-CABLE CARRIERS

The Commission on October 14, 1941 made the following changes in the above-entitled rules:

Postponed the effective date of said rules to January 1, 1943.

Adopted the following new section to read:

§ 35.01-4 *Effective date.* The effective date of this system of accounts shall be extended to January 1, 1943: *Provided, however,* That the carriers to which this system of accounts is applicable shall continue to pursue with all possible diligence the major studies essential to providing accounting consistent with this system of accounts, particularly with respect to (a) the determination of original cost, (b) leased property, and (c) depreciation; and each such carrier shall advise the Commission promptly of any definite determination resulting from such studies to the end that appropriate adjustment may be made irrespective of the effective date of this system of accounts. (Sec. 220, 48 Stat. 1078; 47 U.S.C. 220)

Changed the dates in the sections listed below as follows:

§ 35.06-2 *Provisions that require certain special reports to be filed,* paragraph (f), "January 1, 1944" to "January 1, 1945"; paragraph (g), "January 1, 1944" to "January 1, 1945"; paragraph (g), "January 1, 1942" to "January 1, 1943"; paragraph (j) "June 30, 1942" to "June 30, 1943".

§ 35.1540 *Plant in process of reclassification,* paragraph (a): "December 31, 1941" to "December 31, 1942" the first time it appears in this paragraph; "December 31, 1941" to "December 31, 1942" the last time it appears in this paragraph.

§ 35.1-1 *Purpose and content of operated plant accounts*, paragraph (f): "January 1, 1944" to "January 1, 1945" the first time it appears in this paragraph; "January 1, 1942" to "January 1, 1943" the first time it appears in this paragraph; "January 1, 1944" to "January 1, 1945" the last time it appears in this paragraph; "January 1, 1942" to "January 1, 1943" the last time it appears in this paragraph.

§ 35.1-8 *Continuous property-record required*, paragraph (a): "January 1, 1942" to "January 1, 1943" the first time it appears in this paragraph; "June 30, 1944" to "June 30, 1945"; "December 31, 1941" to "December 31, 1942"; "January 1, 1942" to "January 1, 1943" the last time it appears in this paragraph; "December 31, 1943" to "December 31, 1944".

Paragraph (b): "June 30, 1942" to "June 30, 1943".

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 41-7913; Filed, October 21, 1941;
9:47 a. m.]

Notices

TREASURY DEPARTMENT.

Fiscal Service, Bureau of the Public Debt.

[1941 Second Amendment to Department Circular No. 667]

TREASURY NOTES

TAX SERIES A-1943, TAX SERIES B-1943 DATED AUGUST 1, 1941; DUE AUGUST 1, 1943; ISSUED AT PAR AND ACCRUED INTEREST; ACCEPTABLE AT PAR AND ACCRUED INTEREST IN PAYMENT OF FEDERAL INCOME TAXES

OCTOBER 21, 1941.

1. Section II (1) of Department Circular No. 667, dated July 22, 1941, is hereby amended to read as follows:

1. *General.* The notes of both series will be dated August 1, 1941, and will mature August 1, 1943. The owner's name and address, and the date of issue will be entered on each note at the time of its issue by a Federal Reserve Bank. The month in which payment is received by a Federal Reserve Bank or Branch, or by the Treasurer of the United States, will determine the purchase price and issue date of each note. The notes may not be transferred except in the case of notes issued in the name of a parent corporation, in which case they may be reissued in the name of a subsidiary of that corporation with the same dating as the notes surrendered, upon presentation to the Federal Reserve Bank of issue; for the purposes of this paragraph a subsidiary corporation is defined as one more than 50 percent of whose stock with voting power is held by another corporation. No hypothecation of the notes on any account will be recognized by the Treasury Department, and they will not

be accepted to secure deposits of public money. Except as herein provided, the notes will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing bonds and notes of the United States.

[SEAL] H. MORGENTHAU, Jr.,
Secretary of the Treasury.

[F. R. Doc. 41-7931; Filed, October 21, 1941;
11:33 a. m.]

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. B-5]

IN THE MATTER OF T. A. D. JONES AND CO., INC., A REGISTERED DISTRIBUTOR, REGISTRATION NO. 4851, RESPONDENT

ORDER GRANTING POSTPONEMENT OF HEARING, DENYING MOTION TO DISMISS NOTICE OF AND ORDER FOR HEARING AND REFUSING ORAL ARGUMENT

The Bituminous Coal Division (the "Division") having issued a Notice of and Order for Hearing dated September 16, 1941, in the above-entitled matter to determine whether or not T. A. D. Jones and Co., Inc., registered distributor, has violated certain provisions of the Bituminous Coal Act, the Marketing Rules and Regulations, the Rules and Regulations for the Registration of Distributors and its Distributor's Agreement executed June 7, 1939, or any orders or regulations of the Division, and whether or not the registration of said distributor should be revoked or suspended or other appropriate penalties should be imposed; and

The above-entitled matter having been scheduled for hearing at 10 a. m. in the forenoon of October 20, 1941, at a hearing room of the Division at the National Labor Relations Board, Washington, D. C., the Division for said purposes having given notice of information in its possession; and

The respondent in the above-entitled matter having filed its answer and having moved for the dismissal of the Notice of and Order for Hearing, and having requested an oral argument before the Director and the continuance of the matter until the disposal of its motion; and

No good cause appearing for the granting of the motion to dismiss the Notice of and Order for Hearing and for the request for oral argument before the Director, the basis for the motion being an allegation of a factual matter subject to proof at a hearing; and

Additional information having come into the possession of the Division in respect to the transactions involved herein, and the Acting Director deeming it advisable to postpone the hearing of the matter heretofore scheduled;

Now, therefore, it is ordered, That the request for oral argument be and the same hereby is denied;

It is further ordered, That the motion to dismiss the Notice of and Order for

Hearing be and the same hereby is denied;

It is further ordered, That the hearing in the above-entitled matter be and the same hereby is postponed to a date and at a hearing room to be fixed by further Order in this matter.

Dated: October 18, 1941.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 41-7917; Filed, October 21, 1941;
10:39 a. m.]

[Docket No. A-1035]

PETITION OF DISTRICT BOARD NO. 8 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 8

[Docket No. A-1035 Part II]

PETITION OF DISTRICT BOARD NO. 8 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF THE PERKINS MINE (MINE INDEX NO. 2628) OF J. E. WARRICK, A CODE MEMBER IN DISTRICT NO. 8

MEMORANDUM OPINION AND ORDER SEVERING DOCKET NO. A-1035 PART II FROM DOCKET NO. A-1035, GRANTING TEMPORARY RELIEF IN DOCKET NO. A-1035 PART II, AND NOTICE OF AND ORDER FOR HEARING IN DOCKET NO. A-1035 PART II

An original petition pursuant to section 4 II (d) of the Bituminous Coal Act of 1937 was filed by District Board No. 8 in Docket No. A-1035 proposing price classifications and minimum prices for the coals of certain mines in that district. Among the mines included in that petition is the Perkins Mine (Mine Index No. 2628) of J. E. Warrick. The petition proposes that the Perkins Mine be permitted to lead its coals at Saxton, Kentucky, on the Louisville & Nashville Railroad, and at Jellico, Tennessee, on the Southern Railway. The petition states that the coal shipped from Jellico, Tennessee, must be hauled by truck from the Perkins Mine to the loading facilities. It does not appear that this is true of shipments made from Saxton. The Director, therefore, deems it appropriate that price classifications and minimum prices should be established at this time for this coal for shipments on the Louisville & Nashville Railroad from Saxton, Kentucky, and that a hearing be held to determine the propriety of granting permission to make shipments by rail from this mine on the Southern Railway from Jellico, Tennessee.

It is, therefore, ordered, That the portion of Docket No. A-1035 relating to Mine Index No. 2628 be severed from the remainder of the docket and that it be designated hereafter as Docket No. A-1035 Part II.

It is further ordered, That a reasonable showing of necessity having been made, pending final disposition of the above matter, temporary relief be and the same is hereby granted as follows: Commenc-

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF HEARING ON MINIMUM WAGE
RECOMMENDATION OF INDUSTRY COMMITTEE
NO. 34 FOR THE PROPERTY MOTOR
CARRIER INDUSTRY¹

Whereas by Administrative Order No. 118, dated July 8, 1941, the Administrator of the Wage and Hour Division, United States Department of Labor, acting pursuant to section 5 (b) of the Fair Labor Standards Act of 1938, appointed Industry Committee No. 34 for the Property Motor Carrier Industry, composed of an equal number of representatives of the public, employers in the industry, and employees in the industry, selected with due regard to the geographical regions in which the industry is carried on; and

Whereas Industry Committee No. 34, on September 11, 1941, recommended a minimum wage rate for the Property Motor Carrier Industry and duly adopted a report containing said recommendation and on September 12, 1941, filed its report with the Administrator in accordance with section 8 (d) of the Act and § 511.19 of the regulations issued under the Act; and

Whereas the Administrator is required by section 8 (d) of the Act, after giving due notice and an opportunity to be heard to interested persons, to approve and carry into effect by order the recommendation of Industry Committee No. 34 if he finds that the recommendation is made in accordance with law, is supported by the evidence adduced at the hearing before him and, taking into consideration the same factors as are required to be considered by the industry committee, will carry out the purposes of the Act; and, if he finds otherwise, to disapprove such recommendation;

Now, therefore, notice is hereby given:

I. Industry Committee No. 34 for the Property Motor Carrier Industry has made the following recommendation for the minimum wage rate to be paid to employees in the Property Motor Carrier Industry:

Every employer shall pay not less than 40 cents per hour to each of his employees who is engaged in commerce or in the production of goods for commerce in the Property Motor Carrier Industry, as defined in Administrative Order No. 118, dated July 8, 1941.

II. The definition of the Property Motor Carrier Industry as set forth in Administrative Order No. 118 is as follows:

The industry carried on by any person who holds himself out to the general public to engage in, or under individual contracts or agreements engages in, the transportation by motor vehicle of property in interstate commerce, or in the transportation by motor vehicle of prop-

erty necessary to the production of goods for interstate commerce over regular or irregular routes. The term includes the industry carried on by any person who as agent or under contractual arrangement with any rail, water, or motor carrier or any express company engages in the performance within terminal areas of transfer, collection, or delivery services. The term does not include that part of the industry carried on by any carrier by rail or water or by any express or other company which is subject to Administrative Order No. 34, defining the Railroad Carrier Industry.

The definition of the Property Motor Carrier Industry covers all occupations in the industry including clerical, maintenance, shipping, and selling occupations: *Provided, however*, That where an employee covered by this definition is employed during the same workweek at two or more different minimum rates of pay, he shall be paid the highest of such rates for such workweek unless records concerning his employment are kept by his employer in accordance with applicable regulations of the Wage and Hour Division.

III. The full text of the report and recommendation of Industry Committee No. 34 are and will be available for inspection by any person between the hours of 9:00 a. m. and 4:30 p. m. at the following offices of the Wage and Hour Division, United States Department of Labor:

Boston, Massachusetts, Old South Building, 294 Washington Street.

New York, New York, 341 Ninth Avenue.

Newark, New Jersey, Essex Building, 31 Clinton Street.

Philadelphia, Pennsylvania, 1216 Widener Building, Chestnut & Juniper Streets.

Pittsburgh, Pennsylvania, 219 Old Post Office Building, Fourth and Smithfield Streets.

Richmond, Virginia, 215 Richmond Trust Building, 627 East Main Street.

Baltimore, Maryland, 201 North Calvert Street.

Raleigh, North Carolina, North Carolina Department of Labor, Salisbury and Edenton Streets.

Columbia, South Carolina, Federal Land Bank Building, Hampton & Marion Streets.

Atlanta, Georgia, Witt Building, 249 Peachtree Street, N. E.

Jacksonville, Florida, 456 New Post Office Building.

Birmingham, Alabama, 1007 Comer Building, 2nd Avenue & 21st Street.

New Orleans, Louisiana, 916 Union Building.

Jackson, Mississippi, 402 Deposit Guaranty Bank Building, 102 Lamar Street.

Nashville, Tennessee, 509 Medical Arts Building, 115 Seventh Avenue, N.

Cleveland, Ohio, Main Post Office, W. 3rd and Prospect Avenue.

Cincinnati, Ohio, 1312 Traction Building, 5th and Walnut Streets.

Detroit, Michigan, 348 Federal Building.

Chicago, Illinois, 1200 Merchandise Mart, 222 W. North Bank Drive.

Minneapolis, Minnesota, 406 Pence Building, 730 Hennepin Avenue.

Kansas City, Missouri, 504 Title & Trust Building, 10th & Walnut Streets. St. Louis, Missouri, 100 Old Federal Building.

Denver, Colorado, 300 Chamber of Commerce Building, 1726 Champa Street.

Dallas, Texas, Rio Grande National Building, 1100 Main Street.

San Francisco, California, Room 509, Humboldt Bank Building, 785 Market Street.

Los Angeles, California, 417 H. W. Hellman Building.

Seattle, Washington, 305 Post Office Building, 3d Avenue and Union Street.

San Juan, Puerto Rico, Post Office Box 112.

Washington, District of Columbia, Department of Labor, 4th Floor.

Copies of the committee's report and recommendation, and of the dissenting statements filed by six members of the committee, are available for inspection at, and may be obtained by writing to, the office of the Wage and Hour Division, United States Department of Labor, Washington, D. C.

IV. A public hearing for the purpose of taking evidence on the question of whether the recommendation of Industry Committee No. 34 shall be approved or disapproved pursuant to Section 8 of the Act, will be held on December 1, 1941, at 10:00 a. m., in Mezzanine Room A, Mayflower Hotel, Washington, D. C., before Major Robert N. Campbell as presiding officer.

V. Any interested person supporting or opposing the recommendation of Industry Committee No. 34 may appear at the hearing to offer evidence either on his own behalf or on behalf of any other person, if not later than November 24, 1941, he files with the Administrator by mail or otherwise at Washington, D. C., a notice of his intent to appear, which shall contain the following information:

1. The name and address of the person appearing.

2. If such person is appearing in a representative capacity, the name and address of the person or persons he is representing.

3. Whether such person proposes to appear for or against the recommendations of the committee.

4. The approximate length of time requested for his presentation.

VI. Any interested person may secure further information concerning the aforesaid hearing by inquiry directed to the Administrator of the Wage and Hour Division, United States Department of Labor, Washington, D. C., or by consulting with attorneys representing the Administrator who will be available for that purpose at the office of the Wage and Hour Division in Washington, D. C.

VII. Copies of the following documents relating to the Property Motor Carrier Industry will be available for in-

¹To be held December 1, 1941, at Washington, D. C.

spection by any interested person between the hours of 9:00 a. m. and 4:30 p. m. at the offices of the Wage and Hour Division enumerated in paragraph III above:

Report entitled *Property Motor Carrier Industry*, dated August 1941, prepared by the Research and Statistics Branch, Wage and Hour Division, United States Department of Labor.

Report entitled *Statistics of Class I Motor Carriers for the Year Ended December 31, 1939*, prepared by the Interstate Commerce Commission.

Release, *Indexes of Costs of Living in 34 Cities for April 15, May 15, and June 15, 1941*, prepared by the Bureau of Labor Statistics, United States Department of Labor.

Release, *Living Costs in Large Cities, July 15, 1941*, prepared by the Bureau of Labor Statistics, United States Department of Labor.

Release, *Estimated Inter-City Differences in Cost of Living, June 15, 1941*, prepared by the Bureau of Labor Statistics, United States Department of Labor.

Bulletin, Serial No. R-1298 entitled *Changes in Cost of Living*, dated March 15, 1941, prepared by the Bureau of Labor Statistics, United States Department of Labor.

Bulletin, Serial No. R-1156 entitled *The Bureau of Labor Statistics' New Index of Cost of Living, dated March 15, 1940*, prepared by the Bureau of Labor Statistics, United States Department of Labor.

Bulletin, Serial No. R-963 entitled *Differences in Living Costs in Northern and Southern Cities*, reprinted from the *Monthly Labor Review*, July, 1939, by the Bureau of Labor Statistics, United States Department of Labor.

The record made at the public hearing on the Property Motor Carrier Industry before Industry Committee No. 34 may be examined by any interested person at the office of the Wage and Hour Division, United States Department of Labor, Washington, D. C., and may be obtained at prescribed rates from the official reporter of the Wage and Hour Division, United States Department of Labor, Washington, D. C. The foregoing reports and record will be offered in evidence at the public hearing herein referred to.

VIII. The hearing will be conducted in accordance with the following rules of procedure subject to such subsequent modification by the Administrator or the presiding officer as are deemed appropriate:

1. The hearing shall be stenographically reported and a transcript made which shall be available at prescribed rates to any person upon request made to the official reporter of the Wage and Hour Division, United States Department of Labor, Washington, D. C.

2. In order to maintain orderly and expeditious procedure, each person filing

a Notice to Appear shall be notified, if practicable of the approximate day and the place at which he may offer evidence at the hearing. If such person does not appear at the time set in the notice he will not be permitted to offer evidence at any other time except by special permission of the presiding officer.

3. At the discretion of the presiding officer, the hearing may be continued from day to day, or adjourned to a later date, or to a different place, by announcement thereof at the hearing by the presiding officer, or by other appropriate notice.

4. At any stage of the hearing, the presiding officer may call for further evidence upon any matter. After the presiding officer has closed the hearing before him, no further evidence shall be taken, except at the request of the Administrator, unless provision has been made at the hearing for the later receipt of such evidence. In the event that the Administrator shall cause the hearing to be reopened for the purpose of receiving further evidence, due and reasonable notice of the time and place fixed for such further taking of testimony shall be given to all persons who have filed a notice of intention to appear at the hearing.

5. All evidence must be presented under oath or affirmation.

6. Written documents or exhibits, except as otherwise permitted by the presiding officer, must be offered in evidence by a person who is prepared to testify as to the authenticity and trustworthiness thereof, and who shall, at the time of offering the documentary exhibit, make a brief statement as to the contents and manner of preparation thereof.

7. Written documents and exhibits shall be tendered in duplicate and the persons preparing the same shall be prepared to supply additional copies if such are ordered by the presiding officer. Where evidence is embraced in a document containing matter not intended to be put in evidence, such a document will not be received, but the person offering the same may present to the presiding officer the original document, together with two copies of those portions of the document intended to be put in evidence. Upon presentation of such copies in proper form the copies will be received in evidence.

8. Subpoenas requiring the attendance of witnesses or the presentation of a document from any place in the United States at any designated place of hearing may be issued by the Administrator at his discretion, and any person appearing in the proceeding may apply in writing for the issuance by the Administrator of the subpoena. Such applications shall be timely and shall identify exactly the witness or document and state fully the nature of the evidence proposed to be secured.

9. Witnesses summoned by the Administrator shall be paid the same fees and mileage as are paid witnesses in the courts of the United States. Witness

fees and mileage shall be paid by the party at whose instance witnesses appear, and the Administrator before issuing subpoena may require a deposit of an amount adequate to cover the fees and mileage involved.

10. The rules of evidence prevailing in courts of law or equity shall not be controlling.

11. The presiding officer may, at his discretion, permit any person appearing in the proceeding to cross-examine any witness offered by another person in so far as is practicable, and to object to the admission or exclusion of evidence by the presiding officer. Requests for permission to cross-examine a witness offered by another person and objections to the admission or exclusion of evidence shall be stated briefly with the reasons for such request or the ground of objection relied on. Such requests or objections shall become a part of the record, but the record shall not include argument thereon except as ordered by the presiding officer. Objections to the approval of the committee's recommendation and to the promulgation of a wage order based upon such approval must be made at the hearing before the presiding officer.

12. Before the close of the hearing the presiding officer shall receive written requests from persons appearing in the proceeding for permission to make oral arguments before the Administrator upon the matter in issue. These requests will be forwarded to the Administrator by the presiding officer with the record of the proceedings. If the Administrator, in his discretion allows the request, he shall give such notice thereof as he deems suitable to all persons appearing in the proceeding, and shall designate the time and place at which the oral arguments shall be heard. If such requests are allowed, all persons appearing at the hearing will be given opportunity to present oral argument.

13. Briefs (12 copies) may be submitted to the Administrator following the close of the hearings, by any persons appearing therein. Notice of the final dates for filing such briefs shall be given by the Administrator in such manner as shall be deemed suitable by him.

14. On the close of the hearing the presiding officer shall forthwith file a complete record of the proceedings with the Administrator. The presiding officer shall not file an intermediate report unless so directed by the Administrator. If a report is filed, it shall be advisory only and have no binding effect upon the Administrator.

15. No order issued as a result of the hearing will take effect until after due notice is given of the issuance thereof by publication in the FEDERAL REGISTER.

Signed at Washington, D. C., this 14th day of October 1941.

PHILIP B. FLEMING,
Administrator.

[F. R. Doc. 41-7922; Filed, October 21, 1941; 11:16 a. m.]

FEDERAL TRADE COMMISSION.

[Docket No. 4561]

IN THE MATTER OF NATIONAL RIVET & MANUFACTURING COMPANY, A CORPORATION

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 18th day of October, A. D. 1941.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

It is ordered, That Edward E. Reardon, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, October 27, 1941, at two o'clock in the afternoon of that day (central standard time) in Room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.[F. R. Doc. 41-7911; Filed, October 21, 1941;
9:31 a. m.]

[Docket No. 4562]

IN THE MATTER OF CHICAGO RIVET AND MACHINE COMPANY, A CORPORATION

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 18th day of October, A. D. 1941.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., section 41),

It is ordered, That Edward E. Reardon, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, October 27, 1941, at ten o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the trial ex-

aminer is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] JOE L. EVINS,
Acting Secretary.[F. R. Doc. 41-7912; Filed, October 21, 1941;
9:31 a. m.]

[Docket No. 4563]

IN THE MATTER OF PARFUMS RONNI, INC., A CORPORATION

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of October, A. D. 1941.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

It is ordered, That John W. Addison, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, October 29, 1941, at ten o'clock in the forenoon of that day (eastern standard time) in the Hotel St. George, Brooklyn, New York.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.[F. R. Doc. 41-7921; Filed, October 21, 1941;
10:49 a. m.]

[Docket No. 4549]

IN THE MATTER OF J. E. TODD, INC.

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of October, A. D. 1941.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

It is ordered, That John W. Addison, a trial examiner of this Commission, be and he hereby is designated and ap-

pointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, November 5, 1941, at ten o'clock in the forenoon of that day (Eastern Standard Time), in Room 410, Post Office Building, Buffalo, New York.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.[F. R. Doc. 41-7920; Filed, October 21, 1941;
10:49 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 53-31]

IN THE MATTER OF ILLINOIS IOWA POWER COMPANY, RESPONDENT

ORDER FOR POSTPONEMENT

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 20th day of October, A. D. 1941.

The Commission having issued on August 22, 1941, a Notice of and Order for Hearing pursuant to section 11 (b) (2) of the Public Utility Holding Company Act of 1935 in the above entitled matter and the Commission by order dated September 30, 1941 having postponed the date of hearing in said matter to October 23, 1941;

The Respondent having requested a further postponement of said hearing to November 12, 1941;

It is ordered, That the date of said hearing be and it hereby is postponed to November 12, 1941.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.[F.R. Doc. 41-7923; Filed, October 21, 1941;
11:23 a. m.]

IN THE MATTER OF RUSSELL MAGUIRE & COMPANY, INC., 1 WALL STREET, NEW YORK, NEW YORK, AND MAGUIRE & COMPANY, INC., 1 NEWARK AVENUE, JERSEY CITY, NEW JERSEY

ORDER PERMITTING WITHDRAWAL OF REGISTRATION AND DISMISSING PROCEEDING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 18th day of October, A. D. 1941.

The Commission having instituted a proceeding pursuant to section 15 (b) of the Securities Exchange Act of 1934 to determine whether the over-the-counter broker-dealer registrations of Russell

Maguire & Company, Inc., and Maguire & Company, Inc., should be revoked or suspended;

The registrants having filed a notice of withdrawal of their registrations as over-the-counter broker-dealers; and

The Commission having duly considered the matter and finding such withdrawal not inconsistent with the public interest and the protection of investors;

It is ordered, That withdrawal of the registrations of the said Russell Maguire & Company, Inc., and Maguire & Company, Inc., as over-the-counter broker-dealers be, and it hereby is, permitted; and

It is further ordered, That the proceeding ordered herein under section 15 (b) of the Securities Exchange Act of 1934 be, and it hereby is, dismissed.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-7930; Filed, October 21, 1941;
11:34 a. m.]

[File No. 70-413]

IN THE MATTER OF PUBLIC SERVICE COMPANY OF OKLAHOMA, SOUTHWESTERN LIGHT AND POWER COMPANY, AND PEOPLES ICE COMPANY.

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission, held at its

office in the City of Washington, D. C., on the 20th day of October, A. D. 1941.

Notice is hereby given that a joint declaration or application (or both) has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above-named parties; and

Notice is further given that any interested person may, not later than November 5, 1941, at 4:30 P. M., E. S. T., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declaration or application, as filed or as amended, may become effective or may be granted, as provided in Rule U-23 of the Rules and Regulations promulgated pursuant to said Act or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C.

All interested persons are referred to said joint declaration or application, which is on file in the office of said commission for a statement of the transactions therein proposed, which are summarized below:

Peoples Ice Company ("Peoples") desires to issue to Public Service Company of Oklahoma ("Oklahoma") and South-

western Light and Power Company ("Southwestern") new promissory notes in exchange for notes of Peoples held by them which matured on September 5, 1941. It is proposed that the new notes be dated December 15, 1941, mature on December 1, 1943, bear no interest and be in the same principal amount as the balance of principal remaining unpaid upon the outstanding past-due notes, i. e., \$1,462,500 in the case of the note proposed to be issued to Oklahoma and \$625,500 in the case of the note proposed to be issued to Southwestern. Each of the proposed notes will be secured by a mortgage covering the same property which is now mortgaged to secure the outstanding past-due note it will be issued to replace. Oklahoma and Southwestern are willing to surrender the outstanding past-due notes, the interest rates on which are, respectively, 8% per annum and 6% per annum, in exchange for the proposed new notes of Peoples.

Southwestern is a subsidiary of Oklahoma and Oklahoma and Peoples are direct subsidiaries of Central and South West Utilities Company, and indirect subsidiaries of The Middle West Corporation, both of which are registered holding companies under the Act.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-7929; Filed, October 21, 1941;
11:33 a. m.]